

ORDINANCE NO. 914-20
VILLAGE OF TONTOGANY, WOOD COUNTY, OHIO

**AN ORDINANCE PERMITTING SIDEWALK CAFÉ / OUTDOOR DINING
ESTABLISHMENTS, AND DECLARING AN EMERGENCY**

WHEREAS, the Village of Tontogany, Ohio, is a statutory Village located in Wood County, Ohio, with powers of local self-government pursuant to Ohio Constitution Article XVIII, Section 3, and

WHEREAS, the Village of Tontogany has a zoning code governing uses of property located in the village, and

WHEREAS, the zoning code does not address, specifically, the establishment of sidewalk cafes or outdoor dining establishments.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Tontogany, Wood County, Ohio, that:

Section 1: Owners of a restaurant located on a lot or parcel of land situated within the Central Business District of the Village may use that portion of the sidewalk along all public streets, avenues, roads or lanes abutting such lot or parcel of land for outdoor dining and drinking by customers of such owner's restaurant in accordance and in compliance with all other zoning provisions, the Wood County Department of Health, Ohio Department of Public Safety, and all other provisions of federal and Ohio law, including, but not limited to, the Americans with Disabilities Act, Ohio Liquor Control, and COVID-19 rules and regulations as established by the State of Ohio.

Section 2: Owners of a restaurant desiring to establish an outdoor dining area upon the abutting sidewalk shall be licensed by the State of Ohio and Wood County to serve food and beverages, and shall be in compliance with all rules and laws of the State of Ohio, Wood County, and the Village of Tontogany. Such Owner shall provide proof of such current compliance to the Village Zoning Inspector upon application for a permit to establish such outdoor dining area, along with the dimensions of the area proposed to be used as an outdoor dining area, proposed location and number of tables, proposed spacing of tables, establishment of a temporary enclosure surrounding the proposed

area, and proposed customer access to such outdoor dining area. The application shall provide for not less than five feet of pedestrian sidewalk access free from obstructions. If the Zoning Inspector is satisfied that all rules and regulations of the village zoning code will be met, and of applicant's compliance with all rules and laws of the State of Ohio, Wood County and the Village of Tontogany, the Zoning Inspector shall issue a permit, valid upon its issuance for a period not to exceed 180 days, to allow outdoor dining and drinking in the designated area.

Section 3: Any person issued a permit to establish an outdoor dining area upon a sidewalk within the village shall not permit the service of customers with food or beverages outside the outdoor dining area, shall not permit food or beverages served within the restaurant or outdoor dining area to be consumed outside the restaurant or outdoor dining area, shall not permit storage or placement of dining furniture and materials used in the service of food or beverages to customers of the restaurant within the outdoor dining area or within the public right of way overnight or when the restaurant is not open for business, and shall not permit the violation of any rule or law established by the State of Ohio, Wood County, or the Village of Tontogany.

Section 4: A permit for outdoor dining issued to any person or entity shall be revoked upon the finding of a violation of any rule established herein, or any rule or law established by the State of Ohio, Wood County, or the Village of Tontogany by such permit holder or his or her or its agent, employee, or contractor. Such revocation shall be effective immediately and may be appealed to the Village Council at its next regularly scheduled council meeting after the filing of an appeal, but such revocation shall not be suspended or otherwise stayed pending appeal. Upon a finding of good cause for the revocation of the permit, the Council shall affirm the revocation. In the absence of clear and convincing evidence of a violation, the Council shall reinstate the permit effective immediately.

Section 5: This Ordinance shall be codified as Section 93.65, Ohio Basic Code.

Section 6: Use by any person of a public sidewalk in the Village of Tontogany as an outdoor dining area without a validly issued permit, or service by any person of food or beverages upon any public or private place in the Village of Tontogany without a validly issued permit, or permitting any person to violate any provision of this ordinance, shall be an unclassified misdemeanor, punishable by a fine of not less than \$500 and not more than \$1,000.

Section 7: This measure is an emergency measure necessary for the immediate preservation of the health, safety and welfare of the Village and its residents for that reason that permitting access to outdoor dining facilities during the brief outdoor-dining season will create economic benefits to the village and

its residents. Immediate implementation of this ordinance will allow the opening of outdoor dining areas during the relevant season.

Section 8: It is hereby 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 other committees that results in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Vote on Emergency: 5 Yeas 0 Nays 0 Abstentions

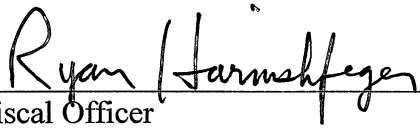
Vote on passage: 5 Yeas 0 Nays 0 Abstentions

Passed this 1 day of JUNE, 2020.



President of Council

ATTEST:



Fiscal Officer

APPROVED:



Mayor