

ORDINANCE NO. 95-13

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO
PIN HIGH, LLC, DBA FRENCH CREEK, TO ALLOW AN
OUTDOOR SEATING AREA AT 37040 DETROIT ROAD
AND RESCINDING ORDINANCE NO. 38-13
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, dba “French Creek”, submitted an application and presented plans and specifications for an outdoor seating area adjacent to the restaurant/bar 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, as the owner of the land being leased to the French Creek, dba “French Creek”, submitted a new application and presented revised plans and specifications for this outdoor seating area at 37040 Detroit Road to the Planning Commission on June 19, 2013 and after holding a public hearing that same day, Planning Commission voted Five (5) to Zero (0) to recommend approval of this new Special Use Permit; and

WHEREAS, 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deems it in the best interests of the health, safety and welfare of the community that Ordinance No. 38-13 be rescinded and the new Special Use Permit be granted.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 Pin High, LLC to allow its tenant, French Creek, “dba French Creek” to construct and operate an outdoor seating area per the plans and specifications submitted to Planning Commission on June 19, 2013, Council hereby accepts the recommendations of the Planning Commission and agrees to the Special Use Permit for the C-2 property located at 37040 Detroit Road, subject to the conditions set forth in this ordinance. The Special Use Permit previously granted by City Council on April 8, 2013 in Ordinance No. 38-13 is hereby rescinded.

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 meeting; 2) that the 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, a Special Use Permit for its tenant, French Creek Tavern, dba "French Creek Tavern" to have an 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: _____ DATE SIGNED: _____

By: _____
Daniel S. Zegarac, Council President

DATE APPROVED BY THE MAYOR: _____

James A. Smith, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

Ordinance No. 95-13 (Con't)

ATTEST:

Ellen R. Young
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:

John A. Gasior, Esq.
Law Director