

ORDINANCE NO. 128-16

**AN ORDINANCE TO AUTHORIZE A DEVELOPER'S AGREEMENT WITH
DISCOUNT DRUG MART INC. FOR THE EXTENSION OF A
SANITARY SEWER ON THE EAST SIDE OF NAGEL ROAD FROM
MIDDLETON ROAD SOUTH TO DETROIT ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, Discount Drug Mart Inc. (hereinafter referred to as Drug Mart) is seeking to develop property it owns on the east side of Nagel Road, south from Middleton Road to Detroit Road; and

WHEREAS, said development will require the installation of public utilities (sanitary sewer) within a dedicated public easement adjacent to the existing public right of way; and

WHEREAS, Drug Mart presented plans and specifications to construct said sewer to Planning Commission on August 19, 2015, and Planning Commission voted to approve the installation of said improvement, conditioned upon final engineering approval, by a vote of Five (5) to Zero (0); and

WHEREAS, Polaris Engineering, acting as the City's Consulting Engineer for this project, gave final engineering approval on November 11, 2016; and

WHEREAS, Council has had the opportunity to review the Developer's Agreement with Drug Mart and has provided the Developer the opportunity to discuss the proposed Agreement along with the plans and specifications for the construction of these specific improvements within the proposed easement area ; and

WHEREAS, after discussion, review and further consideration, Council has deemed it appropriate and in the best interests of the health, safety and welfare of the citizens of Avon to enter into a written Agreement with Drug Mart to provide for construction of said sanitary sewer extension as set forth in the plans and specifications approved by Planning Commission and Polaris Engineering.

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

Section 1 - That the City of Avon is hereby authorized to enter into a Developer's Agreement with Discount Drug Mart, Inc. for the installation of a sanitary sewer extension on property it owns on the east side of Nagel Road, south from Middleton Road to Detroit Road pursuant to plans and specifications approved by Planning Commission on August 19, 2015 and finalized by Polaris Engineering on November 11, 2016. A copy of said Developer's Agreement is attached hereto and marked as "Exhibit A" and incorporated herein by reference.

Section 2 - The Mayor and President of Council are hereby authorized to sign said Developer's Agreement on behalf of the City.

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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 authorize the City to enter into a Developer's Agreement with Discount Drug Mart for the installation of a sanitary sewer on property it owns on the east side of Nagel Road, south from Middleton Road to 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: _____
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

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

ATTEST:

Barbara J. Brooks
Clerk of Council

POSTED: _____

In Five Places as
Provided by Council

Prepared by:
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Law Director