

ORDINANCE NO. 118-23

AN ORDINANCE TO AMEND ORDINANCE NO. 155-07 TO EXTEND THE TERM OF THE TAX INCREMENT FINANCING FOR TIF #5 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 26, 2007, the Council of the City (the “Council”) of Avon, Ohio (the “City”) passed Ordinance No. 155-07 (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#5 (each a “Parcel” as described on Exhibit A to the Original TIF Ordinance and as further described on *Exhibit A* to this Ordinance) 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 Chester/Nagel Road Municipal Public Improvement Tax Increment Equivalent Fund established in Section 4 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, recent amendments to R.C. 5709.51 have provided the City with a limited opportunity 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 tax year 2021 payable in calendar year 2022 (which such calendar year is the calendar year immediately preceding the effective date of this Ordinance), as shown in *Exhibit C*; and

WHEREAS, this Council desires to extend the term of the Original TIF Exemption by an additional 30 years (the “Extended TIF Exemption”) 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 (as the same are described in the attached *Exhibit B*); 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, LORAIN COUNTY, OHIO:

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 required condition of the TIF Extension Law necessary to extend the TIF Exemption is met because: (a) pursuant to R.C. 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 tax year 2021 real property taxes that were payable in calendar year 2022 (which is the calendar year immediately preceding the effective date of this Ordinance); (b) this Ordinance is passed before January 1, 2024; 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. 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 Thirty (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 Section 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, as the same are further described in the attached Exhibit B; 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

(e) compensation to the Avon Local School District during the duration of the Extended TIF Exemption shall be equal in value to the amount of taxes that would be payable to the School District if the Commercial Improvements had not been exempted under this Ordinance and the Original TIF Ordinance.

Section 5. 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 6. 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 7. 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 8. Except as otherwise provided in this Ordinance, all other provisions of the Original TIF Ordinance shall remain in full force and effect.

Section 9. 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 10. 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 full 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: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara J. Brooks
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

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

Exhibit A

Description of Parcels

Current*

(67 parcels)

04-00-016-102-004
04-00-016-102-007
04-00-016-102-008
04-00-016-102-033
04-00-016-102-034
04-00-016-102-037
04-00-016-102-038
04-00-016-102-056
04-00-016-102-057
04-00-016-102-085
04-00-016-102-086
04-00-016-102-087
04-00-016-102-098
04-00-016-102-100
04-00-016-102-102
04-00-016-102-106
04-00-016-104-019
04-00-016-104-050
04-00-016-104-053
04-00-016-104-055
04-00-016-104-056
04-00-016-104-057
04-00-016-104-058
04-00-016-104-059
04-00-016-104-060
04-00-016-104-061
04-00-021-000-023
04-00-021-000-024
04-00-021-000-045
04-00-021-000-062
04-00-021-000-092
04-00-021-000-177
04-00-021-000-178
04-00-021-000-211
04-00-021-000-213
04-00-021-000-232
04-00-021-000-241
04-00-021-000-242

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04-00-021-000-245
04-00-021-000-249
04-00-021-000-250
04-00-021-000-255
04-00-021-000-257
04-00-021-000-261
04-00-021-000-266
04-00-021-000-268
04-00-021-000-273
04-00-021-000-275
04-00-021-000-278
04-00-021-000-279
04-00-021-000-280
04-00-021-000-282
04-00-021-000-283
04-00-021-000-284
04-00-021-000-286
04-00-021-000-287
04-00-021-000-288
04-00-021-000-291
04-00-021-000-293
04-00-021-000-295
04-00-021-000-296
04-00-021-000-297
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04-00-021-000-302
04-00-021-000-303

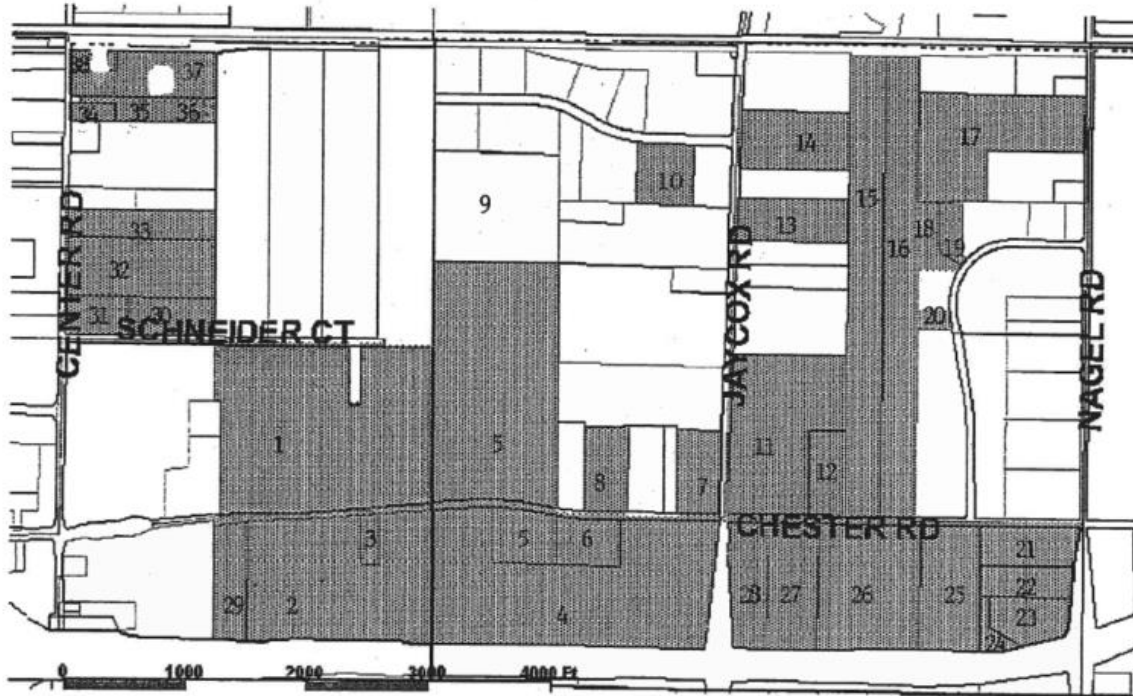
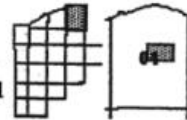
* Parcel numbers may differ from Ordinance No. 155-07 due to various parcel consolidations, splits, and conveyances since the passage of Ordinance No. 155-07 on December 26, 2007.



Lorain County Internet Maps

Mark R. Stewart, Auditor

Centered At:
Area: 04
Original Lot: 021



Map current as of 12/13/07.

Exhibit B

Description of Public Infrastructure Improvements

Construction of the Nagel Road interchange project including extension, installation and or/acquisition, relocation of utilities, sidewalks, bike paths, landscaping and other public infrastructure improvements which may serve the proposed development, and including engineering costs related thereto.

Construction of the Chester Road widening and improvements project including extension, installation and or acquisition, relocation of utilities, sidewalks, bike paths, landscaping and other public infrastructure improvements which may serve the proposed development, and including engineering costs related thereto.

Construction and/or acquisition of a recreational facility, including a swimming facility, baseball diamonds, soccer fields and appurtenances and land acquisition in connection thereto to serve the Commercial Properties and other parcels within the City, including installation and/or acquisition, relocation of utilities, sidewalks, bike paths, landscaping and other public infrastructure improvements which may serve the proposed development, and including engineering costs related thereto.

The provision of water and sewer lines, stormwater and flood remediation, and the provision of gas, electric and communications service facilities for the property, together with engineering costs related thereto.

All of the Public Improvements described above are hereby determined to be Public Infrastructure Improvements (as defined in the Act) and will benefit the real property described in Exhibit A. All of the Public Infrastructure Improvements are anticipated to be made, subject to further approval by Council.

Exhibit C

TIF No. 5 Parcels	2022 Service Payments <u>Received</u>
04-00-016-102-004	5,196.10
04-00-016-102-007	1,248.45
04-00-016-102-008	11,063.32
04-00-016-102-033	-
04-00-016-102-034	-
04-00-016-102-037	4,493.84
04-00-016-102-038	11,704.58
04-00-016-102-056	-
04-00-016-102-057	-
04-00-016-102-085	79,222.12
04-00-016-102-086	-
04-00-016-102-087	-
04-00-016-102-098	438,356.94
04-00-016-102-100	1,852.58
04-00-016-102-102	17,517.14
04-00-016-102-106	146,440.98
04-00-016-104-019	-
04-00-016-104-050	256,650.98
04-00-016-104-053	-
04-00-016-104-055	56,020.80
04-00-016-104-056	106,877.90
04-00-016-104-057	19,007.46
04-00-016-104-058	44,596.48
04-00-016-104-059	-

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04-00-016-104-060	12,301.34
04-00-016-104-061	11,919.38
04-00-021-000-023	27.54
04-00-021-000-024	416.90
04-00-021-000-045	-
04-00-021-000-062	1,527.18
04-00-021-000-092	4,996.56
04-00-021-000-177	-
04-00-021-000-178	-
04-00-021-000-211	-
04-00-021-000-213	-
04-00-021-000-232	-
04-00-021-000-241	547.83
04-00-021-000-242	1,459.81
04-00-021-000-245	-
04-00-021-000-249	12,187.58
04-00-021-000-250	29,669.76
04-00-021-000-255	-
04-00-021-000-257	29,076.82
04-00-021-000-261	95,825.38
04-00-021-000-266	-
04-00-021-000-268	3,385.48
04-00-021-000-273	223.08
04-00-021-000-275	43,402.32
04-00-021-000-278	-
04-00-021-000-279	-
04-00-021-000-280	108,464.82
04-00-021-000-282	6,950.80
04-00-021-000-283	-

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04-00-021-000-284	4,999.09
04-00-021-000-286	1,607.42
04-00-021-000-287	1,925.68
04-00-021-000-288	5,085.80
04-00-021-000-291	421,804.54
04-00-021-000-293	74,599.92
04-00-021-000-295	4,826.22
04-00-021-000-296	47,247.92
04-00-021-000-297	129,809.76
04-00-021-000-299	137,655.40
04-00-021-000-300	-
04-00-021-000-301	1,393.72
04-00-021-000-302	1,016.22
04-00-021-000-303	<u>17,577.52</u>
Total 2022 Service Payments Received	<u>\$2,412,181.46</u>