

**ORDINANCE NO. 28-16**

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO AVON 83, LLC  
TO CONSTRUCT A 1,505 SQUARE FOOT OUTDOOR PATIO SEATING AREA  
FOR PROPERTY LOCATED AT 35568 DETROIT ROAD  
AND DECLARING AN EMERGENCY**

**WHEREAS**, the zoning regulations for the City of Avon require restaurants with outdoor seating areas to obtain a Special Use Permit pursuant to ACO §1280.05(aa); and

**WHEREAS**, Avon 83, LLC, a.k.a. Market Place at Avon, intends to lease space to a restaurant (Building No. 2) on land they own at 35568 Detroit Road; and

**WHEREAS**, Avon 83, LLC, as the owner of the land, has submitted an application and presented plans and specifications for a 1,505 sq. ft. outdoor seating area adjacent to Building No. 2 to the Planning Commission on February 17, 2016; and

**WHEREAS**, the Planning Commission held a public hearing on February 17, 2016 and by a vote of Five (5) to Zero (0), recommended approval of the Special Use Permit; and

**WHEREAS**, the granting of this Special Use Permit requires approval of City Council; and

**WHEREAS**, Council, after reviewing the application, 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 Special Use Permit be granted.

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

Section 1 - That having considered the matter of granting the Special Use Permit to Avon 83, LLC, Council hereby accepts the recommendation of Planning Commission and agrees to grant said special use permit for a 1,505 sq. ft. outdoor seating area adjacent to Building No. 2 to Avon 83, LLC on the property located at 35568 Detroit Road per the plans and specifications submitted and approved by the Planning Commission on February 17, 2016, 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 February 17, 2016 meeting; 3) that the Special Use Permit granted herein is conditioned upon applicant meeting all applicable requirements of the Avon Codified Ordinances including, but not limited to, those set forth in 1280.02, 1280.03, 1280.05(aa), and 1280.06(dd). Any expansion, development, enlargement, improvement, change in ownership, 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.

Ordinance No. 28-16 (Con't)

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 grant a Special Use Permit to Avon 83, LLC, for a 1,505 square foot outdoor seating area adjacent to Building No. 2 located at 35568 Detroit Road; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: \_\_\_\_\_ DATE SIGNED: \_\_\_\_\_

By: \_\_\_\_\_  
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR: \_\_\_\_\_

\_\_\_\_\_  
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
John A. Gasior, Law Director

ATTEST:

\_\_\_\_\_  
Ellen R. Young  
Clerk of Council

POSTED: \_\_\_\_\_  
In Five Places as  
Provided by Council

Prepared by:  
John A. Gasior, Esq.  
Law Director