ORDINANCE NO. 62-26

AN ORDINANCE TO AMEND ORDINANCE NO. 156-06 TO EXTEND THE TERM OF THE TAX INCREMENT FINANCING FOR TIF#3 FOR AN ADDITIONAL 30 YEARS PURSUANT TO OHIO REVISED CODE SECTION 5709.51; AUTHORIZING OTHER RELATED ACTIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, AND RELATED LAWS AND DECLARING AN EMERGENCY

WHEREAS, on December 11, 2006, the Council of the City (the "Council") of Avon, Ohio (the "City") passed Ordinance No. 156-06 (the "Original TIF Ordinance") in accordance with Ohio Revised Code ("R.C.") Section 5709.40(B) declaring an increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of the Original TIF Ordinance (the "Commercial Improvements") with respect to the parcels comprising TIF#3 (each a "Parcel" as described on Exhibit A to the Original TIF Ordinance, as they may have been consolidated, split, or renumbered from time to time) to be a public purpose; and

WHEREAS, the Original TIF Ordinance exempted 100% of the Commercial Improvements with respect to each Parcel for a period of up to 30 years (the "Original TIF Exemption"), commencing on the effective date of the Original TIF Ordinance and ending on the earlier of (a) the date a Commercial Improvement has been exempted from taxation for a period of 30 years or (b) the date on which the City has collected into the State Route 83/Chester Road/Nagel Road Municipal Public Improvement Tax Increment Equivalent Fund II established in Section 6 of the Original TIF Ordinance (the "Fund") a total amount sufficient to pay those costs of the Public Infrastructure Improvements authorized in Section 3 of the Original TIF Ordinance; and

WHEREAS, R.C. Section 5709.51 provides the City with the ability to extend the Original TIF Exemption for an additional period of not more than 30 years (the "TIF Extension Law") if certain conditions are met; and

WHEREAS, the City has determined that the Service Payments made with respect to the Original TIF Exemption exceeded $1,500,000 in calendar year 2025 (which is the calendar year immediately preceding the effective date of this Ordinance), and calendar year 2025 was the first year in which such Service Payments exceeded $1,500,000; and

WHEREAS, this Council desires to extend the term of the Original TIF Exemption by an additional 30 years (the "Extended TIF Exemption") beyond its original expiration date to capture additional tax increment financing revenue to finance the various Public Infrastructure Improvements identified in Section 3 and Exhibit B of the Original TIF Ordinance; and

WHEREAS, that notice of Council's intent to pass this Ordinance has been delivered to the Avon Local School District and the Lorain County Joint Vocational School District, in accordance with R.C. Sections 5709.40 and 5709.83; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Avon, Ohio that:

Section 1 - Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Original TIF Ordinance.

Section 2 - This Council determines that each condition of the TIF Extension Law required to cause the Extended TIF Exemption is met because: (a) pursuant to R.C. Section 5709.51(A)(1), the Service Payments made pursuant to R.C. Section 5709.42 by the owners of the Parcels with respect to the Original TIF Ordinance and the Original TIF Exemption exceeded $1,500,000 for calendar year 2025 (which is the calendar year immediately preceding the effective date of this Ordinance); (b) calendar year 2025 was the first year in which the Service Payments with respect to the Original TIF Ordinance and the Original TIF Exemption exceeded $1,500,000; and (c) pursuant to R.C. 5709.51(A)(3), this Ordinance provides for compensation to the Avon Local School District equal in value to the amount of taxes that would be payable to the School District if the Commercial Improvements had not been exempted from taxation but for the Extended TIF Exemption.

Section 3 - In accordance with R.C. Section 5709.40(B), this Council declares that Commercial Improvements to the Parcels subsequent to the effective date of the Original TIF Ordinance were at the time of the Original TIF Ordinance and remain as of the date of this Ordinance a public purpose. The Original TIF Ordinance authorizing the Original TIF Exemption, under the authority of R.C. Section 5709.40(B), is amended pursuant to R.C. Section 5709.51 for the purpose of extending the Original TIF Exemption from taxation of the Commercial Improvements to the Parcels designated under the Original TIF Ordinance for an additional period of not more than 30 years according to the requirements set forth under the TIF Extension Law.

Section 4 - Notwithstanding anything in the Original TIF Ordinance, this Council reaffirms and clarifies that:

(a) the Original TIF Ordinance and this Ordinance authorize the Original TIF Exemption and the Extended TIF Exemption, respectively, as tax increment financing programs under R.C. Section 5709.40(B); and

(b) the Public Infrastructure Improvements described in Sections 3 and 6 and Exhibit B of the Original TIF Ordinance that directly benefit or, once made, will directly benefit the Parcels include, but are not limited to, those Public Infrastructure Improvements described in the Original TIF Ordinance; and

(c) as provided in R.C. Section 5709.42, for the effective duration of the Original TIF Exemption and the Extended TIF Exemption, the owner of any portion of any Parcel shall be required to, and shall make, Service Payments with respect to the Commercial Improvements allocable thereto to the Treasurer of Lorain County in accordance with the provisions of Section 4 of the Original TIF Ordinance; and

(d) the term and percentage rate of the Extended TIF Exemption for each Parcel shall be 100% of the increased value of the Commercial Improvements and shall be exempt from taxation commencing for each Parcel on the 30th anniversary of the commencement date of the Original TIF Exemption (as described in the Original TIF Ordinance) applicable to each Parcel and ending on the earlier of (i) the 60th anniversary of the commencement date for each Parcel or (ii) the date on which the cost of the Public Infrastructure Improvements are paid in full from the Fund; and

Section 5 - As required by R.C. Section 5709.51(A)(3), during the term of the Extended TIF Exemption (the final 30 years of the exemption period), the School District shall be compensated in an amount equal in value to the amount of taxes that would be payable to the School District if the Extended TIF Exemption did not apply during such 30-year period.

Section 6 - This Council established the Fund in accordance with the Original TIF Ordinance and in accordance with the provisions of R.C. Section 5709.43, which such Fund shall continue to be maintained with respect to the Extended TIF Exemption.

Section 7 - Pursuant to R.C. Section 5709.40(I), the Clerk of Council is directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within 15 days after its passage. On or before March 31 of each year that the Extended TIF Exemption remains in effect, the Clerk of Council or other authorized official of the City shall prepare and submit to the Director of the Department of Development of the State of Ohio the status report required under R.C. Section 5709.40(I).

Section 8 - This Council authorizes and directs the Mayor, the Director of Finance, the Law Director, the Clerk of Council, or other appropriate officers of the City to prepare, sign, and deliver all agreements, certificates, and instruments and to take any other actions as may be necessary or appropriate in connection with this Ordinance and to extend the Original TIF Exemption as described in this Ordinance.

Section 9 - Except as otherwise provided in this Ordinance, all other provisions of the Original TIF Ordinance shall remain in full force and effect.

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, including R.C. Section 121.22.

Section 11 - This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance must be immediately effective to ensure the City receives the benefits of the Extended TIF Exemption to fund or recover all or a portion of the costs of the Public Infrastructure Improvements; therefore, this Ordinance shall be in force and effect immediately upon its passage and approval by the Mayor.

PASSED: ________________________ DATE SIGNED: ___________________________

By: ________________________________
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: __________________

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Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

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John A. Gasior, Law Director

ATTEST:

____
Barbara J. Brooks, Clerk of Council

Posted: ____________________________
Electronically and at City Hall as
Provided by Council

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