

ORDINANCE NO. 43-18

**AN ORDINANCE AUTHORIZING THE MAYOR TO GRANT AN
EASEMENT AND LICENSE TO SWENSON'S DRIVE-IN RESTAURANT, LLC
FOR INGRESS AND EGRESS OVER CITY PROPERTY LOCATED ON MIDDLE
ROAD PERMANENT PARCEL NO. 04-00-016-101-189
AND DECLARING AN EMERGENCY**

WHEREAS, Swenson's Drive-In Restaurant, LLC, an Ohio Limited Liability Company, (hereinafter referred to as "Swensons") owns the property at 36041 Main Street (the southwest corner of Middle Road and Main Street) and will be constructing a drive-in fast food restaurant at said location; and

WHEREAS, to facilitate the smooth flow of vehicular traffic in and about their property Planning Commission, on April 18, 2018, approved Swensons' site plan and granted access drives and curb cuts off of both Middle Road and Main Street; and

WHEREAS, the City owns property adjacent to the Swensons parcel along the western property line, Permanent Parcel No. 04-00-016-101-189. This City parcel is not dedicated public right of way; and

WHEREAS, to facilitate the western driveway access to Middle Road, the City must grant an easement to Swensons across Permanent Parcel No. 04-00-016-101-189; and

WHEREAS, in addition, to permit Swensons to create a more aesthetically attractive site, the City is willing to grant Swensons a License to enter onto said City parcel to mow the grass and landscape the area as it sees fit; and

WHEREAS, Council, having reviewed the attached Easement and License Agreement, finds them to be appropriate for the purpose of facilitating ingress and egress to Middle Road and allowing access to the City property for landscaping purposes, and in the best interests of the health, safety and welfare of the citizens of Avon in promoting the safe and efficient flow of vehicular traffic and aesthetically attractive business enterprises.

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

Section 1 - That the Mayor is hereby authorized execute the Easement and License Agreement with Swensons to facilitate ingress and egress to Middle Road across City property, Permanent Parcel No. 04-00-016-101-189, and to permit landscaping of said property all of which is set forth in the attached Exhibit A which is incorporated herein by 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, the immediate emergency being the necessity to authorize the Mayor to grant an access easement to Swensons to Middle Road and a License to maintain City property at said location; 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

ATTEST:

Barbara Brooks
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

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