

ORDINANCE NO. 111-14

**AN ORDINANCE ESTABLISHING A ONE HUNDRED AND TWENTY (120)
DAY MORATORIUM ON NEW DEVELOPMENT WITHIN
THE FRENCH CREEK WATERSHED
AND DECLARING AN EMERGENCY**

WHEREAS, large storms with heavy rains settled into the area on Monday, May 12th and persisted through the evening into early Tuesday morning, May 13th; and

WHEREAS, these rains caused the French Creek, Mills Creek and Schwartz Creek to flood, exceeding their banks in some cases by several feet; and

WHEREAS, residents and businesses alike suffered to real property and a loss of valuable personal property as a result of the excessive amount of stormwater generated by this series of storms

WHEREAS, after hearing from these concerned citizens, the City Engineer, the Service Director and the Mayor determined that the damage caused by the flooding was a serious concern of these property owners and needed to be addressed as quickly as possible; and

WHEREAS, in an effort to try to begin to understand and eventually remedy the problem of stormwater flooding during periods of heavy rain and/or snow melt, Council passed Ordinance No. 60-14 on May 27, 2014 recommending that a temporary moratorium be placed upon new development of any type within the French Creek watershed for a period of ninety (90) days to give the Administration an opportunity to explore remedial measures that can be adopted to alleviate this flooding concern; and

WHEREAS, the ninety (90) day temporary moratorium placed upon new development of any type within the French Creek watershed has expired and it is now necessary to establish a new moratorium for a period of one hundred and twenty (120) days to give the Administration the opportunity to continue to explore remedial measures that can be adopted to alleviate this flooding concern; and

WHEREAS, Council finds that the recommendation to extend the aforementioned one hundred and twenty (120) day moratorium to be reasonable and in furtherance of preserving the public health, safety and welfare.

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

Section 1 - That Council hereby extends the Moratorium on the submission, consideration or approval of all applications for any development which requires review, recommendation or approval of Planning Commission within the area identified in Exhibit A, which is attached hereto and incorporated herein by this reference.

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Section 2 - That this Moratorium shall become effective on the date the Ordinance is passed by City Council and approved by the Mayor, and shall remain in effect for one hundred and twenty (120) days following the date upon which it became effective and, thereafter, upon a passage by Council and approval by the Mayor, may be continued in effect, for a period of no more than Ninety (90) additional days if it is determined that such continuance is required to allow sufficient time to complete the engineering study recommending what action, if any, the City of Avon should take to safeguard the public health, safety and welfare relating to any and all land development through the provision of adequate land-use and/or other regulatory controls that are specifically applicable to the flooding issues in the French Creek watershed.

Section 3 - That this Moratorium suspends and tolls any time periods, prescribed by law, within which the Planning Commission, or any other public official or official public body within the City of Avon is required to take action upon an application for any subdivision and/or development plan submitted to Planning Commission pursuant to the Codified City Ordinances or the City Charter. No such application shall be deemed to be approved by the failure of the Planning Commission, or any other public official or official public body to approve or deny said application during the time when this moratorium shall be in effect.

Section 4 - This Ordinance does exempt from its scope any such applications for a Special Use Permit, Building Permit or site-plan approval that has been presented to the Planning Commission, are presently pending before the Planning Commission or City Council, or that have been approved by Planning Commission and/or City Council on or before the effective date of this Moratorium.

Section 5 - That the City Engineer, in consultation with the Planning Commission, City Council, the Mayor/Safety Director, the Service Director and Superintendent of Utilities, is hereby directed to continue, upon passage of this Ordinance, and to complete, if possible, within one hundred and twenty (120) days from the effective date of this moratorium, 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 the management and control of stormwaters draining into the French Creek watershed as those flows impact development within the City of Avon.

Section 6 - 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 7 - 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

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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 8 - 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 proceed with an extension of the Moratorium on all land development for a period of one hundred and twenty (120) days in order to adequately study and/or define the nature of the flooding problems directly related to stormwaters draining into the French Creek watershed; 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