

VOTING ORDER

J. Fenderbosch
R. James
D. Kos
L. Meiners
M. O'Donnell
J. Shondel
D. Bucci

CITY OF AVON LAKE
150 AVON BELDEN ROAD
AVON LAKE, OHIO

The following business is to be considered at the regular meeting of the Avon Lake City Council on October 24, 2016 at 7:30 P.M. in the Council Chamber.

Pledge of Allegiance

Roll Call: Mr. Bucci, Mrs. Fenderbosch, Mr. James, Mr. Kos, Mr. Meiners, Mr. O'Donnell, Mr. Shondel, Mayor Zilka, Director of Law Lieberman, Director of Finance Presley, Public Works Director Reitz.

Approval of Minutes: October 11, 2016 Regular Council Meeting as prepared and published.

Correspondence

Reports

Mayor
Council President
Public Works Director
Director of Law
Director of Finance
Standing Committees
Special Committees

Audience Participation

Legislation

Third Readings:

Temporary Legislation #10724, designating the Satter Homestead located at 33295 Walker Road as a historic landmark.

Temporary Legislation #10750, authorizing the donation of unclaimed property in the Police Department.

Second Reading:

Temporary Legislation #10753, amending the rules of the Civil Service Commission.

First Readings:

Temporary Legislation #10756, approving a conditional use site plan to construct the Goddard School.→

Temporary Legislation #10757, approving the final plat for Alten Subdivision.→

Temporary Legislation #10758, approving a salary increase for Kathy Novotny, Clerk of Court.

Temporary Legislation #10759, amending Planning & Zoning Code Section 1217.04, Conditional Use Permits.

Temporary Legislation #10760, amending Planning & Zoning Code Section 1260.07, Outdoor Special Events, and Section 1260.10, Farmers Markets.

Temporary Legislation #10761, amending Planning & Zoning Code Section 1244.02, Permitted Uses, and Section 1250.03(a) (2), Conditional Uses.

Temporary Legislation #10762, authorizing the Mayor to enter into a CRA Tax Incentive Agreement for Avon Lake Aqua, Ltd.

Temporary Legislation #10763, amending Ordinance No. 132-2016 regarding Codified Ordinance Section 260.11, Longevity Compensation.→

Miscellaneous Business and Announcements

Public Input

Executive Session

In compliance with Ohio Revised Code Section 121.22, Council will adjourn to Executive Session to discuss the purchase of property.

Reconvening of Open Council Meeting

Adjournment

→Suspension of the rule requiring three readings

BY: Mrs. Fenderbosch

TEMP NO: 10724

ORDINANCE NO. _____

AN ORDINANCE DESIGNATING THE SATTER HOMESTEAD
LOCATED AT 32295 WALKER ROAD AS A HISTORIC LANDMARK.

WHEREAS, the Avon Lake Planning Commission has at its meeting of August 2, 2016, recommended to Council that the Satter Homestead located at 32295 Walker Road, currently owned by Hans & Judith Kuenzel, be granted Historic Landmark Designation, and

WHEREAS, the request for Historic Landmark Designation for the Satter Homestead has been reviewed by the Avon Lake Historical Preservation Commission according to Planning & Zoning Code Chapter 1268, and

WHEREAS, the house dates back to 1874 as shown on an atlas map, and was built of field stone and hand hewn beams, and

WHEREAS, the house is the third oldest house on Walker Road, and at one time had been used as a dance hall, a tavern, a store, and a private home, and

WHEREAS, historic preservation gives residents of our community a deeper sense of understanding and appreciation of Avon Lake heritage, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the Council of the City of Avon Lake does hereby grant the Satter Homestead House located at 32295 Walker Road the designation of Historic Landmark.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No: 3: That this Ordinance shall be in full force and effect from the earliest period allowed by law.

1st reading: 8/22/16

2nd reading: 10/11/16

3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mr. Kos

TEMP NO: 10750

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE DONATION OF
UNCLAIMED PROPERTY IN THE POLICE DEPARTMENT,
AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon Lake desires to dispose of property that has been unclaimed for ninety (90) days, and

WHEREAS, the property to be disposed of is itemized on the list attached hereto, and consists of bicycles, and

WHEREAS, it has been recommended by the Chief of Police that the City donate this property which has been unclaimed for ninety (90) days to a non-profit organization known as Ohio City Bicycle Co-Op, Inc., and

WHEREAS, Section 737.32 O.R.C. allows such a donation, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the City of Avon Lake does authorize the Chief of Police to donate the property on the attached list to Ohio City Bicycle Co-Op, Inc.

Section No. 2: That Ohio City Bicycle Co-Op, Inc. shall provide a statement to the City of Avon Lake indicating that it is a non-profit organization and complies with the requirements of Section 737.32 O.R.C.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of allowing for unclaimed bicycles to be immediately removed from the impound area before they are damaged further due to exposure to the weather. Therefore this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

1st reading: 9/26/16
2nd reading: 10/11/16
3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor



CITY OF AVON LAKE
POLICE DEPARTMENT

32855 WALKER ROAD --- AVON LAKE, OHIO 44012

TELEPHONE: (440) 933-4567

FAX: (440) 930-4106

Chief Streator,

The Detective Bureau wishes to dispose of 17 bikes. The 17 bikes listed have or will have met the 90 day holding period as 9.15.16. The Detective Bureau will use Ohio City Bike Co Op for the disposal as they are a 5013C organization. No claims have been made on any of the bikes.

| | | |
|---------------|-----------------------|----------|
| 1. 2015-13662 | Boys Red Schwinn | 10.24.15 |
| 2. 2016-1340 | Black Road Master | 2.16.16 |
| 3. 2016-4682 | Boys Magna | 6.5.16 |
| 4. 2016-2187 | Boys Orange/Gray Next | 3.15.16 |
| 5. 2016-3344 | Boys Green Schwinn | 4.22.16 |
| 6. 2016-4682 | Black Boys Mongoose | 6.5.16 |
| 7. 2016-3463 | Blue Boys Vilano | 4.26.16 |
| 8. 2016-2277 | Blue Boys Huffy | 3.18.16 |
| 9. 1503342 | Silver Girls Raleigh | 3.29.15 |
| 10.1510087 | Boys Blue Next | 8.23.15 |
| 11.1510607 | Black Diamond Back | 9.4.15 |
| 12.1511192 | Boys Huffy | 9.15.15 |
| 13.2016-4991 | Black Boys Next | 6.14.16 |
| 14.2016-1038 | Blue Free Agent | 2.5.16 |

| | | |
|------------|------------------|---------|
| 15.1506717 | Red Mongoose | 6.17.15 |
| 16.1502823 | Orange Huffy | 3.16.15 |
| 17.1507916 | Pink Huffy Girls | 7.9.15 |

Respectfully,

Detective Sergeant R. Reikowski #209

8.30.16

By: Mr. Shondel

TEMP NO: 10753

ORDINANCE NO: _____

AN ORDINANCE AMENDING THE RULES OF THE CIVIL SERVICE COMMISSION, AND DECLARING AN EMERGENCY.

WHEREAS, it has been recommended by the Civil Service Commission and the Human Resources Committee of Council that revisions be made in the Civil Service Rules, now therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OHIO

Section No. 1: That Rule 9 Section C of the Rules of the Civil Service, is hereby amended as follows:

Seniority. There shall be added to the **final combined score of the** passing written grade **and assessment center** of those applicants taking promotional examinations a credit for seniority, which shall be determined as follows:

One percentage point (1%) for each year of the first four (4) years of service and six-tenths of one percentage point (.6 %) for each year of the next ten (10) years of service. Seniority credits shall be awarded for partial years of service for each full month of service less than one year on a pro rata basis.

Section No. 2: That Rule 15 of the Rules of the Civil Service, is hereby amended as follows:

Section A. In addition to the general requirements specified in these regulations:

1. No person shall be eligible to take the examination for an original appointment as a firefighter/paramedic unless he/she has attained the age of twenty-one (21) years.
2. A candidate must possess both a valid Ohio Paramedic certificate and a valid Ohio Level II firefighter certificate. ~~upon appointment as a~~
Firefighter/Paramedic

Section F. **Except as otherwise determined by the Commission and excepting the requirements set forth in Section 15(B), candidates for the position of Firefighter/Paramedic must satisfy all job qualifications and requirements for an original appointment, and must submit to the Clerk of the Commission all required documentation demonstrating that the candidate meets the qualifications and requirements, not later than fourteen (14) days after the deadline for submission of applications for the posted position.**

Section No. 3: That Rule 17 of the Rules of the Civil Service, is hereby amended as follows:

Section G. Except as provided in Section J of this Rule, no person who has not had at least one (1) year of continuous service as a Lieutenant in the Fire Department of the City of Avon Lake shall be eligible to take an examination for promotion to the position of **Chief Captain**.

Section H. Except as provided in Section J of this Rule, no person who has not had at least one (1) year of continuous service as a **Captain in the Fire Department of the City of Avon Lake shall be eligible to take an examination for promotion to the position of Assistant Chief.**

Section I. Except as provided in Section J of this Rule, no person who has not had at least one (1) year of continuous service as an **Assistant Chief in the Fire Department of the City of Avon Lake shall be eligible to take an examination for promotion to the position of Chief.**

Section No. 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No. 4: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity to establish an effective method of evaluating employees and clarifying Civil Service requirements to ensure the best hiring and promotional practices for the smooth operation of City departments, thus safety, health and welfare of the public. Therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

1st reading: 10/11/16
2nd reading:
3rd reading:

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

BY: Mrs. Fenderbosch

TEMP NO: 10756

ORDINANCE NO. _____

AN ORDINANCE APPROVING A CONDITIONAL USE SITE PLAN TO CONSTRUCT THE GODDARD SCHOOL, AND DECLARING AN EMERGENCY.

WHEREAS, Planning Commission has at its meeting of October 4, 2016, recommended the approval of a Conditional Use Site Plan to construct the Goddard School, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That after approval by Planning Commission and review by this Council, Council hereby confirms the recommendation of approval by Planning Commission of a Conditional Use Site Plan to construct the Goddard School on the former Wendy's Restaurant parcel at 430 Avon Belden Road.

Section No. 2: That the proposed project will increase the building to approximately 7,000 square feet and will include a new entrance facing Avon Belden Road with access off the existing driveway from Towne Center.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No. 3: That this Ordinance is hereby declared to be an emergency measure to allow the project to begin as soon as possible to have the facility ready for the 2017 school year, and further to promote the economic development and generate additional revenue for the City of Avon Lake, thus for public welfare of Avon Lake residents. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mrs. Fenderbosch

TEMP NO: 10757

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE FINAL PLAT FOR
ALTEN SUBDIVISION, AND DECLARING AN EMERGENCY.

WHEREAS, Planning Commission has at its meeting of October 4, 2016, approved the final plat for Alten Subdivision, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the final plat for Alten Subdivision, consisting of 7 single family homes on Alten Drive, submitted to and approved by Planning Commission and referred to this Council, be and it is hereby approved.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No. 3: That this Ordinance is hereby declared to be an emergency measure, to allow the project to move forward during the construction season and further to allow for the timely recording of the final plat to prevent unnecessary delay in the mortgage closings of homes and to allow the City to begin collecting taxes on these properties to add to the revenue of the City, thus for the public health, safety, and welfare. Therefore, this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mr. Shondel

TEMP NO: 10758

ORDINANCE NO. _____

AN ORDINANCE APPROVING A SALARY INCREASE FOR
KATHY NOVOTNY, CLERK OF COURT, AND DECLARING
AN EMERGENCY.

WHEREAS, it has been recommended by Judge Bilancini and the
Human Resources Committee that Kathy Novotny, Clerk of Court
should be granted a salary increase, and

WHEREAS, Council coming now to consider said recommendation
approves it in full and desires to put it into effect, now
therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the following employee be granted the
following salary increase effective December 1, 2016.

Kathy Novotny Clerk of Court \$47,476.00/year

Section No. 2: That it is found and determined that all
formal actions of this Council concerning and relating to the
adoption of this Ordinance were adopted in an open meeting of
this Council and that all deliberations of this Council and any
of its committees which 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 No. 3: That this Ordinance is hereby declared to be
an emergency measure, the emergency being the necessity of
complying with provisions of the Fair Labor Standards Act.
Therefore, this Ordinance shall be in full force and effect from
and immediately after its passage and approval by the Mayor.

1st reading:
2nd reading:
3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mrs. Fenderbosch

TEMP NO: 10759

ORDINANCE NO. _____

AN ORDINANCE AMENDING PLANNING & ZONING CODE
SECTION 1217.04 CONDITIONAL USE PERMITS.

WHEREAS, Planning Commission at its meeting of October 4, 2016 recommended to Council an amendment to Planning & Zoning Code Section 1217.04. Conditional Use Permits, and

WHEREAS, Council coming now to consider said recommendation approves it in full, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That Planning & Zoning Code Section 1217.04 is hereby amended as follows:

1217.04 CONDITIONAL USE PERMITS

(g) Any lawfully existing use that, at the time when the use was established, was not classified as a conditional use, but which now, because of the passage of this Planning and Zoning Code, or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to have been granted a conditional use permit. **Failure of such property to conform to current minimum lot requirements and setbacks shall not preclude such use from being deemed a conditional use.** Any change, modification, enlargement or alteration of such use, site development conditions, or change in operations shall only be permitted upon review and approval by the Planning Commission according to the procedures for conditional uses set forth in this Code.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No. 3: That this Ordinance shall be in full force and effect from the earliest period allowed by law.

1st reading:
2nd reading:
3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mrs. Fenderbosch

TEMP NO: 10760

ORDINANCE NO. _____

AN ORDINANCE AMENDING PLANNING & ZONING CODE
SECTION 1260.07, OUTDOOR SPECIAL EVENTS, AND
SECTION 1260.10, FARMERS MARKETS.

WHEREAS, Planning Commission at its meeting of October 4, 2016 recommended to Council amendments to Planning & Zoning Code Section 1260.07, Outdoor Special Events, and Section 1260.10, Farmers Markets, and

WHEREAS, Council coming now to consider said recommendation approves it in full, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That Planning & Zoning Code Sections 1260.07 and 1260.10 are hereby amended as follows:

1260.07 OUTDOOR SPECIAL EVENTS.

Temporary retail activities, such as sales of plants, flowers, arts and crafts, and temporary inventory reduction or liquidation sales, shall be permitted in compliance with the following regulations:

(a) Residential Districts.

(1) The Zoning Administrator may approve an existing permitted or conditional use to conduct a temporary retail activity, including carnivals and festivals on private property, so long as such activity is limited in duration to no more than 3 days and no more than 2 such events occur in each calendar year.

(2) Any such activity, carnival or festival that is intended to last for ~~a minimum of 4 days~~ **more than 3 days** and ~~a maximum of~~ **but no more than** 60 days shall **must** be approved by ~~an administrative board which is comprised of~~ the Mayor, the Zoning Administrator, the Building Inspector, the Fire Chief and the Police Chief. Only one such event shall be permitted on a site in each calendar year. Carnivals or festivals as

approved shall be subject to fees as provided in the General Fee Schedule, Chapter 208 of the Administrative Code.

(b) Office, Business, and Industrial Districts. In Office, Business, and Industrial Districts, outdoor special events shall comply with the following:

(1) May be approved by the Zoning Administrator when proposed for a period no longer than 3 days and no more than 2 such events shall occur in each calendar year.

(2) May be approved by ~~an administrative board comprised of~~ the Mayor, the Zoning Administrator, the Building Inspector, the Fire Chief and the Police Chief, when proposed for more than 3 days but no longer than 60 days. Only one such event shall be permitted on a site in each calendar year. Carnivals or festivals as approved shall be subject to fees as provided in the General Fee Schedule, Chapter 208 of the Administrative Code.

(3) Such event, when proposed to extend for a period longer than 60 days, shall be considered by the Planning Commission as a conditional use. Regardless of the duration of the outdoor special event, in all cases the owner of the property on which the activity is to be conducted shall sign the permit application.

(c) Activities on Public Property. A special event may be conducted on property which is publicly owned so long as the owner of such public property files with the application for such event a written consent to the activities proposed on the property. Such event may be considered and approved by:

(1) The Zoning Administrator when proposed to be less **no more** than 3 days in duration;

(2) ~~An administrative board comprised of~~ The Mayor, the Zoning Administrator, the Building Inspector, the Fire Chief and the Police Chief when proposed to be more than 3 days and less than 60 days in duration. Carnivals or festivals as approved shall be subject to fees as provided in the General Fee Schedule, Chapter 208 of the Administrative Code.

(3) The Planning Commission, as a conditional use, when proposed to be more than 60 days in duration.

However, such activities shall not be conducted in the public right-of-way unless the appropriate license is obtained from the City.

1260.10 FARMERS MARKET.

(e) Approval Process. Application for a zoning permit for a farmers market shall be submitted on the form provided by the Zoning Administrator. A zoning permit shall be issued only when ~~an administrative board made up of~~ the Mayor, the Building Inspector, the Fire Chief, the Police Chief and the Public Works Director and the Zoning Administrator find that the proposed use is a farmers market, as defined in subsection (A) hereof, and complies with all the requirements and standards of this section. The zoning permit for a farmers market shall expire on the 31st of October of the calendar year issued.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No. 3: That this Ordinance shall be in full force and effect from the earliest period allowed by law.

1st reading:
2nd reading:
3rd reading:

| | |
|------------------|----------------------|
| PASSED: _____ | _____ |
| | President of Council |
| POSTED: _____ | _____ |
| | Approved |
| ATTEST: _____ | _____ |
| Clerk of Council | Mayor |

BY: Mrs. Fenderbosch

TEMP NO: 10761

ORDINANCE NO. _____

AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1244.02, PERMITTED USES, AND SECTION 1250.03(a) (2), CONDITIONAL USES.

WHEREAS, Planning Commission at its meeting of October 4, 2016 recommended to Council amendments to Planning & Zoning Code Section 1244.02, Permitted Uses, Section 1250.03(a) (2), Conditional Uses, and

WHEREAS, Council coming now to consider said recommendation approves it in full, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Planning & Zoning Code Sections 1244.02, and Section 1250.03(a) (2) are hereby amended as follows:

| 1244.02 PERMITTED USES | O-1 | B-1 | B-2 | B-3 |
|-------------------------------------|-----|-----|-----|-----|
| D. AUTOMOTIVE | | | | |
| 1. Sales/Rental Automobiles, Trucks | | | C | C |

SCHEDULE 1250.03(a)(2)

Regulations for Conditional Uses In Business and Industrial Districts

| Conditional Use | District Permitted | | | | | | Minimum Lot Requirements | | Additional Specific Criteria if Applicable |
|---|--------------------|-----|----------|---|----|---|--------------------------|--------------|--|
| | B-1 | B-2 | B-3 | O | LI | I | Area (a) | Width (feet) | |
| 4. Automobile and truck sales, leasing and rental | | X | X | | X | | 2 ac. | 200 | 1250.04(c) |

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No. 3: That this Ordinance shall be in full force and effect from the earliest period allowed by law.

1st reading:
2nd reading:
3rd reading:

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor

BY: Mr. Bucci

TEMP. NO. 10762

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CRA TAX INCENTIVE AGREEMENT WITH AVON LAKE AQUA, LTD WITHIN THE COMMUNITY REINVESTMENT AREA, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That the Mayor of the City of Avon Lake be, and he is hereby authorized and directed to enter into a CRA Tax Incentive Agreement with Avon Lake Aqua, Ltd. hereafter ("Avon Lake Aqua") to assist with the construction of 144 new apartment homes, which is within a designated Community Reinvestment Area. A copy of the CRA Tax Incentive Agreement is attached hereto as "Exhibit A".

Section No. 2: That the Mayor be, and is hereby authorized to execute such amendments to said Agreement and to take such action and to execute such other documents and amendments thereto as may be necessary and as are approved by the Law Director.

Section No. 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Ohio Revised Code §121.22.

Section No. 4: That this Ordinance is hereby declared to be an emergency measure, in order that Avon Lake Aqua may begin construction activities as soon as possible to further the economic development of Avon Lake and bring new jobs to the City, thus for the public welfare. Therefore, this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

1st reading: _____
2nd reading: _____
3rd reading: _____

PASSED: _____

President of Council

POSTED: _____

Approved

ATTEST: _____

Clerk of Council

Mayor

CITY OF AVON LAKE
COMMUNITY REINVESTMENT AREA
TAX INCENTIVE AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2016, by and between the City of Avon Lake, Ohio, with its Municipal building located at 150 Avon Belden Road, Avon Lake, Ohio, 44012 (hereinafter referred to as the "City of Avon Lake") and 216 Miller Rd., LLC, Miller Road Assoc., LLC and Avon Lake Equities, Ltd , (Real Property Owners) with its principal offices located at 420 Avon Belden Road, Avon Lake, Ohio 44012, (hereinafter referred to as "Avon Lake Aqua, Ltd.").

WITNESSETH:

WHEREAS, Avon Lake Aqua, Ltd. is a company engaged in the business of rental of residential apartment homes headquartered in Avon Lake, Ohio, whose principal owners and/or officers are H.R. Kopf; and,

WHEREAS, City of Avon Lake has encouraged the development of real property located in the area designated as Community Reinvestment Area; and,

WHEREAS, Avon Lake Aqua, Ltd. desires to construct 144 new apartment homes at the northwest corner of Miller and Walker Roads in, Avon Lake, Ohio, a location within the boundaries of the aforementioned Community Reinvestment Area (hereinafter referred to as the "Property"), provided the appropriate development incentives are available to support the economic viability of said project; and,

WHEREAS, the Property, with a business mailing address of 420 Avon Belden Road, Avon Lake, Ohio, 44012, is owned by 216 Miller Rd., LLC, Miller Road Assoc., LLC and Avon Lake Equities, Ltd.; and,

WHEREAS, the Municipal Council of the City of Avon Lake, Ohio, by resolution No. 132-94 adopted on June 20, 1994, amended and replaced by Resolution No. 82-2014 adopted June 24, 2014, designated the area as a "Community Reinvestment Area" pursuant to Chapter 3735 of the Ohio Revised Code; and

WHEREAS, the City of Avon Lake, having the appropriate authority for the stated type of project, is desirous of providing Avon Lake Aqua, Ltd. with tax incentives

available for the development of the Project in said Community Investment Area under Chapter 3735 of the Ohio Revised Code; and

WHEREAS, Avon Lake Aqua, Ltd. has submitted an Application for Tax Incentive to the City of Avon Lake; and

WHEREAS, Avon Lake Aqua, Ltd. has been investigated and recommended to the Council of the City of Avon Lake on the basis that it is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Community Reinvestment Area and improve the economic climate of the City of Avon Lake; and

WHEREAS, the project site as proposed by Avon Lake Aqua, Ltd. is located in the Avon Lake School District whose Board of Education has been notified in accordance with ORC §3735.671 and has been given a copy of this Agreement; and

WHEREAS, pursuant to ORC §3735.67(A) and in conformance with the format required under ORC §3735.671(B), the parties hereto desire to set forth their Agreement with respect to matters hereinafter contained.

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Avon Lake Aqua, Ltd. will expand its operations in Avon Lake, Ohio by constructing 144 new apartment homes, as part of an expansion project (hereinafter referred to as the "Project"), as follows:

The Project will include the following investments by Avon Lake Aqua, Ltd.:

| | |
|----------------------------------|------------------------|
| i. Acquisition of buildings | \$ |
| ii. Additions/New Construction | \$16,493,000.00 |
| iii. Office Complex Construction | \$ |
| iv. Machinery & Equipment | \$ |
| v. Furniture & Fixtures | \$ |
| vi. Inventory | \$ |
| vii Land | <u>\$ 1,420,000.00</u> |
| Total Project Investment | \$17,913,000.00 |

2. The Project shall commence no earlier than Spring, 2017. It is expected that the Project will be concluded by Fall, 2019.
3. The Project shall create 3 new permanent full time jobs in the City of Avon Lake within a 30 month period after the completion of the Project and approximately 300 part time construction jobs.

4. The newly-created full time jobs will have an annual payroll of approximately One Hundred Twenty-Five Thousand Dollars (\$125,000.00) and the newly-created part time construction jobs will have a payroll of approximately Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

5. The City of Avon Lake hereby grants Avon Lake Aqua, Ltd. a limited exemption from taxation. The limited exemption shall apply to the improvements made to the real property located at the Property comprised of Lorain County Permanent Parcel Numbers 04-00-006-105-055, 04-00-006-105-033 and 04-00-006-105-048 at the northwest corner of Miller and Walker Roads, Avon Lake, Ohio 44012 and included in the Project site pursuant to ORC §3735.67 and shall be noted as follows:

| <u>REAL PROPERTY TAX EXEMPTION</u> | <u>TAX EXEMPTION AMOUNT</u> | <u>LENGTH OF EXEMPTION</u> |
|------------------------------------|-----------------------------|----------------------------|
| Buildings & Improvements | 100% | 10 |

*25% of the taxes exempted pursuant to this agreement shall paid directly to the Avon Lake City Schools

6. The exemption shall commence the first year for which the improvements to the Property would first be taxable were the Property not exempted from taxation. The exemption shall continue for a period of 10 years after the improvements to the Property would first be taxable were the Property not exempted from taxation. No exemption from taxation shall commence before January 1, 2017, nor after December 31, 2019.

7. Avon Lake Aqua, Ltd. shall pay such real and tangible personal property taxes as are not exempted under this Agreement and are charged against such property and shall file all tax reports and returns as required by law. If Avon Lake Aqua, Ltd. fails to pay such taxes or file such returns and reports, exemptions from taxation granted under this Agreement shall be rescinded beginning with the year for which such taxes are charged or such reports are required to be filed and thereafter.

8. Avon Lake Aqua, Ltd. shall maintain a membership in the North Coast Regional Chamber of Commerce.

9. Avon Lake Aqua, Ltd. hereby certifies that at the time this Agreement is executed, Avon Lake Aqua, Ltd. does not owe any delinquent real or tangible personal property taxes for which Towne Care Center, LLC, or Avon Lake Aqua, Ltd. Apartments, Ltd. is liable under Chapters 5733, 5735, 5741, 5743, 5747 and 5753 of the Ohio Revised Code. For the purpose of this certification, delinquent taxes are taxes that remain unpaid on the last day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.
10. The City of Avon Lake shall perform such acts as are reasonably necessary or appropriate to affect, claim, reserve and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.
11. If for any reason the City of Avon Lake revokes the designation of the area, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless Avon Lake Aqua, Ltd. materially fails to fulfill its obligations under this Agreement or the City of Avon Lake terminates or modifies the exemptions from taxation pursuant to the Agreement.
12. The City of Avon Lake may terminate or modify the exemptions from taxation pursuant to this Agreement and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this Agreement if Avon Lake Aqua, Ltd. materially fails to fulfill its obligations under this Agreement (hereinafter "material failure"). A material failure includes, but is not limited to:
 - a. Avon Lake Aqua, Ltd.'s obligation to complete the Project as described herein as well as the obligation to retain existing jobs and create new jobs.
 - b. Avon Lake Aqua, Ltd.'s obligation, if any, to make any payment or transfer of other consideration to the Avon Lake School District in lieu of taxes being exempted under this Agreement; and
 - c. Avon Lake Aqua, Ltd.'s certification as to the delinquent taxes required by this Agreement is determined to be false or fraudulent.
13. Avon Lake Aqua, Ltd. shall provide to the Avon Lake Housing Council Review Board, or other property Tax Incentive Review Council, any information reasonably required by the Council to evaluate Avon Lake

Aqua, Ltd.'s compliance with the Agreement, including returns filed pursuant to ORC §5711.02 if requested by Council.

14. Exemptions from taxation granted under this Agreement shall be revoked if it is determined that Avon Lake Aqua, Ltd., or any successor that obtains an interest in the Property and encompassed within the Project, or any related member (as those terms are defined in Division (3) of ORC §3735.671) has violated the prohibition against entering into this Agreement under Division (E) of ORC §3735.671 or ORC §§5709.62, or 5709.63, or 5709.632 prior to the time prescribed by that division or either of those sections.
15. Avon Lake Aqua, Ltd. shall pay the initial application fee of Seven-hundred and Fifty Dollars (\$750.00) to the Ohio Department of Development. Pursuant to ORC §3735.671(D).
16. Avon Lake Aqua, Ltd. shall pay an annual fee of \$750.00. The fee shall be made payable to the City of Avon lake once per year for each year the agreement is effective on the days and in the following forum: certified check. The fee is to be paid to Director of Finance, City of Avon Lake and made out to the City of Avon Lake. This fee shall be deposited in a special fund created for such purpose and shall be used exclusively for the purpose of complying with Section 3735.671 (D) of the revised code and by the Tax Incentive Review Council created under Section 3735.671 (D) of the revised code exclusively for the purposes of performing the duties prescribed under that Section.
17. **Avon Lake Aqua, Ltd. must file the appropriate tax forms, including but not limited to Form (DTE 24) with the County Auditor, and any other appropriate entities, to initiate and maintain the exemptions covered in the Agreement.**
18. The City of Avon Lake has developed a policy to ensure recipients of Community Reinvestment Area tax abatement maintain and apply non-discriminatory practices in all hiring and operations associated with the Project. By execution of this Agreement, Avon Lake Aqua, Ltd. hereby commits to non-discriminating hiring practices acknowledging that no individuals shall be denied employment solely on the basis of race, religion, disability, color, national origin, familial status or ancestry.
19. Avon Lake Aqua, Ltd. acknowledges that, as a condition precedent, this Agreement must be approved by formal action of the Municipal Council of the City of Avon Lake. As an additional condition for the Agreement to take effect, the Agreement must also be reviewed and approved by the Ohio Department of Development and the Lorain County Auditor.

20. This Agreement is **not** transferable or assignable without the express written approval of the City of Avon Lake, except that the exemption from taxation granted herein may be transferred without the approval of the City of Avon Lake to any other entity which may acquire the Property so long as the acquiring entity is controlled by H.R. Kopf . Any notices, statements, acknowledgment, consent approvals, certificates or requests required to be given on behalf of either party shall be in writing as follows:

If to the City of Avon Lake, Ohio:
Ltd.: _____

City of Avon Lake
150 Avon Belden Road
Avon Lake, Ohio 44012
ATTN: Mayor's Office

If to Avon Lake Aqua,

Avon Lake Aqua, Ltd.
420 Avon Belden Road
Avon Lake, Ohio 44012
Attn: H. R. Kopf

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the duly authorized representatives as of the date and year set forth above:

Witnessed by:

The City of Avon Lake

By: _____
Greg Zilka, Mayor

Witnessed by:

Avon Lake Aqua, Ltd.

By: _____

Its: _____

BY: Mr. Shondel

TEMP NO: 10763

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 132-2016, AND
DECLARING AN EMERGENCY.

WHEREAS, Council recently amended Codified Ordinance Section 260.11, Longevity Compensation, as recommended by the Human Resources Committee, and

WHEREAS, a further amendment is necessary to be consistent with the approved amendments, now therefore;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE,
STATE OF OHIO:

Section No. 1: That Ordinance No. 132-2016 is hereby amended as follows:

260.11 LONGEVITY COMPENSATION.

| Consecutive Full Years of Service | Amount of Annual Longevity Pay |
|-----------------------------------|----------------------------------|
| 6 | \$ 450 |
| 7 | 500 |
| 8 | 550 |
| 9 | 600 |
| 10 | 675 |
| 11 | 750 |
| 12 | 825 |
| 13 | 900 |
| 14 | 975 |
| 15 | 1,050 |
| 16 | 1,125 |
| 17 | 1,200 |
| 18 | 1,275 |
| 19 | 1,350 |
| 20 or more | 1,700 per year until termination |

~~The aforementioned increases in longevity compensation in division (a)(3) of this section shall be retroactive to January 1, 2016.~~

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which 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 No. 3: That this Ordinance is hereby declared to be an emergency measure to be consistent with amendments to the Codified Ordinances and avoid confusion when calculating employees' longevity benefits. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: _____
President of Council

POSTED: _____
Approved

ATTEST: _____
Clerk of Council Mayor