

ORDINANCE NO. 72-13

**AN ORDINANCE TO VACATE CERTAIN EASEMENTS
OVER PROPERTY LOCATED BETWEEN
35682 AND 35514 DETROIT ROAD (The MarketPlace in Avon)
AND DECLARING AN EMERGENCY**

WHEREAS, Avon 83, LLC is the developer of a shopping center known as “The MarketPlace of Avon” located between 35682 and 35514 Detroit Road; and

WHEREAS, certain property owners within the MarketPlace development, including Avon 83, LLC, executed and recorded easements granting the City of Avon access over existing underground sanitary sewers and waterlines and all appurtenances thereto, in anticipation of the City accepting dedication of same; and

WHEREAS, due to the decision of Third Federal Savings and Loan not to participate in the dedication of these utilities, the City’s Engineer and Utilities Superintendent are no longer interested in public ownership of the sanitary sewer on the west side of the development; and

WHEREAS, with there no longer being a requirement of public dedication of this western portion of the sanitary sewer, the Law Director recommends Council vacate these recorded easements and thereby “clean” the chain of title to these properties; and

WHEREAS, Planning Commission reviewed these recorded easements and considered the issue of whether or not to recommend vacation of certain sanitary sewer easements at its meeting on May 15, 2013 and by vote of Five (5) in favor and Zero (0) opposed voted to recommend vacation; and

WHEREAS, Council, after considering the May 15th, 2013 recommendation of Planning Commission, the recommendation of the Law Director and after discussion, review and further consideration, deems it acceptable, appropriate and in the best interests of the health, safety and welfare of the citizens of Avon to vacate the easements set forth in the attached Exhibit.

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

Section 1 - That the City of Avon hereby vacates the easements over the existing sanitary sewer lines granted by Avon 83 LLC (Permanent Parcel Nos. 04-0-015-103-099, 04-00-015-103-086 and 04-00-015-103-089), JPE I, LLC (Permanent Parcel No. 04-00-015-103-077), and 35676 Detroit, LLC (Permanent Parcel No. 04-0-015-103-082). Said easements and a survey map are identified, attached hereto and incorporated herein by this reference.

Section 2 - 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.

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Section 3 - 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, Ohio; the immediate emergency being the necessity to vacate easements for sanitary sewer lines at the site known as "The MarketPlace in Avon" located between 35682 and 35514 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, President of Council

DATE APPROVED BY THE MAYOR: _____

James A. Smith, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Ellen R. Young
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

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