

	Yes	No	
Emergency	<u>  5  </u>	<u>  0  </u>	4/18/2022
First Reading	_____	_____	
Second Reading	_____	_____	
Third Reading	_____	_____	
Suspension	_____	_____	

**ORDINANCE 2022-3**

**AN ORDINANCE AMENDING ORDINANCE 2022-2, AN ORDINANCE AUTHORIZING THE CREATION OF THE SENECA DRIVE INCENTIVE DISTRICT WITHIN THE CITY OF WAUSEON, OHIO; DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN SUCH INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE; DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE TO BENEFIT OR SERVE THE REAL PROPERTY WITHIN SUCH INCENTIVE DISTRICT; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; PROVIDING FOR MINIMUM SERVICE PAYMENTS; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; AND PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(C), 5709.42, 5709.43, 5709.832 AND 5709.85; AND DECLARING AN EMERGENCY.**

WHEREAS, Division (C) of Ohio Revised Code Section (“**R.C.**”) 5709.40 provides that this Council may, under certain circumstances, (i) create an incentive district for parcels of real property located in the City of Wauseon, Fulton County, Ohio (the “**City**”), (ii) declare as “improvements,” which term is defined in Division (A)(4) of R.C. 5709.40, to such parcels of real property located in such incentive district to be a public purpose, thereby granting to those improvements an exemption from real property taxation, (iii) designate the public infrastructure improvements made, to be made, or in the process of being made that benefit or serve, or, once made, will benefit or serve parcels in such incentive district, and (iv) require annual service payments in lieu of taxes to be used to finance the designated public infrastructure improvements within such incentive district; and,

WHEREAS, pursuant to Division (C)(4) of R.C. 5709.40, such exemption may be for up to ten (10) years and up to seventy-five percent (75%) of the increase in the assessed value of any real property in such incentive district that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under R.C. 5709.40 were it not for the exemption granted by that ordinance (an “**Improvement**”); and,

WHEREAS, the real property described in **EXHIBIT A** attached hereto and incorporated herein by reference (the “**Property**”) is located in the City, with each parcel of the Property referred

to herein as a “**Parcel**” (whether as presently appearing on Fulton County tax duplicates or as subdivided or combined and appearing on future tax duplicates); and,

WHEREAS, Gleckler Homes LLC or its designee (the “**Developer**”) proposes to develop the Property by constructing approximately 19 single family residential units, together with related site improvements (the “**Development**”), which Development places additional demand on the Public Infrastructure Improvements, defined below; and,

WHEREAS, pursuant to Division (C) of R.C. 5709.40, this Council desires to create an incentive district of the Parcels comprising the Development (the “**Seneca Drive Incentive District**”); and,

WHEREAS, as required by Division (A)(5)(f) of R.C. 5709.40, the City Engineer has certified to this Council that (i) the Seneca Drive Incentive District is less than 300 acres in size, (ii) the Seneca Drive Incentive District is enclosed by a continuous boundary, and (iii) the existing public infrastructure is inadequate to meet the residential, commercial, or industrial development needs of the Seneca Drive Incentive District, as evidenced by the City’s written economic development plan, which is on file with the Clerk of the Council; and,

WHEREAS, pursuant to Division (C)(4) of R.C. 5709.40, this Council has determined to grant the TIF Exemption (as defined herein) from real estate taxation for all Improvements to the Property within the Seneca Drive Incentive District for seventy-five percent (75%) of such Improvements for ten (10) years; and,

WHEREAS, this Council (i) has determined that it is necessary and appropriate and in the best interests of the City to provide for annual service payments in lieu of real property taxes with respect to the Property pursuant to R.C. 5709.42 and (ii) desires to facilitate the construction of the public infrastructure improvements described in EXHIBIT B attached hereto and incorporated herein by reference (the “**Public Infrastructure Improvements**”); and,

WHEREAS, in connection with the construction of the Development, the City and the Developer desire to execute a tax increment financing agreement substantially in the form attached hereto and incorporated herein as EXHIBIT C (the “**TIF Agreement**”), which TIF Agreement provides for the construction of the Development and for the financing of the Public Infrastructure Improvements, as defined herein and in the TIF Agreement; and,

WHEREAS, as authorized by R.C. 5709.91 and as provided in the TIF Agreement, the City intends to require the owner or owners of each Parcel to make minimum service payments on or before the final dates for payment of real property taxes, in the minimum amounts set forth in the TIF Agreement; and,

WHEREAS, notice of this proposed ordinance has been delivered to the Boards of Education of the Wauseon Exempted Village School District (“**Wauseon EVSD**”) and the Four County Career Center (“**Four County**,” and together with Wauseon EVSD, the “**School Districts**”) in accordance with and within the time period prescribed in R.C. 5709.83; and,

WHEREAS, this Council acknowledges that this ordinance is being adopted after a duly conducted public hearing, with prior notice, via first class mail, of such public hearing provided not

later than thirty (30) days to every real property owner whose property is located in the boundaries of the Seneca Drive Incentive District, and said notice included a map of the incentive district, an overlay relating thereto, and information to property owners as to excluding their property from the incentive district, as appropriate, all in accordance with Division (C)(2)(a) of R.C. 5709.40; and,

WHEREAS, this Council acknowledges that it has received an affirmative statement from the owners of all the Parcels (i.e., 100% of the Property) located within the Seneca Drive Incentive District (i) otherwise waiving the notice requirement set forth in Division (C)(2)(a) of R.C. 5709.40 with respect to all of the Property, (ii) affirming that the owners thereof have no intention of excluding any of the Property from the Seneca Drive Incentive District, and (iii) requesting that this Council proceed with the enactment of this ordinance; and

WHEREAS, this Ordinance should be declared an emergency measure necessary for the immediate preservation of the health, safety, and public welfare of the City because the City is in substantial need of new single family homes in the City and the Developer desires to begin work on the project immediately.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Wauseon, Fulton County, Ohio as follows:

Section 1. Creation of Incentive District. Pursuant to Division (C) of R.C. 5709.40, this Council hereby creates the Seneca Drive Incentive District, which consists of the Parcels specifically identified and depicted in Exhibit A attached hereto, and further declares that the Improvements to the Property are a public purpose.

Section 2. Authorization of TIF Exemption. Under Division (C) of R.C. 5709.40, this Council hereby exempts from taxation seventy-five percent (75%) of the Improvement as a public purpose for a period of ten (10) years (the “**TIF Exemption**”). The TIF Exemption with respect to all Property in the Seneca Drive Incentive District shall commence with the first day of the tax year following the effective date of this ordinance and for which an Improvement on any Parcel in the Seneca Drive Incentive District would have first appeared on the tax list and duplicate of real and public utility property were it not for the exemption granted by this ordinance (the “**Commencement Date**”), and in all cases, the Seneca Drive Incentive District and the TIF Exemption shall end with respect to all Property in the Seneca Drive Incentive District on the date that is the earlier of (a) ten years after the Commencement Date or (b) the date on which the City can no longer require service payments in lieu of taxes, either by law, or because the costs of all Public Infrastructure Improvements are paid for, all in accordance with the requirements of R.C. 5709.40, R.C. 5709.42, and R.C. 5709.43.

Section 3. Service Payments and Property Tax Rollback Payments. As provided in R.C. 5709.42, this Council hereby directs and requires the owners of Parcels within the Seneca Drive Incentive District (the “**Owners**”) to make annual service payments in lieu of taxes with respect to the Improvement allocable to each such Owner’s Parcel to the County Treasurer of Fulton County, Ohio (the “**County Treasurer**”) on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then-current rate established under R.C. 323.121 and R.C. 5703.47, will 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 subject to the TIF Exemption. Such service payments in lieu of taxes, penalties and interest, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by R.C. 319.302, R.C. 321.24, R.C. 323.152 and R.C. 323.156, as the same may be amended from time-to-time, or any successor provisions, as the same may be amended from time-to-time (the “**Property Tax Rollback Payments**,” and together with the annual service payments in lieu of taxes and penalties and interest described above, the “**Service Payments**”), will be allocated and distributed in accordance with Section 5 of this ordinance.

Section 4. Minimum Service Payment Obligation. As authorized by R.C. 5709.91 and as provided in the TIF Agreement, in order to ensure sufficient funds to finance the Public Infrastructure Improvements during the period when the TIF Exemption is in effect for each Parcel, the Company is hereby required to make, and shall make, minimum service payments with respect to the Improvements on each such Parcel to or as directed by the City on or before the dates for such payments as provided in the TIF Agreement. Each minimum service payment is to be in the amounts specified in the TIF Agreement and memorialized in a written instrument recorded on each Parcel.

Section 5. Creation of TIF Fund. This Council hereby establishes, pursuant to and in accordance with the provisions of R.C. 5709.43, the Seneca Drive Municipal Public Improvement Tax Increment Equivalent Fund (the “**TIF Fund**”), into which shall be deposited (i) all of the Service Payments distributed to the City with respect to the Improvements to Parcels of the Property by or on behalf of the County Treasurer, as provided in R.C. 5709.42, and (ii) any minimum service payments actually received by the City. The City may use amounts deposited into the TIF Fund to pay any costs associated with the Public Infrastructure Improvements approved by the City, including, but not limited to, the “**costs of permanent improvements**” described in Division (B) of R.C. 133.15. The TIF Fund will be maintained in the custody of the City and will exist so long as such Service Payments and minimum service payments are collected and used for the purposes described in this Section 5. Then the TIF Fund is to be dissolved and any surplus funds remaining in the TIF Fund will be transferred to the City’s general fund, all as set forth under Division (D) of R.C. Section 5709.43.

Section 6. Distribution of Funds. At the same time and in the same manner as real property tax distributions, the County Treasurer shall distribute the Service Payments to the City to be deposited in the TIF Fund, and the City shall then distribute the Service Payments as follows:

FIRST, unless so distributed by the County Treasurer or the County Auditor of Fulton County, Ohio (the “**County Auditor**”), to compensate each appropriate taxing authority, in an amount equal to the amount of taxes each such authority would have received had this ordinance not been adopted, as to renewal levies with an increase, replacement levies, or additional levies, as appropriate, all as are described under Division (F) of R.C. 5709.40; and,

SECOND, to be deposited into the TIF Fund and then distributed according to the terms and conditions of the TIF Agreement.

The City shall then distribute Service Payments on deposit in the TIF Fund to pay or reimburse the City and/or the Developer, respectively, for the costs of Public Infrastructure

Improvements constructed by the City and/or the Developer, respectively, according to the terms and conditions of the TIF Agreement. The Service Payments are hereby directed one hundred percent (100%) to general public infrastructure improvements, as they comprise the Public Infrastructure Improvements set forth herein. The TIF Fund is to 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 the TIF Fund is to be dissolved and any surplus funds remaining therein are to be transferred to the City's General Fund, all in accordance with R.C. 5709.43.

Section 7. TIF Agreement and Further Authorizations. This Council hereby approves the TIF Agreement, with any changes that are not inconsistent with this ordinance and not substantially adverse to the City and which shall be conclusively evidenced by the signing of the TIF Agreement by the Mayor, to which this Council further hereby authorizes execution on behalf of the City. This Board further authorizes and directs the Mayor 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 appropriate to implement this ordinance and the TIF Agreement.

Section 8. Application for Real Property Tax Exemption and Remission. This Council hereby authorizes the Mayor or other appropriate officers of the City to prepare and sign any applications for real property tax exemption pursuant to R.C. 5709.911, the provisions of which govern the priority status of the exemptions provided under this ordinance.

Section 9. Tax Incentive Review Council. This Council hereby designates the Fulton County Tax Incentive Review Council (the "TIRC") established in Resolution No. 86-215 passed by the Fulton County Board of Commissioners on July 7, 1986, as the tax incentive review council that shall review annually all exemptions from taxation resulting from this ordinance and any other matters as may properly come before the TIRC, in accordance with R.C. 5709.85.

Section 10. Nondiscriminatory Hiring Practices. In accordance with R.C. 5709.832, this Council hereby determines that no employer located in the Seneca Drive Incentive District is to deny any individual employment based on considerations of race, religion, sex, disability, color, national origin, or ancestry.


Section 11. Ohio Department of Development. Pursuant to Division (I) of R.C. 5709.40, the Mayor is hereby directed to deliver a copy of this ordinance to the Director of the Ohio Department of Development ("ODOD") within fifteen (15) days after its passage. On or before March 31 of each year that the TIF Exemption remains in effect, the Mayor or other authorized officer of this City shall prepare and submit, or cause to be prepared and submitted, to the Director of ODOD the status report required under Division (I) of R.C. 5709.40.

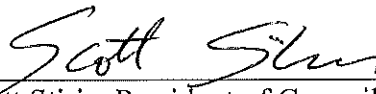
Section 12. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision-making bodies of the City that resulted in such formal actions were in meetings open to the public and in compliance with Ohio's Sunshine Laws, including R.C. 121.22.

Section 13. Effective Date. This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Section 14. Emergency. That this Ordinance be, and hereby is, declared to be an emergency measure, necessary for the immediate preservation of health, safety, and public welfare of the citizens of the City of Wauseon, and shall be in full force and effect from and immediately after its passage.

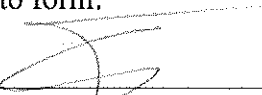
Passed: 4/18/2022

  
Kathy Huner, Mayor

  
Scott Stiriz, President of Council

Attest:   
Korin Baumgartner  
Clerk of Council

Approved as to form:

  
Thomas A. McWatters III  
City Law Director