

**ORDINANCE NO. 156-15**

**AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT, DEVELOPMENT AND CONSTRUCTION OF ALL CONGREGATE CARE FACILITIES IN THE CITY OF AVON, OHIO AND DECLARING AN EMERGENCY**

**WHEREAS**, “congregate care/assisted living facility” as set forth in §1280.06(h) identifies independent living with congregate dining facilities, congregate living, assisted living, and nursing care as different types of residential facilities under the umbrella of a “congregate care facility”; and

**WHEREAS**, care for the elderly and for individuals with developmental disabilities is constantly evolving as the region’s population continues to age and the need for this type of housing increases; and

**WHEREAS**, current special use legislation in the Avon Codified Ordinances dealing with congregate care facilities was adopted in 2001; and

**WHEREAS**, the Administration desires to review the current legislation and subsequently report to Council on whether or not amendments to these provisions of the Planning and Zoning Code are in order; and

**WHEREAS**, in furtherance of this plan to review the law in this area, the Administration recommends a six (6) month moratorium on the consideration, approval or authorization of any applications for any of the following: The development, construction and operation of any congregate care facility as a special use in the City of Avon; and

**WHEREAS**, Council agrees with the Administration that any such use of property within the City in the immediate future would have the potential to cause irrevocable harm to the community and therefore concurs with the recommendation of the Administration and finds it necessary, appropriate and in the best interests of the public health, safety and welfare of the citizens of Avon to adopt a six (6) month Moratorium on all activity surrounding congregate care facilities anywhere within the City.

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

Section 1 - That the Council of the City of Avon hereby imposes a Six (6) month Moratorium on the consideration, approval or authorization of any Special Use Permit applications for Congregate Care Facilities as defined in ACO §1222.02 and more specifically as applied under §1280.06 “Supplemental Regulations for Certain Uses, subsection (h) Congregate Care/Assisted Living Facilities” subsections (A) Independent living with congregate dining facilities, (B) Congregate living, (C) Assisted living and Section (D) nursing care. The development or construction of any congregate care facilities, be they independent living with congregate dining facilities, congregate living, assisted living facilities or nursing care or any combination thereof, will not be considered during the period of the moratorium. Said

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Moratorium extends to the submission, consideration or approval of all applications for special use permits, occupancy permits, building permits or the like.

Section 2 - That this Moratorium shall become effective on the date that this Ordinance, following its passage by the Council, is approved by the Mayor, and shall remain in effect for Six (6) months following the date upon which it became effective, ending on June 21, 2016 unless extended upon a majority vote of the Council for a period of no more than an additional Six (6) months if the Council finds such continuance is required to allow sufficient time for the Administration to complete its study and recommend what action, if any, the City of Avon should take to safeguard the public health, safety and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to congregate care facilities located anywhere within the City.

Section 3 - That this Moratorium suspends and tolls any time periods, prescribed by law, within which the Planning Commission or any other official or official body of the City of Avon, is required to take action upon an application for a special use permit, building permit, site plan approval or the like, for the development of land anywhere in Avon and that no such application shall be deemed to be approved by the failure of the Planning Commission, or any other public official or official body to approve or deny said application during the time when this Moratorium shall be in effect. This moratorium is not intended to reach any action that is pending before the Planning Commission, or any other public official or official body of the City of Avon on the effective date of this Moratorium;

Section 4 - That the Planning Commission, at its next regular meeting, is hereby directed to begin a study to recommend what action, if any, the City of Avon should take to preserve the public health, safety and welfare through the provision of adequate planning, zoning, land-use, or other regulatory controls that are specifically applicable to congregate care facilities.

Section 5 - If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6 - That it is found and determined that all formal actions of the Council of the City of Avon concerning and relating to the adoption of this Ordinance were taken in an open meeting of the Council of the City of Avon and that all deliberations of this City's Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

Section 7 - That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to impose a temporary Moratorium on the consideration, approval or authorization of any applications for any of the following: The development or construction of any congregate care facility, the components of which are independent living with congregate dining facilities, congregate living, assisted living

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or nursing care anywhere in the City of Avon to give City officials adequate time to consider what, if any, changes are required to current ordinances governing these facilities; 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, President of Council

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