

ORDINANCE NO. O-19-52

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING SPECIFIC PUBLIC INFRASTRUCTURE IMPROVEMENTS MADE, TO BE MADE, OR IN THE PROCESS OF BEING MADE, THAT DIRECTLY BENEFIT, OR THAT ONCE MADE WILL DIRECTLY BENEFIT, THE PARCELS FOR WHICH IMPROVEMENT IS DECLARED TO BE A PUBLIC PURPOSE; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, 5709.832 AND 5709.85; AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code (“R.C.”) Sections 5709.40(B), 5709.42 and 5709.43 provide that this Council of the City of Wilmington (the “City”) may declare any “improvement” (as defined R.C. Section 5709.40) to one or more parcels of real property located in the City to be a public purpose, thereby exempting those improvements from real property taxation for a period of time, specify public infrastructure improvements made, to be made, or in the process of being made that directly benefit, or that once made will directly benefit, those parcels, provide for the making of service payments in lieu of taxes by the owners thereof, provide for the distribution of the applicable portion of those service payments to the overlapping city, local or exempted village school district and joint vocational school district, and establish a municipal public improvement tax increment equivalent fund into which the balance of such service payments are to be deposited; and

WHEREAS, the real property shown in Exhibit A hereto and incorporated herein by reference (the “Property”) is located in the State of Ohio (the “State”), County of Clinton (the “County”), and the City, with each parcel of the Property referred to herein as a “Parcel” (whether as presently appearing on County tax duplicates or as subdivided or combined and appearing on future tax duplicates); and

WHEREAS, pursuant to R.C. Section 5709.40(D)(2), said exemption may be for up to one hundred percent (100%) of such improvement for up to thirty (30) years with payments to the Wilmington City School District (the “School District”) and the Great Oaks Career Campus – Laurel Oaks (the “JVSD”) in an amount equal to the real property taxes that the School District and JVSD would have been paid if the improvement to each Parcel located within the School District and JVSD had not been exempted from taxation; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interests of the City to provide for service payments in lieu of real property taxes (“Service Payments,” as further defined herein) with respect to the Property pursuant to R.C. Section 5709.42; and

WHEREAS, the City desires to facilitate the completion of the public infrastructure improvements described in Exhibit B attached hereto and incorporated herein by this reference (the “Public Infrastructure Improvements”); and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the School District and the Board of Education of the JVSD in accordance with and within the time periods prescribed in R.C. Sections 5709.40 and 5709.83; and

WHEREAS, it is imperative that this Ordinance go into effect immediately so that the City can continue to facilitate uninterrupted development of the Property and so that the City can begin to undertake the financing of the public infrastructure improvements without delay.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF WILMINGTON COUNCIL, COUNTY OF CLINTON, STATE OF OHIO:

Section 1. The Public Infrastructure Improvements described in Exhibit B hereto made, to be made, or in the process of being made by the City are hereby designated as public infrastructure improvements that directly benefit, or once made will directly benefit, the Property.

Section 2. One hundred percent (100%) of the increase in the assessed value of the Property after the effective date of this Ordinance (which increase in assessed value is an “Improvement” as defined in R.C. Section 5709.40) shall be a public purpose and shall be exempt

from real property taxation commencing on a Parcel-by-Parcel basis the earlier of (i) when there is an increase in fair market value of [\$50,000] for that Parcel, or (ii) the first day of tax year [2027] and ending on the earlier of (i) thirty (30) years after such commencement or (ii) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of R.C. Sections 5709.40, 5709.42 and 5709.43.

Section 3. As provided in R.C. Section 5709.42, the owner of any Parcel with an Improvement is required hereby to make annual payments in lieu of taxes to the Clinton County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation (with the payments in lieu of tax, including any penalties and interest, the "Service Payments"). The County Treasurer shall remit all Service Payments to the City for deposit in the Downtown Wilmington Municipal Public Improvement Tax Increment Equivalent Fund (the "Fund") established in Section 5 hereof that are not required to be distributed to the School District and the JVSD pursuant to Section 4. This Council hereby authorizes the Mayor, the City Administrator, the Director of Public Service/Public Safety, or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments as are necessary and incidental to collect those Service Payments and to make such arrangements as are necessary and proper for payment of the Service Payments. Any late payments shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time. The Service Payments shall be allocated and deposited in accordance with Section 4 and Section 5 of this Ordinance.

No owner shall, under any circumstances, be required for any tax year to both pay Service Payments with respect to an Improvement and reimburse local taxing authorities for the amount of real property taxes that would have been payable to local taxing authorities had the Improvement not been exempted from taxation pursuant to this Ordinance.

Section 4. The County Treasurer is requested to distribute the Service Payments as follows:

(i) to the School District, an amount equal to the amount that the School District would otherwise have received as real property tax payments derived from the Improvement to the Parcels located within the School District if the Improvement had not been exempt from taxation pursuant to this Ordinance; and

(ii) to the JVSD, an amount equal to the amount that the JVSD would otherwise have received as real property tax payments derived from the Improvement to the Parcels located within the JVSD if the Improvement had not been exempt from taxation pursuant to this Ordinance; and

(iii) to the City, all remaining amounts for further deposit into the Fund.

Section 5. This Council hereby establishes, pursuant to and in accordance with the provisions of R.C. Section 5709.43, the Fund, into which shall be deposited all of the Service Payments distributed to the City with respect to the Improvement to the Property by or on behalf of the County Treasurer, as provided in R.C. Section 5709.42, and hereby appropriates all of the moneys deposited in the Fund from time to time to pay, semi-annually, amounts in the following order:

(i) if the County Treasurer does not proceed in accordance with Section 4, to make the payments set forth in Section 4 to the School District and the JVSD; and

(ii) for any costs associated with the Public Infrastructure Improvements, including, but not limited to, the "costs of permanent improvements" described in R.C. Section 133.15(B), and

(iii) to the City to be utilized at its discretion for any purpose permitted by applicable law.

The Fund shall remain in existence so long as Service Payments are collected and used for the aforesaid purposes, subject to the limits set forth in Section 3 hereof, after which said Fund shall be dissolved in accordance with R.C. Section 5709.43(D). Upon dissolution, any

incidental surplus money remaining in the Fund shall be disposed of as provided in R.C. Section 5709.43(D).

Section 6. This Council hereby authorizes the Mayor, the City Administrator, the Director of Public Service/Public Safety, or other appropriate officers of the City to take such actions as are necessary or appropriate to implement the transactions contemplated by this Ordinance, including the filing of one or more applications for exemption and any related forms in accordance with R.C. Section 5709.911.

Section 7. The City's Tax Incentive Review Council (the "TIRC") shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other matters as may properly come before that TIRC, all in accordance with Section 5709.85 of the Ohio Revised Code.

Section 8. The Mayor, the City Administrator, the Director of Public Service/Public Safety, or other appropriate officers of the City are each authorized and directed to sign any other documents, instruments, or certificates and to take such actions as are necessary or appropriate to consummate or implement the actions described herein, or contemplated by this Ordinance.

Section 9. Pursuant to R.C. Section 5709.40(I), the Mayor, the City Administrator, or the Director of Public Service/Public Safety is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency ("DSA") within fifteen (15) days after its passage. On or before March 31 of each year that the exemption set forth in Section 3 hereof remains in effect, the Mayor, City Administrator or other authorized officer of this City shall prepare and submit to the Director of DSA the status report required under R.C. Section 5709.40(I).

Section 10. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision making bodies of the City that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

Section 11. For the reasons noted in the last recital of this Ordinance, this Ordinance is hereby determined to be an emergency measure and shall take effect and be in force immediately upon its passage and execution by the Mayor.

President of Council

ATTEST:

Clerk of Council

Approved by me this _____ day of _____, 2019.

Mayor

APPROVED AS TO FORM:

Brett Rudduck
Director of Law

Date

EXHIBIT A to TIF ORDINANCE

DESCRIPTION OF THE PROPERTY

The Property, depicted below, is situated in the City of Wilmington, County of Clinton and State of Ohio, and consists of parcels which have been assigned the following tax year 2018 parcel numbers by the Clinton County Auditor:

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EXHIBIT B to TIF ORDINANCE

DESCRIPTION OF THE PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements may include, but are not limited to, the following:

Demolition, blight removal and land acquisition throughout the City's downtown area; construction of a water tower and/or reservoir or other project to improve the water delivery system of the City; street lighting; sidewalks and/or bike paths; acquisition of land for park purposes; acquisition and installation of equipment in parks; construction of other park improvements; acquisition of land for rights of way; construction of roads and all related appurtenances; traffic signs and signals; engineering and other professional services secured in connection with the Public Infrastructure Improvements including legal, planning, citizen participation, environmental studies and remediation; streetscape and other improvements including, but not limited to, grading, draining, curbing, paving, resurfacing, constructing or reconstructing storm sewers, sanitary sewers, water mains, sidewalks, driveway approaches and aprons, public parking spaces and structures; electrical lighting; removal and placement of overhead utilities underground; installation of the desired conduit; environmental remediation; land acquisition; demolition; traffic control devices, including traffic lights, signs and other markings; installing public benches, seating areas and trash receptacles; planting trees, shrubbery and other landscaping materials, together with all other necessary and appropriate appurtenances.