

ORDINANCE NO. 103-21

AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE ISSUANCE AND PROCESSING OF ANY SPECIAL USE PERMITS FOR ASSISTED LIVING FACILITIES, NURSING HOMES AND INDEPENDENT LIVING ESTABLISHMENTS FOR SENIORS AS ADDRESSED IN CHAPTER 12 OF THE CITY OF AVON CODIFIED ORDINANCES AND DECLARING AN EMERGENCY

WHEREAS, the City of Avon is a chartered municipal corporation validly organized and existing under the Constitution and laws of the state of Ohio, and as such may regulate the location and operation of structures within the City, including assisted living facilities, nursing homes and independent living establishments for seniors, more fully defined as Congregate Care Facilities in Avon Codified Ordinance Section 1222.02(b)(19); and

WHEREAS, the City currently regulates land uses for Congregate Care Facilities within its limits in accordance with various provisions within Chapter 12 of the City's Planning and Zoning Code; and

WHEREAS, care for the elderly and those of retirement age is constantly evolving as the region's population continues to age and the need for this type of housing increases; and

WHEREAS, the City currently has roughly eight (8) such facilities located within its limits providing approximately seven hundred and eighty-six (786) units across the spectrum of Congregate Care Facilities; and

WHEREAS, presently emergency response calls to the existing Congregate Care Facilities accounts for approximately thirty percent (30%) of all emergency response calls in the City; and

WHEREAS, the City desires to study the safety issues and land development concerns associated with adding additional Congregate Care Facilities, including assisted living facilities, nursing homes and independent living establishment for seniors, to the City, and in particular, the impact on our safety forces, and in furtherance of the public health, safety, and general welfare of the community; and

WHEREAS, the Charter authorizes City Council to enact emergency ordinances for the preservation of public, health, peace, or safety; and

WHEREAS, upon the recommendation of the City's Administration, this Council has determined it to be in the best interest of the community and its health, safety, and welfare to impose a temporary moratorium and while in effect undertake a review of all applicable laws and current legislation to study whether or not amendments to the Zoning Code and/or whether additional safety forces and/or facilities are necessary to accommodate anticipated emergency response to additional Congregate Care Facilities; and

WHEREAS, this Council believes that a temporary moratorium on the acceptance and processing of applications for Special Use permits for Congregate Care Facilities, will not deny property owners economically viable use of their property and will afford City officials and this Council the necessary time to put into place reasonable amendments to the City's Planning and Zoning Code or other regulations and to evaluate whether there is a need for additional safety forces and/or facilities to respond to Congregate Care Facilities in furtherance of the aforesaid purposes.

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

Section 1 - That for the reasons stated in the preamble above, City Council establishes a moratorium for a period of approximately six (6) months from the effective date of this Ordinance, or until June 14, 2022, whichever is later, and during such time the City shall not accept or process any applications for Special Use permits for any Congregate Care Facilities, and further shall not issue any such approvals during said six (6) month period, in order to allow the City's Administration, Council and the Planning Commission time to collect data, study, review and make recommendations on planning, zoning, land use, other regulatory controls and the feasibility of additional safety forces and/or facilities that may be deemed necessary and specifically applicable to Congregate Care Facilities in the City.

Section 2- That no Special Use Permits shall be considered, approved, authorized or granted to any person or entity during the period of this moratorium. This moratorium suspends and tolls any time periods, prescribed by law, within which City Council, any City Board or Commission is required to act upon an application for a Special Use permit or development plan related to Congregate Care Facilities.

Section 3 - That wherever the provisions of this Ordinance conflict with any other ordinance or any provision of the Codified Ordinances of the City, the provisions of this Ordinance shall control.

Section 4 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, Ohio; the immediate emergency being the necessity to impose a temporary moratorium for planning and emergency response purposes and to further the orderly development of the City with respect to the establishment and operation of Congregate Care Facilities, to adopt well thought-out and contemporary zoning and business regulations, address the feasibility of providing additional emergency response operations to the Congregate Care Facilities for the City and to protect the public interest and rights of property owners; therefore, this Ordinance shall take effect and be in full force 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