

ORDINANCE NO. 51-20

**AN ORDINANCE TO ESTABLISH TEMPORARY OUTDOOR SEATING AREAS
AND DECLARING AN EMERGENCY**

WHEREAS, on May 7, 2020, Governor DeWine announced that restaurants may resume outdoor dining service on May 15, 2020 and indoor dining service on May 21, 2020; and

WHEREAS, restaurants must follow social distancing guidelines, including ensuring that patrons remain six (6) feet apart when dining unless there is a physical barrier between parties or the parties are members of the same household; and

WHEREAS, bars, restaurants and their employees have struggled to maintain financial solvency and comply with the Governor's orders and several are on the verge of permanently closing and increasing the ranks of the unemployed; and

WHEREAS, the City Council and the Mayor recognize that restaurants and bars are critical to the vibrancy of Avon and to ensure that our local restaurants remain successful and that the public feels safe patronizing them, they seek to provide more opportunities for restaurants to expand their outdoor dining capacity, especially during these summer months, to promote compliance with the Governor's orders; and

WHEREAS, Council, after considering the Administration's proposal for expanding outdoor seating at local restaurants and bars, finds it to be a safe and reasonable temporary accommodation that will enable some proprietors to remain open and profitable during this time of health and economic uncertainty and as such determines it to be in the best interests of the health safety and general welfare of all citizens of Avon.

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

Section 1 - That the Zoning Enforcement Officer (ZEO), the Planning Coordinator (PC) and the Safety Director of the City of Avon, acting by a majority of them, are hereby authorized to temporarily approve expanded outdoor seating/dining areas for established restaurants and bars that currently possess a valid Special Use Permit for outdoor seating pursuant to the guidelines set forth in the attached Exhibit A, which is incorporated herein by this reference. In addition, the ZEO and the PC are authorized to make temporary provision for reduced parking should the temporary seating area reduce the number of required parking spaces below the minimum set forth in ACO §1292.04. To the extent that this legislation conflicts with any of the provisions of the Avon Codified Ordinances (ACO), particularly ACO Chapter 1230, §1270.03(b)(8), 1280.05(bb) and 1280.06(dd), this legislation shall supersede those provisions. This legislation and any permissions granted hereunder are temporary and shall terminate on October 31, 2020 unless extended by City Council.

Section 2 - Applications for "Expanded Outdoor Seating Permit" shall be available at City Hall. Once completed, the applicant shall submit the required fee and site plan to the office of the Zoning Enforcement Officer and the Planning Coordinator. Said applications shall be reviewed within ten (10) days of receipt. Once granted, the Permit shall be posted in a conspicuous spot near the front entrance of the establishment. Applications that do not meet the minimum requirements of §1280.06(dd)(1),(3) and (4) and make adequate provision for the safety of patrons

and employees, on their face, shall be summarily denied. Any applicant whose application is denied may appeal the decision to the Avon Board of Zoning and Building Appeals.

Section 3 - The temporary Expanded Outdoor Seating Permit may be terminated by the ZEO and PC if any requirements set forth herein are not followed and/or if the property is the subject of multiple complaints. The permit holder may, within ten (10) days of notice of such termination, appeal the decision to the Avon Board of Zoning and Building Appeals. The BZA shall hold a hearing within thirty (30) days of the appeal and either uphold or deny the appeal.

Section 4 - Nothing contained herein shall in any way detract from The Planning Commission's and City Council's authority to hear and decide applications for permanent Special Use Permits for outdoor seating. Recipients of Temporary Expanded Outdoor Seating Permits shall be permitted to apply to Planning Commission pursuant to existing Code sections to make their expanded outdoor seating areas permanent.

Section 5 - It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 6 - 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 of establishing temporary outdoor dining areas for businesses in the City without delay; 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, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara Brooks
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

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