

**RECORD OF ORDINANCES**  
**CITY OF UPPER ARLINGTON**  
**STATE OF OHIO**

---

**ORDINANCE NO. 42-2019**

---

**AMENDING ORDINANCE NO. 89-2008 TO REMOVE A PARCEL FROM SUCH PRIOR ORDINANCE, DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY TO BE A PUBLIC PURPOSE PURSUANT TO REVISED CODE SECTION 5709.40(B); DECLARING SUCH IMPROVEMENT TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT SUCH PROPERTY; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; DESIGNATING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS; AND AUTHORIZING A COMPENSATION AGREEMENT WITH THE UPPER ARLINGTON CITY SCHOOL DISTRICT**

**WHEREAS,** the development of commercial properties in the City of Upper Arlington, Ohio (the "City") will benefit the City and its residents by creating jobs, enlarging the property tax base, enhancing income tax revenues and stimulating collateral development in the City; and

**WHEREAS,** pursuant to Ohio Revised Code Section 5709.40, .42, and .43 (together with related provisions of the Ohio Revised Code, the "TIF Act"), the City may, among other things, (i) declare the increase in assessed value of real property located in the City to be a public purpose, thereby exempting such increase from real property taxation for a period of time; (ii) specify public infrastructure improvements, made, to be made, or in the process of being made, that directly benefit such real property; (iii) provide for the making of service payments in lieu of taxes by the owners of such real property; (iv) establish a public improvement tax increment equivalent fund into which such service payments shall be deposited; (v) provide for the use of such service payments to pay the costs of such public infrastructure improvements (which costs may include, without limitation, the payment for or reimbursement of costs of the public infrastructure improvements incurred by the City, or any other public or private party in cooperation with the City); and (vi) provide for compensation payments to the affected school districts out of such service payments in lieu of taxes; and

**WHEREAS,** pursuant to Ordinance No. 89-2018, adopted by City Council (the “Council”) of the City of Upper Arlington (the “City”) on December 10, 2018, the City has entered into a Development Agreement (the “Development Agreement”), dated June 14, 2019, with Lane Avenue Commercial Holdings, LLC, Lane Avenue Condo Holdings, LLC, Lane Avenue Hotel Holdings, LLC, and Crawford Hoying Development Partners, LLC (collectively, the “Developers”) to facilitate the redevelopment of several parcels of real property comprising approximately 2.57 acres located on the north side of West Lane Avenue, between Chester Road and Westmont Boulevard (the “Site”) for commercial purposes, including office, retail, multi-family apartment and hotel uses (the “Development”); and

**WHEREAS,** the Development Agreement provides for the construction of certain public infrastructure improvements, as that term is defined in Ohio Revised Code Sections 5709.40(A)(7) (as more fully described on Exhibit B attached hereto and incorporated herein by this reference, the “Public Infrastructure Improvements”), are necessary and will directly benefit the Site; and

**WHEREAS,** the development of the Site will benefit the City and its residents by creating economic opportunities, enlarging the property tax base, stimulating collateral development in the City; and

**WHEREAS,** the City desires to grant a one hundred percent (100%) exemption from real property taxation for a period of thirty (30) years (the “TIF Exemption”) for each improvement to the Site (as defined herein, the “Improvement”); and

**WHEREAS,** the City has determined that it is necessary and appropriate and in the best interests of the City to require the owners of the parcels included in the Site and their successors and assigns (collectively, with their successors and assigns, as owners of the Site, the “Owners”) to make service payments in lieu of taxes with respect to the Improvement pursuant to Ohio Revised Code Section 5709.42; and

**WHEREAS,** on December 11, 2018, the Board of Education of the Upper Arlington City School District (the “School District”) adopted Resolution 18-118, which resolution approved the TIF Exemption on the condition that the City and the School District enter into a Compensation Agreement, the form of which was attached to such resolution; and

**WHEREAS,** a portion of one of the Parcels was subject to tax increment financing established pursuant to Ordinance No. 89-2008 (the "Prior TIF Ordinance"), and this Council has determined, as set forth herein, to remove such Parcel from the tax increment financing established pursuant to the Prior TIF Ordinance;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Upper Arlington, Ohio, that:

**SECTION 1.** The Prior TIF Ordinance is hereby amended as follows: Exhibit A to Ordinance No. 89-2008, passed by City Council on December 8, 2008, is hereby amended to remove a portion of what is now part of Parcel number 070-02137 (such portion being the area that, in the Prior TIF Ordinance, was referred to as Parcel number 070-001944), and a substitute Exhibit A to that Ordinance No. 2000-25 shall be prepared reflecting such removal.

**SECTION 2.** Parcels of Real Property. The parcel of real property subject to the exemption granted by this Ordinance is identified and depicted in Exhibit A attached hereto and made a part hereof (collectively referred to herein as the "Site," with each parcel comprising the Site, as currently or subsequently configured, including any lot splits or consolidations, being referred to individually as a "Parcel"). In the event of a conflict between the outline of the Site shown in the map set forth in such exhibit and the legal description of the Site, the outline of the Site shown in the map shall control.

**SECTION 3.** Tax Exemption. Pursuant to and in accordance with the TIF Act, this Council hereby finds and determines that 100% of the increase in assessed value of each Parcel comprising of the Site (which increase in assessed value is also hereinafter referred to as the "Improvement" as defined in the TIF Act) is hereby declared to be a public purpose and shall be exempt from taxation (the "TIF Exemption") for a period commencing for each Parcel with the first tax year that begins after the effective date of this Ordinance and in which an Improvement attributable to a new structure on that Parcel would first appear on the tax list and duplicate of real and public utility property were it not for the exemption granted by this Ordinance and ending on the earlier of (A) thirty (30) years after such commencement or (B) the date on which the City can no longer require service payments in lieu of taxes (the "Exemption Period"), all in accordance with the requirements of the TIF Act.

**SECTION 4.**      Designation of Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B attached hereto (the “Public Infrastructure Improvements”) and any other public infrastructure improvements hereafter designated by ordinance as 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 Site.

**SECTION 5.**      Payment of Service Payments. As provided in Ohio Revised Code Section 5709.42, but only after the TIF Exemption is effective, the Owner of a parcel comprising the Site shall be required to, and shall make, service payments in lieu of taxes with respect to the Improvement allocable thereto to the County Treasurer on or before the final due dates for payment of real property taxes. Each service payment in lieu of taxes 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 such parcel as if it were not exempt from taxation pursuant to Section 1 hereof. If any reduction in the levies otherwise applicable to such parcel is made by the county budget commission under Ohio Revised Code Section 5705.31, the amount of the service payment in lieu of taxes shall be calculated as if the reduction in levies had not been made. Any late payments of service payments in lieu of taxes shall be subject to penalty and bear interest at the then current rate established under Ohio Revised Code Sections 323.121(B)(1) and 5703.47, as the same may be amended from time to time, or any successor provisions thereto (the “Penalties and Interest”). Each Owner shall make any other payments in respect of such parcel which are received by the County Treasurer in connection with any reduction required by Ohio Revised Code Section 319.302, as the same may be amended from time to time, or any successor provisions thereto (the “Property Tax Rollback Payments,” together with the service payments in lieu of taxes and the “Penalties and Interest,” are collectively referred to herein as the “Service Payments”).

**SECTION 6.**      TIF Fund. The City hereby establishes, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, within the City Treasury a municipal public improvement tax increment equivalent fund (the “Tax Increment Fund”), which may, at the option of the Finance Director, be established as an account within an existing tax increment equivalent fund of the City, into which shall be deposited the Service Payments distributed to the City by the County Treasurer. Such Fund may be combined with other funds created by ordinances of this Council authorizing other such projects.

Money in the Tax Increment Fund shall be used to finance the Public Infrastructure Improvements, and shall, to the extent provided in further ordinances of this Council, be pledged to the payment of debt service on any bonds, notes or other obligations issued to finance such Public Infrastructure Improvements as well as any reimbursement payments for reimbursement of any costs of the Public Infrastructure Improvements. The Tax Increment Fund shall be maintained in the custody of the City and shall receive all distributions of Service Payments required to be made to the City. Those Service Payments received by the City with respect to the Site, shall be used solely for the purposes authorized in the TIF Act, including, but not limited to, (a) making compensation payments to the School District, as provided in Section 8 below, and (b) paying any costs of the Public Infrastructure Improvements, in a manner that is consistent with this Ordinance. For purposes of this Ordinance, "costs" of the Public Infrastructure Improvements payable from the Tax Increment Fund shall also include the items of "costs of permanent improvements" set forth in Ohio Revised Code Section 133.15(B), and incurred with respect to the Public Infrastructure Improvements, which "costs" specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements, and debt service on, and any administrative or other expenses relating to the issuance of, any bonds, notes, or other obligations issued to finance the Public Infrastructure Improvements. The Tax Increment Fund shall remain in existence so long as such Service Payments are collected and used for the aforesaid purposes, after which time the Tax Increment Fund shall be dissolved and any surplus funds remaining therein shall be transferred to the City's General Fund, all in accordance with Ohio Revised Code Section 5709.43.

**SECTION 7.**

Notices. The City hereby finds and determines that notice of this proposed Ordinance has been delivered to the School District in accordance with Ohio Revised Code Sections 5709.40, 5709.83 and 5715.27, and hereby ratifies the giving of that notice.

**SECTION 8.**

Compensation to School District. Pursuant to Ohio Revised Code Sections 5709.40, 5709.42, 5709.43 and 5709.82, the City authorizes the execution and performance of a Compensation Agreement between the City and the School District, substantially in the form approved by the Board of Education of the School District pursuant to Resolution 18-118 adopted by the Board of Education on December 11, 2018, with such changes, not inconsistent with the terms of this Ordinance, as approved by the official or officials

executing such Compensation Agreement and the City Attorney. The approval of the Compensation Agreement, and the requirement that changes not be inconsistent with this Ordinance, shall be evidenced conclusively by the execution of the Compensation Agreement by those officials.

**SECTION 9.** Application for Real Property Tax Exemption and Remission. The City further hereby authorizes and directs the City Manager, the Finance Director, or other appropriate officers of the City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of real property located in the Site, which are to be deposited into the Tax Increment Fund.

**SECTION 10.** Tax Incentive Review Council. The City has created the Upper Arlington Tax Incentive Review Council with the membership of that Council constituted in accordance with Ohio Revised Code Section 5709.85. That Council shall, in accordance with Ohio Revised Code Section 5709.85, review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

**SECTION 11.** Notification of Adoption. The Finance Director is hereby directed to deliver, not later than fifteen (15) days after the effective date of this Ordinance, a copy thereof to the Director of the Ohio Development Services Agency and to further deliver to such Director, not later than March 31 of each year during which the TIF Exemption remains in effect, a status report outlining the progress of the project herein described.

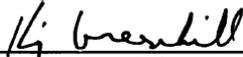
**SECTION 12.** Further Authorizations. The City Manager, Finance Director, and the City Attorney are hereby authorized to take all actions, including the execution of all documents or amendments, necessary to establish the TIF Exemption and to implement and administer the TIF Fund, and not substantially inconsistent with this Ordinance.

**SECTION 13.** Non-Discriminatory Hiring Policy. In accordance with Ohio Revised Code Section 5709.832, the City hereby determines that no employer located in the Site shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin or ancestry.

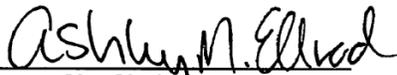
**SECTION 14.**      Open Meeting. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

**SECTION 15.**      Effective Date. This Ordinance is immediately effective, pursuant to Council Rules as adopted by ordinance, so that the TIF Exemption can be effective for the 2018 tax year and the Special Obligations Nontax Revenue Bonds, Series 2019, that are authorized by separate ordinance and the debt service charges on which will be payable, in part, from the Service Payments, can be sold as soon as possible to take advantage of favorable interest rates and so that work on the Public Infrastructure Improvements can proceed; wherefore this Ordinance shall take effect and be in force from and immediately after its adoption.

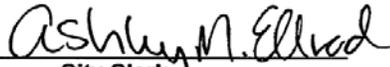
**PASSED: June 17, 2019**

  
\_\_\_\_\_  
President of Council

**ATTEST:**

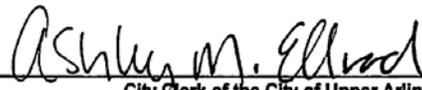
  
\_\_\_\_\_  
City Clerk

I, Ashley Ellrod, City Clerk of Upper Arlington, Ohio, do hereby certify that the above is a true and correct copy.

  
\_\_\_\_\_  
City Clerk

**CERTIFICATE OF POSTING**

I, Ashley Ellrod, City Clerk of the City of Upper Arlington, Ohio, do hereby certify that publication of the foregoing was made by posting a true copy of Ordinance No. 42-2019 at the most public place in said corporation as determined by the Council, the Municipal Building, 3600 Tremont Road, for a period of ten (10) days commencing June 18, 2019.

  
\_\_\_\_\_  
City Clerk of the City of Upper Arlington

**Vote Slip**

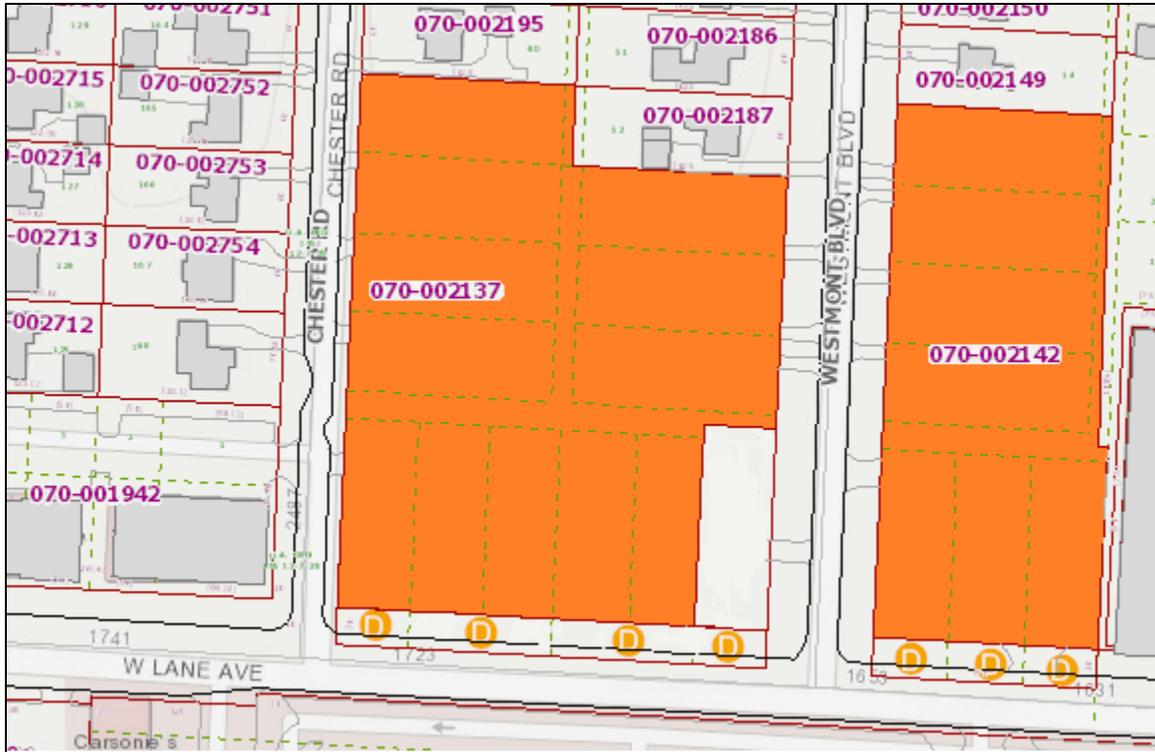
<b>Sponsor:</b>	Hoyle
<b>Date Introduced:</b>	June 17, 2019
<b>Reading Date(s):</b>	June 17, 2019
<b>Voting Aye:</b>	Hoyle, King, Ralph and Greenhill
<b>Voting Nay:</b>	
<b>Abstain:</b>	
<b>Absent:</b>	Casper, Close and Lynch
<b>Date of Passage:</b>	June 17, 2019

**City Council Conference Session/Other Review:** June 17, 2019

**Other:** Effective Upon Passage

EXHIBIT A

DESCRIPTION OF THE SITE



<u>Address</u>	<u>Parcel I.D.</u>	<u>Owner</u>
1690 West Lane Ave.	070-002137	Lane Avenue Commercial Holdings LLC
1640-1650 West Lane Ave.	070-002142	Lane Avenue Hotel Holdings LLC

## EXHIBIT B

### **DESCRIPTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS**

The Public Infrastructure Improvements that shall directly benefit all or a portion of the Site, include any and all “public infrastructure improvements,” as that term is defined in R.C. Section 5709.40(A)(8), and any and all “costs of permanent improvements,” as that term is defined in R.C. Section 133.15(B), including, but not limited to, payment of debt service payments on obligations issued to finance the costs of the Public Infrastructure Improvements. Without limiting the generality of the preceding sentence, the Public Infrastructure Improvements specifically may include the following:

1. Constructing, reconstructing, extending, opening, improving, widening, grading, draining, curbing and changing of the lines and traffic patterns of roads, highways, streets, railways, bridges (including roadway, railway, and pedestrian), existing roadways adjacent to and providing ingress and egress to property, sidewalks, bikeways, medians and viaducts, constructing and improving surface parking lots or parking structures and related improvements, providing lighting systems, together with all appurtenances therefore, and the continued maintenance of those improvements.
2. Constructing and reconstructing public fountains, public parks or public greenspaces, including grading, trees, park plantings, park accessories and related improvements, together with all appurtenances thereto.
3. Constructing, reconstructing and installing of public utility improvements, water distribution lines (including necessary site grading therefore), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, and the continued maintenance of those improvements.
4. Constructing and installing streetscape improvements including trees, tree grates, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto; design and traffic studies preliminary to the foregoing.
5. Constructing and installing communications service facilities, including but not limited to cable and broadband service infrastructure improvements.
6. Stormwater and flood remediation projects including such projects on private property when determined to be necessary for public health, safety, and welfare.
7. Designing, engineering, constructing, and improving the new infrastructure for electric, gas, telephone, and cable service (including fiber optics), including aid to construction fees for gas, aid to construction fees for electric, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes, with related site improvements and appurtenances thereto.
8. Acquisition and development of property, including acquisition in aid of industry, commerce, distribution, or research, demolition of blighted, dilapidated, or functionally obsolete structures for redevelopment opportunities, including demolition on private property when determined to be necessary for economic development purposes.

9. Enhancement of public waterways through improvements that allow for greater public access.
10. Environmental studies and remediation.
11. Acquiring real estate or interests in real estate, including related right-of ways, necessary to accomplish the improvements enumerated in clauses 1 through 9.
12. Any on-going administrative expenses relating to the Public Infrastructure Improvements and maintaining the service payments in lieu of taxes, including but not limited to engineering, architectural, legal, and other consulting and professional services.
13. All inspection fees and other governmental fees related to the foregoing.
14. Any other costs of public infrastructure improvements as permitted by law.