

**ORDINANCE 2021-42
INTRODUCED BY: GRUBE**

4332

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 DECEMBER 31, 2021, AND DECLARING AN EMERGENCY

WHEREAS, Ordinance 2020-20, 2020-35 and 2021-09 were enacted to temporarily allow restaurants to provide outdoor service in the front yard setbacks initially, and then ultimately to allow outdoor service in front, rear and side yard setbacks;

WHEREAS, the above cited Ordinances 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;

WHEREAS, restaurants and bars in the State of Ohio and in particular, the Village of Chagrin Falls, have suffered significant economic loss as a result of the Covid-19 public health emergency;

WHEREAS, variants of Covid-19 are still causing infections at unacceptable rates in the State of Ohio, 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.

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 December 31, 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

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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 December 31, 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 December 31, 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 with any Order of the Ohio Department of Health, or the Cuyahoga County Board 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 or the Cuyahoga County Board of Health. 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.


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.

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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: August 9, 2021



Erinn Grube, Council President

Submitted to the Mayor for
his approval on this

11th day of August, 2021

Approved by the Mayor

08/11/2021



Mayor William Tomko

I hereby certify that Resolution No. 2021-42 was duly enacted on the 9th day of August, 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