

ORDINANCE 2020-20
INTRODUCED BY: Grube

**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) UNTIL SEPTEMBER 9, 2020, AND
DECLARING AN EMERGENCY**

WHEREAS, on January 31, 2020 Health and Human Services Secretary, Alex M. Azar, II, declared a Public Health Emergency for the United States to aid the nation's healthcare community in responding to Covid-19;

WHEREAS, on March 9, 2020, the Ohio Department of Health confirmed that three (3) patients were positive for Covid-19 in the State of Ohio;

WHEREAS, on March 9, 2020, the Governor of Ohio declared a State of Emergency in Executive Order 2020-01D;

WHEREAS, on March 17, 2020, the Ohio Department of Health issued an Amended Director's Order to limit and/or prohibit mass gatherings and the closure of venues in the State of Ohio;

WHEREAS, on March 22, 2020, the Ohio Department of Health issued a Director's Order that all persons are to stay at home unless engaged in essential work or activity;

WHEREAS, on April 2, 2020, the Ohio Department of Health issued an Amended Director's Order that all persons are to stay at home unless engaged in essential work or activity;

WHEREAS, on April 30, 2020, the Ohio Department of Health issued an Amended Director's Order described as a Director's Stay Safe Ohio Order which provided for a safe and orderly reopening of most businesses and their operation in the State;

WHEREAS, On May 14, 2020 the Ohio Department of Health issued the Director's Dine Safe Ohio Order ("Dine Order") that reopens restaurants and bars to dine-in service, with exceptions, mandating that restaurants continue to comply with social distancing requirements;

WHEREAS, on May 29, 2020 the Ohio Department of Health issued the Director's Updated and Revised Order for Business Guidance and Social Distancing ("May 29 Order") which provides, in part, that restaurants are to ensure a minimum of six (6) feet between customers and if not possible, to install barriers;

WHEREAS, many of the businesses located in the Village of Chagrin Falls were required to stay closed or were only permitted to allow for carryout or curbside service, and such businesses

ORDINANCE 2020-20
INTRODUCED BY: Grube

have endured significant economic hardship and employees working in the Village of Chagrin Falls have been furloughed, and lost significant wage income and benefits;

WHEREAS, in conjunction with the Dine Order and the May 29 Order and in order to assist restaurants lawfully operating in the Village of Chagrin Falls, the Village Council deems it critical and necessary for the economic wellbeing of the Village and its residents, business and local government that certain extraordinary measures be taken to assist residents and restaurants to be able to open in a economically viable manner and to be able to operate in a healthy and safe environment;

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, it is necessary to temporarily allow outdoor service in rear and side yard setbacks but not front 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 Planning and Zoning Code of the Village of Chagrin Falls, 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 Planning and Zoning Code, to allow, on a temporary basis, outdoor dining in rear yard and/or side yard setbacks, but to continue to enforce front yard setbacks for outdoor dining, from the effective date of this Ordinance through September 8, 2020, 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 Planning and Zoning Code Sections 1137.05(a)(1) and 1138.05(a)(2), as it relates to outdoor dining in rear yard and/or side yard setbacks, but to continue to enforce front yard setbacks for outdoor dining through September 8, 2020 and the Administrator is hereby directed not to enforce such subsections for outdoor dining in rear and/or side yard setbacks, so long as the restaurants operate in accordance with Section 3 of this Ordinance, through September 8, 2020, unless terminated, modified or extended by further action of Council.

Section 3. The Administrator is hereby directed not to enforce the rear yard and side yard provisions of Planning and Zoning Code Sections 1137.05(a)(1) and 1138.05(a)(2) so long as the Administrator is (i) provided with a plan designating (a) where the outdoor dining will occur in a rear and/or side yard setback, (b) where the outdoor dining will be enclosed within in 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 County Board of Health and State Health Department, as the case may be, and shall also comply, at all times with the Dine Order and to the extent applicable, the May 29

ORDINANCE 2020-20
INTRODUCED BY: Grube

Order. No restaurant shall operate within a 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, 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 Planning and Zoning 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 or before, or after the effective date of this Ordinance.

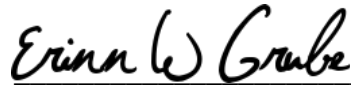
Section 6. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements,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

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 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 as herein before set forth, 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.

ORDINANCE 2020-20
INTRODUCED BY: Grube

PASSED: June 3, 2020



Erinn Grube, Council President

Submitted to the Mayor for
his approval on this

4th day of June, 2020

Approved by the Mayor

06/04/2020, 2020



Mayor William Tomko

I hereby certify that Ordinance No. 2020-20 was duly enacted on the 3rd day of June, 2020, 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