

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.

Form No. 30050

Ordinance No. 3647 Passed May 28, 2019

AN ORDINANCE REMOVING PARCELS FROM THE EXISTING FRASER MILLS TIF BY AMENDING ORDINANCE NO. 3366, AND DECLARING THE IMPROVEMENT TO PARCELS OF REAL PROPERTY LOCATED IN THE CITY OF WEST CARROLLTON, OHIO TO BE A PUBLIC PURPOSE UNDER SECTION 5709.41 OF THE OHIO REVISED CODE, PROVIDING FOR THE EXEMPTION OF SUCH IMPROVEMENT FROM REAL PROPERTY TAXATION, PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED, ESTABLISHING THE SPIKE-IT URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND, AND DECLARING AN EMERGENCY.

WHEREAS, Sections 5709.41, 5709.42 and 5709.43 of the Revised Code (collectively, the "TIF Act") provide that this Council may, in furtherance of the urban redevelopment activities of the City of West Carrollton, Ohio (the "City"), declare to be a public purpose any Improvement (as defined in Section 5709.41(A)(2) of the Revised Code, an "Improvement" and collectively, the "Improvements") to a parcel of real property located in the City if: (i) the City held fee title to the parcel prior to the adoption of the ordinance and (ii) the parcel is leased, or the fee of the parcel is conveyed, to any person either before or after adoption of the ordinance, thereby authorizing the exemption of the Improvement from real property taxation for a period of time; and

WHEREAS, to encourage redevelopment on and in the area of the Spike-It Parcel (as defined below) this Council, by its Ordinance No. 3366 enacted December 26, 2007, created the Fraser Mill TIF pursuant to Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code that included Spike-It Parcel; and

WHEREAS, the Spike-It Parcel remains subject to redevelopment, and the owner of the Spike-It Parcel and the City desire to remove them from the Fraser Mill TIF and include them in a new TIF created pursuant to the TIF Act, further encouraging and supporting the urban redevelopment of the Spike-It Parcel and the surrounding area (the "Project"); and

WHEREAS, Section 5709.41 of the Ohio Revised Code requires that the City hold fee title to the Spike-It Parcel prior to enacting this Ordinance, and the City previously accepted title to the Spike-It Parcel; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvements (as defined in Section 4 of this Ordinance) to each parcel of real property identified and depicted in Exhibit "A" (the "Spike-It Parcel") attached hereto (with each current or future parcel of such real property referred to herein individually as a "Spike-It Parcel" and collectively as the "Spike-It Parcels") as permitted and provided for in TIF Statutes for up to thirty (30) years (the "TIF Exemption") and to simultaneously direct and require the current and future owner(s) of each Spike-It Parcel (each such owner

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individually, an "Owner," and collectively, the "Owners") to make annual Service Payments in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the TIF Exemption provided by this Ordinance; and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to the West Carrollton School District (the "School District") and the Miami Valley Career Technology Center (the "JVSD"), as further specified in a Tax Incentive Agreement by and among the City, the School District and the JVSD, dated as of March 28, 2019 (the "School Compensation Agreement"); and

WHEREAS, pursuant to Section 5709.43(B) of the Ohio Revised Code, this Council has determined to establish one or more urban redevelopment tax increment equivalent funds in which there shall be deposited to each applicable fund the remaining Service Payments distributed to the City as provided herein; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the School District in accordance with the School Compensation Agreement; and

WHEREAS, an emergency exists in that it is necessary to proceed as quickly as possible to establish the TIF areas for the redevelopment of the sites to create new job opportunities and for the preservation of the public health, peace, property and safety.

NOW, THEREFORE, THE MUNICIPALITY OF WEST CARROLLTON, STATE OF OHIO, HEREBY ORDAINS:

Section 1: Exhibit "A" to Ordinance 3366 is hereby amended to provide for up to date parcel numbers for all parcels within the boundaries of the Fraser Mills TIF map, and is hereby further amended to remove the Spike-It Parcel, as further described in Exhibit A to this Ordinance, and the Finance Director/Clerk shall prepare and attach to that Ordinance 3366 a substitute Exhibit "A" reflecting those deletions. Such substitute Exhibit "A" shall be substantially in the form of Exhibit "B" attached hereto.

Section 2: This Council finds that the City is engaged in urban redevelopment and held fee title to each of the Spike-It Parcels prior to passage of this Ordinance.

Section 3: Pursuant to and in accordance with the provisions of Section 5709.41 of the Ohio Revised Code, this Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of each Spike-It Parcel subsequent to the acquisition of that Spike-It Parcel by the City (which increase in assessed value is hereinafter referred to as the "Improvement" as defined in Section 5709.41(A) of the Ohio Revised Code) is hereby declared to be a public purpose and is 100% exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement first appears on the tax list and duplicate of real and public utility property,

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and ending after the Improvement has been exempted from real estate taxation for thirty (30) years, all in accordance with the requirements of the TIF Act (the "TIF Exemption").

Section 4: That, as provided in 5709.42 of the Ohio Revised Code, the Owner and each subsequent owner of all or any portion of or interest in any Spike-It Parcel is hereby required to, and shall make, Service Payments in lieu of taxes with respect to the Improvement thereto to the Treasurer of Montgomery County, Ohio (the "County Treasurer") on or before the final dates for payment of real property taxes. Each Service Payment 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 Spike-It Parcel if it were not exempt from taxation pursuant to Section 3 hereof. Any late payments shall be subject to penalty and bear interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the payment of penalties and interest are collectively referred to herein with the service payments in lieu of taxes as the "Service Payments"). The Service Payments, and any other payments in respect of the Spike-It Parcel which are received by the County Treasurer in connection with the reduction required by Section 319.302 of the Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be paid to the City in accordance with Section 5 of this Ordinance, and used for the following:

(i) to pay compensation to the School District and the JVSD in accordance with the School Compensation Agreement; and

(ii) all remaining amounts for further deposit into the Spike-It TIF Fund.

Money deposited into the Spike-It TIF Fund may be used to pay for, reimburse or finance the costs of improvements to be made in connection with the redevelopment of property located within the urban areas of the City to the full extent permitted under Section 5709.41 of the Revised Code, including, without limitation, (a) all improvements made in connection with the Project, (b) roads, sidewalks, bike paths and other mobility improvements, (c) utility improvements, (d) park and recreation improvements, (e) acquisition of real estate for redevelopment purposes, (f) all other purposes permitted under Section 5709.41 of the Revised Code, including debt service charges on bonds or notes issued to finance such undertakings.

Section 5: That, pursuant to Sections 5709.41 and 5709.42 of the Revised Code, the County Treasurer shall distribute the Service Payments and the Property Tax Rollback Payments to the City without the payment of any Service Payments or Property Tax Rollback Payments, or portions of any thereof, to the School District or any other political subdivision.

Section 6: That pursuant to Section 5709.43 of the Revised Code, there is hereby established the City of West Carrollton Spike-It Urban Redevelopment Tax Increment Equivalent Fund

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(the "Spike-It TIF Fund"), into which the Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvements to the Spike-It

Parcels shall be deposited and used by the City as provided in Section 4 hereof. The Spike-It TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time said Spike-It TIF Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Revised Code.

Section 7: The Service Payments and Property Tax Rollback Payments deposited in the Spike-It TIF Fund shall be deemed appropriated for the purposes set forth in this Ordinance.

Section 8: That the Finance Director/Clerk is hereby directed to forward a copy of this Ordinance to the Montgomery County Auditor, the Treasurer of the School District and the Treasurer of the JVSD.

Section 9: That, pursuant to Section 5709.41 of the Revised Code, the Finance Director/Clerk is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency within fifteen (15) days after its passage. On or before March 31 of each year that the TIF Exemption set forth in Section 3 hereof remains in effect for any Spike-It Parcel, the Finance Director/Clerk or other authorized officer of this City shall prepare and submit to the Director of the Ohio Development Services Agency the status report required under Section 5709.41(E) of the Revised Code.

Section 10: That this Council hereby authorizes the City Manager to enter into on behalf of the City a professional services contract with Thompson Hine LLP for legal services rendered and to be rendered to the City in connection with the transactions contemplated by this Ordinance.

Section 11: That 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 of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Revised Code.

Section 12: That this Ordinance is enacted pursuant to and in conformity with the requirements of the Charter of the City as in effect on the date of adoption of this Ordinance and is intended to, and is hereby determined to, satisfy all legal requirements under the Charter and the Ohio Revised Code (including, without limitation, Section 5709.41 of the Revised Code) for the enactment of an ordinance to declare the public purposes herein declared, to grant the TIF Exemption herein granted, to impose the Service Payment

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obligation herein imposed, to authorize the execution and delivery of the contracts and agreements of the City herein authorized, and to authorize and approve all other actions by and on behalf of the City herein authorized and approved.

Section 13: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the City for the reason that it is necessary to proceed as quickly as possible to establish the Spike-It TIF for the redevelopment of the Spike-It Parcels to create new job opportunities and for the preservation of the public health, peace, property and safety of the City, and it shall take effect immediately upon its adoption.

Passed: May 28, 2019

Attest:

Finance Director/Clerk

Mayor

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CERTIFICATE

The undersigned, Finance Director/Clerk, West Carrollton, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 3647 adopted May 28, 2019.

Finance Director

CERTIFICATE

The undersigned, Finance Director/Clerk, West Carrollton, Ohio, hereby certifies that Ordinance No. 3647 was filed with the County Auditor of Montgomery County, Ohio, on _____, 2019.

Finance Director

RECEIPT

The undersigned, County Auditor of Montgomery County, Ohio, acknowledges receipt of Ordinance No. 3647 of the City of West Carrollton, Ohio, on _____, 2019.

County Auditor

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EXHIBIT "A"

DESCRIPTION OF THE SPIKE-IT PARCELS

<u>Tax Parcel Number</u> (All begin with K48)	<u>Owner</u>	<u>Acerage</u>
<u>00106-0081</u>	<u>City of West Carrollton</u>	<u>6.6627</u>
	<u>Total</u>	<u>6.6627</u>

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EXHIBIT "B"

SUBSTITUTE EXHIBIT "A" FRASER MILLS TIF Ordinance No. 3366

<u>Tax Parcel Number</u> <u>(All begin with K48)</u>	<u>Owner</u>	<u>Acerage</u>
<u>00106-0080</u>	<u>City of West Carrollton</u>	<u>7.4356</u>
<u>00106-0082</u>	<u>City of West Carrollton</u>	<u>4.9185</u>
<u>00109-0174</u>	<u>Gray Services, LLC</u>	<u>0.538</u>
<u>00109-0175</u>	<u>Gray Services, LLC</u>	<u>2.186</u>
<u>00109-0176</u>	<u>Gray Services, LLC</u>	<u>0.2957</u>
<u>00109-0177</u>	<u>Gray Services, LLC</u>	<u>0.2297</u>
<u>00109-0087</u>	<u>Manufacturing Systems</u>	<u>0.2078</u>
<u>00109-0088</u>	<u>Manufacturing Systems</u>	<u>0.1607</u>
<u>00109-0173</u>	<u>DH Hensley Enterprises, LLC</u>	<u>3.423</u>
<u>00109-0144</u>	<u>City of West Carrollton</u>	<u>0</u>
<u>00109-0148</u>	<u>City of West Carrollton</u>	<u>0.879</u>
<u>00109-0153</u>	<u>City of West Carrollton</u>	<u>0.927</u>
<u>00109-0154</u>	<u>City of West Carrollton</u>	<u>0.197</u>
<u>00109-0171</u>	<u>City of West Carrollton</u>	<u>1.661</u>
	<u>Total</u>	<u>23.059</u>