

ORDINANCE NO. 91-19

**AN ORDINANCE TO AMEND ORDINANCE NO. 88-17
ACCEPTING IMPROVEMENTS CONSTRUCTED BY NWQ JAYCOX I-90, LLC.
("PROJECT J") FOR THE EXPANSION OF CHESTER ROAD TO FIVE
LANES IN THE VICINITY OF 35700 AND 35525 CHESTER ROAD
AND DECLARING AN EMERGENCY**

WHEREAS, the Council for the City of Avon passed Ordinance No. 88-17 on October 23, 2017 to accept improvements constructed by NWQ Jaycox I-90, LLC, (Project J), for the expansion of Chester Road in the vicinity of 35700 and 35525 Chester Road; and

WHEREAS, Section 2, Item (1) called for a Three (3) Year Maintenance Bond which will expire on October 23, 2020; and

WHEREAS, the City Engineer indicated in an email to the Developer on August 9, 2017 that his office had accepted the final as-built drawings on October 21, 2016, and

WHEREAS, construction activities were determined to be completed and the improvements were open to the public on or about October 21, 2016. Said date should be deemed the beginning of the maintenance period; and

WHEREAS, the Administration recommends to Council that Ordinance 88-17 be amended and that the Developer's Maintenance Bond, which was posted in cash, be refunded to Developer upon passage of this ordinance; and

WHEREAS, Council finds the recommendation of the Administration to reasonable and that the refund of the maintenance bond to be in the best interests of the health, safety and welfare of the citizens of Avon.

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

Section 1 - That Ordinance No. 88-17, Section 2 which currently reads as follows:

Section 2 - The City's acceptance of dedication of the Chester Road expansion improvements herein is contingent upon the Developer providing the City with the following: (1) a Three (3) Year Maintenance Bond or similar Financial Guarantee for said improvements in the amount of Seventy Thousand Eight Hundred Seventy Five and 99/100 (\$70,875.99) Dollars and (2) a cash deposit in the sum of One Thousand Five Hundred and 00/100 (\$1,500.00) Dollars to cover miscellaneous costs incurred by the City relating to this Development;

Shall be amended to read as follows: (new language in bold print)

Section 2 - The City's acceptance of dedication of the Chester Road expansion improvements herein is contingent upon the Developer providing the City with the following: (1) a ~~Three (3)~~ **Two (2)** Year Maintenance Bond or similar Financial Guarantee for said improvements in the amount of Seventy Thousand Eight Hundred Seventy Five and 99/100 (\$70,875.99) Dollars Dollars and (2) a **two year** cash deposit in the sum of One Thousand Five Hundred and 00/100 (\$1,500.00) Dollars to cover miscellaneous costs incurred by the City relating to this Development. **As consideration for this amendment, the Developer agrees to leave a deposit of \$8,000 with the City until such time as the Service Director and the City Engineer agree, in writing, to release said funds but in no case longer than twelve (12) months from the passage of this ordinance.**

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.

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 amend Ordinance No. 88-17 to reduce the maintenance bond period from three (3) years to two (2) years and thereby permit a certain cash fund to be made to the Developer effective October 28, 2019; 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