

ORDINANCE NO. 119-13

**AN ORDINANCE TO AMEND A SPECIAL USE PERMIT FOR PIN HIGH, LLC,
DBA "THE FRENCH CREEK", TO INCLUDE A STAMPED
CONCRETE PATIO AND PATIO FENCE TO THE OUTDOOR
SEATING AREA AT 37040 DETROIT ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, zoning regulations for the City of Avon require restaurants with outdoor seating areas in the C-2 Central Business/French Creek District to obtain a Special Use Permit pursuant to ACO §1270.03(b)(8); and

WHEREAS, Pin High, LLC, as the owner of the land being leased to The French Creek, submitted an application and presented plans and specifications for an outdoor seating area adjacent to the restaurant/tavern at 37040 Detroit Road to the Planning Commission on March 20, 2013; and

WHEREAS, the Planning Commission recommended approval of said plans and City Council passed Ordinance No. 38-13 to grant the Special Use Permit on April 8, 2013; and

WHEREAS, Pin High, LLC submitted a new application and presented revised plans and specifications for this outdoor seating area located at 37040 Detroit Road to the Planning Commission on June 19, 2013 and after holding a public hearing, Planning Commission voted Five (5) to Zero (0) to recommend approval of this new Special Use Permit; and

WHEREAS, Council, after reviewing the application, plans and specifications and the recommendation of the Planning Commission, deemed it in the best interests of the health, safety and welfare of the community that Ordinance No. 38-13 be rescinded and the new Special Use Permit be granted for an outdoor seating area in Ordinance No. 95-13 passed July 8, 2013; and

WHEREAS, it is now necessary to amend said Special Use Permit to allow for a stamped concrete patio and patio fence to be included at the outdoor seating area located at 37040 Detroit Road; and

WHEREAS, the Planning Commission held a public hearing on September 18, 2013, and by a vote of Five (5) to Zero (0), recommended amending the Special Use Permit; and

WHEREAS, Council, after reviewing the application, the plans and specifications and the recommendation of the Planning Commission, deems it in the best interests of the health, safety and welfare of the community that the amendment to the Special Use Permit be granted.

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

Ordinance No. 119-13 (Con't)

Section 1 - That Council hereby accepts the recommendation of the Planning Commission and pursuant to ACO §1280.05(bb) amends the Special Use Permit for Pin High, LLC to allow its tenant, The French Creek, located at 37040 Detroit Road to include a stamped concrete patio and patio fence at the outdoor seating area per the plans and specifications submitted and approved by the Planning Commission on September 18, 2013, and made a part of this Special Use Permit by reference but subject to the conditions set forth in this ordinance.

Section 2 - Conditions. 1) That music will be permitted on the outdoor seating patio Sunday through Thursday until 10:00 p.m.; on Friday and Saturday evenings, music will be permitted until 11:00 p.m.; 2) That project proceed pursuant to plans and specifications approved and recommended by the Planning Commission at its June 19, 2013 and September 18, 2013 meetings; 2) that the amended Special Use Permit granted herein is conditioned upon applicant meeting all applicable requirements set forth in 1280.02, 1280.03, 1280.05(bb), and 1280.06(dd) of the Codified Ordinances of the City of Avon. Any other expansion, development, enlargement, improvement, change in tenancy, use or the like, other than maintenance of the property in its current condition, will require an additional amendment to this Special Use Permit, with a recommendation of Planning Commission and approval by Council.

Section 3 - 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 4 - 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, the immediate emergency being the necessity to allow Pin High, LLC, to amend the Special Use Permit for its tenant, The French Creek Tavern to include a stamped concrete patio and patio fence to their outdoor seating area at its restaurant located at 37040 Detroit Road; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: October 15, 2013 DATE SIGNED: October 15, 2013

By: Daniel S. Zegarac
Daniel S. Zegarac, Council President

DATE APPROVED BY THE MAYOR: October 17, 2013

James A. Smith
James A. Smith, Mayor

Ordinance No. 119-13 (Con't)

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director

ATTEST:

Ellen R. Young
Ellen R. Young
Clerk of Council

Posted: October 21, 2013
In Five Places as
Provided by Council

Prepared By:

John A. Gasior, Esq.
Law Director

I, Ellen R. Young, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 119-13, passed by the Council of said City on October 15, 2013.

IN WITNESS WHEREOF, I have on this 18th day of October, 2013, affixed my signature and official seal.

Ellen R. Young
Ellen R. Young, Clerk of the Council
of the City of Avon, Ohio