

ORDINANCE NO. 56-22

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO PANCHO AVON, LLC
(d.b.a. FIESTA HABANERO) TO CONSTRUCT A 929 SQ. FT.
CONCRETE PATIO/OUTDOOR SEATING AREA ON
PROPERTY LOCATED AT 38790 CHESTER ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, the zoning regulations for the City of Avon require restaurants with outdoor seating areas located in the C-4 General Business District to obtain a Special Use Permit pursuant to ACO '1270.03(b)(8); and

WHEREAS, Pancho Avon, LLC, seeks to operate a restaurant, d.b.a. Fiesta Habanero, on property it owns at 38790 Chester Road in the C-4 zoning district; and

WHEREAS, Pancho Avon, LLC submitted an application and presented plans and specifications for a 929 sq. ft. concrete patio/outdoor seating area to the Planning Commission on April 20, 2022; and

WHEREAS, the Planning Commission held a public hearing on April 20, 2022 and after taking statements from the applicant and all interested parties, voted Five (5) in favor and Zero (0) opposed to recommend to Council approval of the Special Use Permit; and

WHEREAS, Council, after reviewing the application, plans, 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 subject to certain conditions.

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

Section 1 – That Council, having considered the matter of granting the Special Use Permit to Pancho Avon, LLC, d.b.a. Fiesta Habanero, located at 38790 Chester Road, hereby accepts the recommendation of Planning Commission and agrees to grant said special use permit for a 929 sq. ft. concrete patio/outdoor seating area for said property per the plans and specifications submitted and approved by the Planning Commission on April 20, 2022 and as set forth in attached [Exhibit A](#), all of which are made a part of this Special Use Permit by reference and subject to the conditions set forth in this ordinance.

Section 2 - Conditions. (1) The outdoor patio may be open between the hours of 11:00 a.m. to 10:30 p.m. Monday through Sunday; (2) no live music will be permitted on the outdoor patio only soft ambient music from inside the restaurant; (3) the project must proceed pursuant to plans and specifications approved and recommended by the Planning Commission at its April 20, 2022 meeting; and (4) the Special Use Permit granted herein is conditioned upon applicant meeting all applicable requirements of the Avon Codified Ordinances including, but not limited to Chapter 1230, Section 1280.02, 1280.03, 1280.05(cc), and 1280.06(dd). Any expansion, development, enlargement, improvement, change in ownership/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.

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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 Pancho Avon, LLC, d.b.a. Fiesta Habanero, for a 929 sq. ft. concrete patio/outdoor seating area at 38790 Chester Road to enjoy during the summer months subject to the conditions set forth herein; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara Brooks, Clerk of Council

POSTED: _____

In Five Places as
Provided by Council

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