

ORDINANCE 2021-09
INTRODUCED BY: GRUBE

4299

AN ORDINANCE DECLARING A MORATORIUM AND DIRECTING THE ADMINISTRATOR NOT TO ENFORCE PLANNING AND ZONING CODE SECTIONS 1137.05 (A)(1) AND 1138.05(A)(2) REGARDING OUTDOOR DINING IN REQUIRED YARDS UNTIL SEPTEMBER 7, 2021, AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance 2020-20 was enacted on June 3, 2020 declaring a moratorium and directing the Administrator not to enforce Planning and Zoning Code (“Code”) Sections 1137.05 (a)(1) and 1138.05 (a)(2) to allow, on a temporary basis, outdoor dining in rear and/or side yard setbacks, which moratorium was in effect through September 8, 2020;

WHEREAS, Ordinance 2020-35 was enacted on July 27, 2020 to temporarily allow restaurants to provide outdoor service in the front yard setbacks on the same terms and conditions that restaurants can operate in rear and side yard setbacks;

WHEREAS, Ordinances 2020-20 and 2020-35 were enacted as a result of Covid-19 being declared a public health emergency for the United States and the Governor of Ohio’s Declaration of the State of Emergency in Executive Order 2020-01D which remains in effect;

WHEREAS, on May 14, 2020 the Ohio Department of Health issued the Director’s Dine Safe Ohio Order (“Dine Order”) that reopened restaurants and bars to dine-in service, with exceptions;

WHEREAS, the Dine Order has been amended three (3) times and on September 20, 2020 the Director of the Department of Health issued the Third Amended Order to Reopen Restaurants, Bars, Banquet and Catering Facilities and Service to Dine-in Service, with exceptions (“Third Dine Order”) which remains in effect until the Director of the Ohio Department of Health rescinds or modifies the Third Dine Order and the Third Dine Order limits the number of customers that may be served on premises;

WHEREAS, the Director of the Department of Health has issued various Orders imposing curfews which limits the hours that restaurants can operate in Ohio, all of which has materially impacted restaurants’ ability to operate profitably, and the Village Council deems it critical and necessary for the economic wellbeing of the Village and its residents, businesses and local government, that certain extraordinary measures be taken to assist restaurants and residents to be able to open in an economically viable manner and to be able to operate in a healthy and safe environment; and

WHEREAS, the Village Council deems it critical and necessary to temporarily allow for restaurants to be able to provide outdoor service, and in order to do so, based on the current confines of the areas where restaurants are permitted to operate, is necessary to temporarily allow outdoor service in front, rear and side yard setbacks.

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NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:

Section 1. The Administrator, as defined in the Code, is hereby directed to permit, by enactment of this moratorium on enforcement of Sections 1137.05(a)(1) and 1138.05 (a)(2) of the Code, to allow, on a temporary basis, outdoor dining within front, rear and/or side yard setbacks, from the effective date of this Ordinance through September 7, 2021, unless otherwise terminated, modified or extended by action of the Council of the Village of Chagrin Falls, and upon the conditions herein after set forth, in order to safely and adequately allow restaurants to provide dine-in services and to permit restaurants to operate on a level where they can be economically viable during good weather conditions.

Section 2. The Council for the Village of Chagrin Falls hereby declares a moratorium on enforcement of Code Sections 1137.05(a)(1) and 1138.05(a)(2), as it relates to outdoor dining in front, rear and/or side yard setbacks through September 7, 2021, and the Administrator is hereby directed not to enforce such subsections for outdoor dining in front, rear and/or side yard setbacks, so long as the restaurants operate in accordance with Section 3 of this Ordinance, through September 7, 2021, unless terminated, modified or extended by further action of Council.

Section 3. The Administrator is hereby directed not to enforce the front, rear and/or side yard of Code Sections 1137.05(a)(1) and 1138.05(a)(2) so long as (i) the Administrator is provided with a plan designating (a) where the outdoor dining will occur in a front, rear and/or side yard setback, (b) where the outdoor dining will be enclosed within a tent or similar structure; (ii) the outdoor dining area shall have barriers or demarcation lines surrounding the entire area for outdoor dining; and (iii) the sale of alcohol, beer and wine shall be in full compliance with all permit requirements of the Ohio Department of Liquor Control and the requirements of the Cuyahoga County Board of Health and State Health Department, as the case may be, and shall also comply, at all times with the Third Dine Order and as may be amended, and any Order of the Ohio Department of Health regarding business guidance and social distancing, or any other applicable Orders of the Director of the Department of Health for the State of Ohio. No restaurant shall operate within a front, rear or side yard setback without first providing the Administrator with a site plan showing the area where outdoor dining will occur, and where demarcation lines or barriers will be established, and upon request of the Administrator to provide evidence of compliance with the Ohio Department of Liquor Control permit requirements, and any applicable order of the Ohio Department of Health or the Cuyahoga County Board of Health.

Section 4. This Ordinance is intended to be applicable to all restaurants lawfully operating in the retail business district and central shopping district, and any lawful nonconforming restaurant lawfully permitted to exist in such districts, subject to the conditions set forth in this Ordinance.

Section 5. Nothing contained in this Ordinance shall be deemed to amend, repeal or be inconsistent with the Code as it currently exists and nothing contained in this Ordinance shall be interpreted to create a defense to any enforcement action for any violation of the sign code that occurred on, before, or after the effective date of this Ordinance.

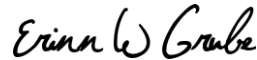
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Section 6. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

Section 7. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

Section 8. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the Village and for the further reason that this Ordinance must be immediately effective so that the restaurants located in the Village of Chagrin Falls shall be able to take advantage of improvement in weather conditions and to be able to recover from the economic devastation that has occurred as a result of the outbreak of Covid-19, and to promote and support Orders issued by the State of Ohio, and in order to promote the safe dine-in options of restaurants in the Village; wherefore, provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force after the earliest period allowed by law.

PASSED: February 8, 2021



Erinn Grube, Council President

Submitted to the Mayor for
his approval on this

10th day of February, 2021

Approved by the Mayor

02/10/2021, 2021



Mayor William Tomko

I hereby certify that Ordinance No. 2021-09 was duly enacted on the 8th day of February, 2021, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.



David Bloom, Clerk of Council