

ORDINANCE NO. 60-26

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT, DEVELOPMENT AND/OR CONSTRUCTION OF ANY BUILDING, STRUCTURE, USE OR CHANGE OF USE THAT WOULD ENABLE THE ESTABLISHMENT OF FUELING STATIONS, SUCH AS GASOLINE, DIESEL AND EV CHARGING STATIONS, FOR A PERIOD NOT TO EXCEED TWELVE (12) MONTHS FROM THE EFFECTIVE DATE OF THIS ORDINANCE IN ORDER TO ALLOW THE CITY ADMINISTRATION, PLANNING COMMISSION AND CITY COUNCIL TIME TO REVIEW APPLICABLE OHIO STATUTES AND REGULATIONS, THE CITY'S MASTER PLAN, ZONING CODES AND ANY CODIFIED ORDINANCES RELATIVE TO SUCH ESTABLISHMENTS AND DECLARING AN EMERGENCY.

WHEREAS, it has come to the attention of the Planning Coordinator and members of the Administration of the City of Avon that the City's Planning and Zoning Code needs to be updated as it pertains to the regulation of fueling stations; and

WHEREAS, a moratorium designed to give Planning Commission, City Council and the Law Director sufficient time to undertake a thorough review of all applicable state codes, regulations and local ordinances in order to formulate a proper local response consistent with the City's existing Master Plan in order to ensure that safety and locational considerations be carefully evaluated; and

WHEREAS, pursuant to authority granted to it by the Constitution of the State of Ohio and the Ohio Revised Code, Council, acting in the best interest of the health, safety and welfare of the community, finds the basis for the moratorium to be reasonable and the duration to be appropriate to facilitate a full and fair analysis of the current zoning regulations of the City of Avon and supports this request.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That the Council of the City of Avon hereby imposes a Moratorium to May 11, 2027 on consideration of any application to establish a business, (through rezoning or otherwise), develop land, and/or construct any building, structure or use any existing building or structure, change the use of an existing building or structure, any one of which would enable the establishment of a fueling station, such as gasoline, diesel and EV charging stations. This moratorium shall include any consideration, approval or authorization as a Permitted Use, Special Use or Accessory Use. Said Moratorium extends to the submission, consideration or approval of all applications for general development plans, final development plans, special or accessory use permits, occupancy permits, building permits, zoning permits or the like.

Section 2 - That this Moratorium shall become effective on the date that this Ordinance, following its passage by the Council, is approved by the Mayor, and shall remain in effect for Twelve (12) months following the date upon which it became effective or until May 11, 2027, whichever date occurs later, unless extended upon a majority vote of the Council for a period of no more than an additional Twelve (12) months should Council find such continuance is required to allow sufficient time for the Administration to

complete its study and recommend what action, if any, the City should take to safeguard the public health, safety and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to enterprises and activities covered herein.

Section 3 - That this Moratorium suspends and tolls any time periods, prescribed by law, within which the Planning Commission or any other official or official body of the City of Avon, is required to take action upon an application for a special use permit, zoning permit, building permit, site plan approval or the like, for the development of land anywhere in Avon and that no such application shall be deemed to be approved by the failure of the Planning Commission, or any other public official or official body to approve or deny said application during the time when this Moratorium shall be in effect. This moratorium shall not apply to the property owned by Premier 1500 Nagel Rd., LLC, located at 1500 Nagel Road (the northwest corner of Nagel and Chester Roads) Permanent Parcel No. 04-00-021-000-264.

Section 4 – The Council President hereby refers this matter to Planning Commission and the Planning Commission, at its next regular meeting, is hereby directed to begin a study to recommend what action, if any, the City of Avon should take to preserve the public health, safety and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to the issues raised herein.

Section 5 - If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6 - That it is found and determined that all formal actions of the Council of the City of Avon concerning and relating to the adoption of this Ordinance were taken in an open meeting of the Council of the City of Avon and that all deliberations of this City's Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 7 - That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to impose a temporary Moratorium on the consideration, approval or authorization of any applications for the establishment of fueling stations, such as gasoline, diesel and EV charging stations, to give City officials adequate time to consider what, if any, changes are required to current ordinances to adequately protect the public health, safety and welfare of the community; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By:

Brian Fischer, President of Council

DATE APPROVED BY THE MAYOR _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara J. Brooks
Clerk of Council

POSTED: _____
Electronically and at City Hall as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director