

ORDINANCE NO. **BG2016 - 49**

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 11 (FINANCE, TAXATION AND ECONOMIC DEVELOPMENT) AND CHAPTER 18 (OCCUPATIONAL LICENSE FEES AND TAXES) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO MAKE ADMINISTRATIVE REVISION IDENTIFIED IN THE JUDICIAL REVIEW AND TO MAKE OTHER REVISIONS TO REMOVE OBSOLETE OR OUTDATED LANGUAGE

WHEREAS, the City of Bowling Green recently had a judicial review performed which recommended the review of certain sections in Chapter 11 (Finance, Taxation and Economic Development) which may no longer be applicable or reflect current City practices; and,

WHEREAS, during this review, City staff noticed other needed changes to remove obsolete or outdated language and to make other minor administrative revisions; and,

WHEREAS, it is further recommended that sections related to the Fire Improvement Fund in Chapter 11 be moved to Chapter 18 (Occupational License Fees and Taxes); and,

WHEREAS, it is in the best interests of the City to accept the revisions to Chapters 11 and 18 of the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 11 (Finance, Taxation and Economic Development) is hereby amended as follows:

11-1 GENERAL PROVISIONS.

11-1.01 Fiscal Year Designated.

The fiscal year of the City shall be from July 1 ~~to~~to~~and continue through the last day of~~ June 30 of each year.

11-1.02 Investments.

The Chief Financial Officer is authorized to arrange for the investment of the inactive reserve

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funds of the City and such funds as are not required for current operations in direct obligations of the United States, ~~[the principal and interest whereof are]~~ guaranteed by the government of the United States and certificates of deposit insured by the Federal Deposit Insurance Corporation (FDIC), and any other financial instruments permitted under Kentucky Revised Statutes ~~[with local banks and savings and loan institutions]~~. Provided, however, this authorization shall not be applicable to any funds, the investment of which is expressly authorized or limited or prohibited by State law.

~~[11-1.03 — Special Reserve Fund Established; Deposits, Disbursements.~~

a. ~~— All collections made from the license fees imposed upon fire insurance companies by Subchapter 18-10 shall be credited to a special reserve fund within the City's general accounting system entitled, "Fire Improvement Fund," which fund shall include all fire insurance fee collections.~~

b. ~~— All disbursements, withdrawals and debits from the Special Reserve Fund herein created shall be made solely and only to payment for the purchase of equipment and construction of facilities and buildings for the Fire Department; provided, however, the Board of Commissioners may authorize, by resolution, expenditures from the fund for other City purposes.~~

c. ~~— No disbursement of withdrawals shall be made from the Special Reserve Fund without the approval of a majority of the Board of Commissioners.]~~

11-1.03[4] Procurement Procedures.

...

c. The City Manager Authorized to Perform Procurement Function. The City Manager or designee is authorized to perform the procurement function and execute written determinations whenever necessary to support the use of procurement methods available under KRS 45A.345 through KRS 45A.460 and file same with the Purchasing Agent ~~[Chief Financial Officer and City Clerk]~~.

d. Purchasing Agent ~~[Chief Financial Officer]~~ Authorized to Prescribe Forms. The Purchasing Agent ~~[Chief Financial Officer]~~ is authorized to prescribe the issuance of forms~~[,]~~ and to

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adopt[ed] and promulgate[d] rules and regulations consistent with the Kentucky Model Procurement Code, KRS 45A.345 through KRS 45A.460, subject to the consent and approval of the City Manager.

e. All purchases involving the construction, reconstruction, renovation and related work on City buildings and infrastructure shall require the contractor to warrant his work for a minimum of one (1) year following the acceptance of the work by the City. The Public Works Director or his designee shall inspect the work prior to the expiration of the one (1) year period and shall notify the contractor in writing of deficiencies in the work discovered during the warranty period and the contractor shall remedy those deficiencies within the time specified by the Public Works Director or his designee, even if the period necessary to correct the deficiencies occurs beyond the warranty period. If the deficiencies are not remedied timely and to the satisfaction of the Public Works Director or his designee, the Public Works Director or his designee may cause the deficiencies to be corrected and pursue all appropriate causes of action against the contractor to recover the City's costs. In addition, failure of the contractor to remedy the deficiencies timely and to the City's satisfaction may result in the removal of the contractor from future bidding on City projects.~~[The criteria for determining defects related to subdivision construction shall be the standard to qualify defective materials based upon the U.S. Department of Transportation's "Road Surface Management for Local Governments Manual", a copy of which may be obtained from the Department for Public Works.]~~

~~[11-1.05 RESERVED (Ord. BG92-23 repealed former 11-1.05, Building and Grounds Reserve Fund, 6/16/92)]~~

11-1.04[6] Returned Checks [Charge].

Any person, firm or corporation who presents to the City a check, draft or similar sight order for which payment is refused by the drawee, and who receives a certified letter from the City notifying them of said refusal, as required by KRS 514.040(4)(b), shall pay to the City an additional returned check charge of twenty-five (\$25.00) dollars. The City's Chief Financial Officer shall establish procedures to

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protect the City from uncollected revenues that include probation for repeat offenders for two (2) returned checks within the most recent fifteen (15) month period.

11-1.05[7] Limitation on Special Reserve Fund Expenditures.

...

11-1.06[8] Parks Development Fund.

a. There is hereby created a special revenue fund within the City's general accounting system entitled "Parks Development Fund" which shall be funded by the following:

(1) All ad valorem tax receipts, as prescribed hereinbelow [~~in Section 11-7~~], from properties located within the Hartland Planned Community;

(2) All employee withholding fees, as prescribed hereinbelow [~~in Section 11-7~~], derived from employees of businesses permanently located within the Hartland Planned Community;

(3) All net profit [~~and license~~] fees, as prescribed hereinbelow [~~in Section 11-7~~], for businesses which are permanently located within the Hartland Planned Community; and,

(4) Any other funds which may be so appropriated.

b. All disbursements from said Parks Development Fund shall be used solely and only to provide a funding source for:

(1) The construction, repair, maintenance and/or operations of the [~~Hartland Municipal~~] CrossWinds Golf Course; and

(2) Capital projects relating to recreational facilities, physical plant and grounds of the Department of Parks and Recreation.

c. No disbursements shall be made from [~~form~~] said Parks Development Fund ~~which~~ that are not in accordance with an approved and/or amended budget appropriation.

11-1.07[9] Cemetery Operations [~~Fund~~].

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~~[a.—There is hereby created a special revenue fund within the City's general accounting system entitled "Cemetery Operations Fund" which shall be funded by the following:]~~

a[1]. Revenues derived from all service charges at the Fairview Cemetery, both old and new portions, the Mt. Moriah Cemetery and the Pioneer Cemetery shall be deposited into the General Fund by the Cemetery Division in the Parks and Recreation Department.

b[2]. Eighty percent (80%) of the income from the sale of lots in Fairview Cemetery, both old and new portions shall remain in the General Fund to be used for Cemetery Division operations. The remaining twenty percent (20%) is to be placed into the Cemetery Perpetual Fund pursuant to Chapter 8 [under Section 8-3.01] of the City Code.

~~[3.—Any other funds which may be so appropriated.]~~

~~[b.—All disbursements from said Cemetery Operations Fund shall be used solely and only to provide funding source for the operating costs associated with the City's Cemetery Division.]~~

~~[c.—No disbursements shall be made from said Cemetery Operations Fund which are not in accordance with an approved and/or amended budget appropriation.]~~

11-2 BUDGET.

11-2.01 City Manager to Submit.

The City Manager shall prepare and submit, once each year, to the Board of Commissioners a budget for the ensuing fiscal year. The Board of Commissioners shall set a time and place for a public meeting ~~[hearing]~~ on the proposed budget, and the budget shall not be adopted until the public meeting ~~[hearing]~~ is held. The Board of Commissioners shall thereupon pass an annual appropriation ordinance based on the budget submitted by the City Manager.

11-3 ASSESSMENTS AND LEVY OF TAXES.

11-3.01 County Assessment System Adopted.

The annual County tax assessment for property situated within the corporate limits of the

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City is adopted as a basis for ad valorem tax levies ordered or approved by the Board of Commissioners, commencing on July 1, 1966, and each July 1[5] thereafter. The County tax assessment as finally determined for City tax properties as of the preceding January 1 shall serve as a basis of all City levies for the fiscal year commencing after the County assessment date.

11-3.02 Rate of Taxation to be Established by Board.

Upon receipt of a certified copy of the City's assessment from the Warren County Property Valuation Administrator (PVA), the Board of Commissioners shall then proceed to fix the rate of taxation, due dates, and penalty and interest rates. In addition to the penalties fixed by the Board of Commissioners, the Chief Financial Officer is hereby authorized to establish by regulation additional penalties and fees to recover legal fees and costs in the collection of past due ad valorem taxes. The City Attorney and Chief Financial Officer are hereby authorized to enter into installment payment agreements with taxpayers.

~~[11-3.03 Variation in Tax Rate Applicable to Properties Used For Agriculture and Horticultural Purposes:~~

~~a. — A variation in ad valorem tax rate shall apply to classes of property which may not be capable of receiving the full benefit of urban level of services, as set forth more specifically herein.~~

~~b. — Properties meeting the definitions of Agricultural and/or Horticultural land as defined in KRS 132.010 shall be taxed at a rate not to exceed five percent of the then applicable City ad valorem tax rate.~~

~~e. — The Chief Financial Officer is hereby authorized, in cooperation with the Property Valuation Administrator, to establish the appropriate guidelines to implement this variation in tax rate.]~~

11-3.03[4] Chief Financial Officer to Prepare Record of Tax Receipts.

After a certified copy of the County assessment roll which relates to the City has been accepted by the Board of Commissioners and the rate of taxation fixed for the year, the Chief Financial

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Officer shall prepare ~~[and make out from]~~ the property tax assessment roll ~~[a bound volume of tax receipts against the]~~ for each person and property assessed, stating therein the name of the person owing the tax, the amount thereof and the year for which the tax is due~~[-, having attached thereto a coupon upon which can be entered the substance of the tax receipt, the stub being numbered to correspond with the tax receipt].~~

11-3.04~~[5 The Tax Volume; t]~~The Chief Financial Officer's Duties.

~~[The bound volume of tax receipts prescribed herein for each fiscal year shall be delivered to the Chief Financial Officer. The Chief Financial Officer's receipt therefore shall state in dollars and cents the total of all receipts contained in such volume and the Chief Financial Officer shall be chargeable for such sum, plus interest and penalties thereon when they accrue.]~~ The Chief Financial Officer shall account for City taxes collected by ~~him~~ the City and to the ~~[Treasurer of the]~~ Bowling Green Independent School Board [of Education] for all school taxes collected~~[-by him]~~, without withholding any part of same or making any deduction therefrom, whether the same be taxes, penalties, interest or cost, and the Chief Financial Officer shall thereupon deposit such funds showing separately the amount of taxes, penalties, interest and cost so paid.

11-3.05~~[6]~~ Chief Financial Officer's Duty to Report Property Omitted from Roll.

It shall be the duty of the Chief Financial Officer to list for taxation any and all property that he may find be omitted by the County assessment roll provided by ~~[sub]~~Section 11-3.02 and he shall enter same in the volume of tax receipts as provided hereinabove ~~[in Section 11-3.05].~~

11-4 PROPERTY ASSESSMENT AND REASSESSMENT MORATORIUMS.

...

11-4.02 Administering Agency.

The administering agency for this moratorium program shall be the Historic Preservation Board of the City-County Planning Commission, a designee of the City~~[-or its designee].~~

...

11-4.04 Application for a Moratorium Certificate.

Applications for a property assessment or reassessment moratorium certificate shall be made to the administering agency as follows:

...

d. The administering agency~~[, or its designee,]~~ may impose an application fee to cover the costs of administration.

11-4.05 Assessment for Tax Purposes.

Except as otherwise provided, the Property Valuation Administrator (PVA), or other assessing official, and the administering agency shall maintain a record of all applications for property assessment or reassessment moratoriums and shall assess or reassess the property within thirty (30) days of receipt of the application. This assessment shall be the value for which taxes shall be fixed during the period of the moratorium, unless otherwise provided herein.

...

11-4.07 Purgation of Files.

Any application for an assessment or reassessment moratorium not acted upon by the applicant shall become void two (2) years from the date of application and shall be purged from the files of the administering agency. The administering agency shall so notify the Property Valuation Administrator (PVA).

...

11-4.09 Issuance of Moratorium Certificate.

The applicant shall notify the administering agency when the project is complete and the administering agency shall then conduct an on-site inspection of the property for purposes of verifying the improvements. The administering agency shall issue a moratorium certificate only if all provisions

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of this Section and the Kentucky Revised Statutes are satisfied and the project is completed and the improvements verified. Within ten days of the issuance of a moratorium certificate, the administering agency shall file a certified true copy of it with the City of Bowling Green City Finance Department ~~[Treasurer]~~.

...

11-5 COLLECTION OF MOTOR VEHICLE TAXES.

11-5.01 ~~[Preamble]~~ Rate of Taxation Established.

~~[KRS 134.800 allows the City's m]~~Motor vehicle taxes ~~[to]~~ shall be collected by the Warren County Court Clerk at the time of registration of the vehicle by the County Court Clerk pursuant to the provisions of KRS 134.800. ~~[beginning January 1, 1985; and, i]~~In order to allow for said motor vehicle taxes to be collected by the Warren County Court Clerk ~~[beginning January 1, 1986]~~, the City must set, in advance, the tax rate to be used in the calculation of said taxes due by the registrant of each motor vehicle. Pursuant to KRS 132.487, the City's ~~[1986]~~ tax rate on all personal property shall be as established by the Property Tax Rates Ordinance each year ~~[may remain the same as the tax rate adopted in 1985, which is \$0.2600 per one hundred (\$100.00) dollars assessed value].~~

~~[11-5.02 — Rate of Taxation Established.~~

a. ~~Motor vehicle taxes shall be collected by the Warren County Court Clerk beginning January 1, 1986, pursuant to the provisions of KRS 134.800.~~

b. ~~The tax rate on motor vehicles subject to taxation by the City of Bowling Green, for the year 1986, is hereby set at \$0.2600 per one hundred (\$100.00) dollars assessed value.]~~

11-6 JOB DEVELOPMENT INCENTIVE PROGRAM.

11-6.01 Definitions.

Unless the context requires otherwise, the following terms as used in this Subchapter shall have the following meanings:

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[a.] "Activation Date" shall mean the date the Board of Commissioners established in the incentive agreement that is within two (2) years of final approval of the agreement and which aligns with the State incentive if applicable.

[b.] "Applicant" shall mean one applying for an occupational license fee withholdings credit pursuant to this Subchapter.

[c.] "Approved Company" shall mean an applicant approved by the Job Development Incentive Program Committee.

[d.] "Committee" shall mean the Job Development Incentive Program Committee.

[e.] "Eligible Company" shall mean any corporation, limited liability company, partnership, limited partnership, sole proprietorship or any other entity engaged in manufacturing, agribusiness, nonretail service or technology or national or regional headquarters operations, regardless of the underlying business activity of the company, but Eligible Company shall not include companies where the primary activity to be conducted in the City is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, real estate, rental and leasing, educational services, accommodation and food services or public administration services.

[f.] "Employee withholdings" shall mean the occupational license fee withholdings from an employee's wages, salaries, bonuses or commissions as set forth in Chapter 18 of the Code of Ordinances.

[g.] "Fund" shall mean the Job Development Incentive Fund.

[h.] "Program Manager" shall mean the Job Development Incentive Program Manager.

[i.] "New jobs" shall mean the creation of full time jobs directly created and employed by the applicant as a result of the project in the on-going operation of the applicant's business, not including jobs temporarily created or retained by construction of the project.

11-6.02 Purposes, Goals and Objectives.

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The City of Bowling Green hereby declares that improvement of the quality of life for citizens in the City is an important goal and objective, and that as part of its effort to meet that objective the City must: [(1) recognize the importance of a growing and expanding economy, [(2) create programs to foster an atmosphere that encourages economic development, and [(3) provide incentives for the creation of new jobs to eligible companies. In order to satisfy the needs and take the action identified hereinabove, the City has determined that it should create a program to offer employee withholdings credits to eligible companies based on the amount of occupational license fees directly created by the company.

...

11-6.06 Application and Review Procedure.

...

b. ~~In lieu of~~ the City's incentive program application, an Applicant may submit a copy of the incentive application to the Commonwealth of Kentucky, so long as said application ~~[is not state and]~~ contains or is supplemented with the information required to be submitted hereinabove.

...

d. The Program Manager shall review each application to verify the information submitted therewith and determine:

...

3. Whether the credit is in the best interests of the City of Bowling Green, using sound financial criteria which would be most appropriate for determining the long-term viability of the Applicant; and,

...

e. ~~[After]~~ The Program Manager~~[s]~~ shall review ~~[of]~~ the application~~[, he shall]~~ and submit it with ~~[his]~~ recommendations to the Committee for review. The Committee may request

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additional information from the Applicant at any time. Following its review, the Committee shall either reject the application or recommend its approval based on the terms and conditions it may reasonably impose, including the percentage or amount of the employee withholdings credit. If the Committee recommends approval of the application, the Mayor shall be authorized to send a letter of preliminary support for the Applicant to the Kentucky Economic Development Cabinet, if applicable.

...

11-6.08 Remedies.

a. In the event of default under an employee withholdings credit agreement, the City may suspend the credit until such time as the default is cured or the City may terminate the credit. ~~[If the credit is terminated, the City may initiate legal proceedings to recover the amount of employee withholdings credited to the Approved Company up to the date the credit was terminated.]~~ The Approved Company shall immediately begin paying to the City one hundred percent (100%) of all employee withholdings upon notification of a suspension or termination of the credit.

...

d. The remedies contained in the Job Development Incentive ~~[program]~~ agreement, this Subchapter and Chapter 18 shall be cumulative and in addition to any other remedy authorized by law. Said remedies may be exercised separately, together or in any combination thereof, and any such exercise shall not constitute a waiver of any remaining remedies.

...

11-7 INCREMENTAL TAX REVENUE – HARTLAND DEVELOPMENT AREA.

11-7.01 Preamble.

a. The City of Bowling Green ~~[has for approximately one year been]~~ engaged in the study and analysis of the feasibility of the acquisition, construction and installation of major convention center and trade show facilities to serve the City, the County of Warren and the economic area of the City and

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County, which facilities would provide and carry out the following public purposes: (i) the provision of governmentally owned, public convention and trade show facilities, (ii) the enhancement of economic development and economic growth within the Bowling Green - Warren County area, (iii) the enhancement of tourism in the Bowling Green - Warren County through the provision of modern, governmentally owned, public convention and trade show facilities, (iv) inducement of business and industrial expansion compatible with convention and trade show activities and (v) enhancement of the tax base of the Bowling Green - Warren County area and creation of employment opportunities for the citizenry of such area.

b. It has been determined by the City, acting by and through its ~~[Mayor and]~~ Board of Commissioners, that the acquisition, construction and installation of a [major,] governmentally owned convention and trade show facilities, to consist of convention and trade show facilities providing approximately 65,000 square feet of facilities, will constitute the carrying out of a public purpose and that the facilities will constitute a "public project" as such term is defined in KRS Chapter 58 (the "Project").

...

e. Formerly KRS 99.751 to 99.771, inclusive, (the "Tax Increments Act") authorized "taxing districts," including counties and cities of the second class, such as the County of Warren and the City, to create "development areas," and to enter into contracts with "agencies" as defined in the Tax Increments Act, now KRS 65.680 to 65.699, inclusive, (the "Kentucky Increment Financing Act"), for the release of incremental revenues created in such development areas to such agencies, and the Corporation, being a nonprofit corporation established pursuant to KRS Chapter 58, constitutes an "agency" within the meaning of the Tax Increments Act, and is legally qualified to accept tax increments derived from additional ad valorem taxes and occupational license fees generated within the Development Area and utilize such tax increments for public purposes, including for the financing of

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the Project; and the City has determined that it will, as a taxing district within the meaning of the Tax Increments Act, create a Development Area within the corporate limits of the City and designate the Corporation as its Agency to receive tax increments from such Development Area following the establishment of the Development Area, so that such tax increments may be utilized by the Corporation for, with other funds, if required, the amortization of obligations issued by the Corporation in order to finance the construction, acquisition and installation of the Project.

...

11-7.06 Creation of Development Area.

a. Pursuant to KRS 99.751 through 99.771, inclusive, (the "Tax Increments Act"), a Development Area was [~~is hereby~~] officially designated and created by the City, which [~~shall~~] encompasses the geographic area described as follows:

...

b. Pursuant to the Tax Increments Act, now KRS 65.680 to 65.699, inclusive, (the "Kentucky Increment Financing Act"), the City, as the "Taxing District," under such Act, hereby designates the Corporation as the "Agency" under such Act, to develop the Project within the Development Area and to receive tax increments derived from the Development Area and apply such tax increments to amortize the obligations to be issued by the Corporation to acquire, construct and install the Project.

c. There are hereby assigned to the Corporation eighty percent (80%) of the incremental ad valorem taxes and occupational license fees derived and to be derived within the Development Area. The incremental taxes shall be deemed to be the "increments," as defined in the Tax Increments Act, and shall be that amount of ad valorem tax receipts and occupational license fee receipts authorized to be received by the City from the Development Area in each year beginning calendar year 1990 over the amount of such ad valorem tax revenues and occupational license fee revenues authorized to be received

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by the City from the Development Area in calendar year 1989, being the last year prior to the establishment by the City, as Taxing District, of the Development Area. The City shall at a later date enter into an appropriate contract with the Corporation for the release and payment of such tax increments to the Corporation, subject to the terms negotiated at that time. It is hereby determined and declared that the increments hereby assigned to the Corporation as Agency, pursuant to the Tax Increments Act, represent increments expected to be derived by the City as a direct and proximate result of the undertaking by the City of the Project. ~~[Pursuant to the provisions of KRS 99.761,a]~~ All tax increments hereby assigned to the Corporation and to be contracted to the Corporation by the City shall be used solely and only for purposes of the Project and in the Development Area and shall be used for the amortization obligations issued by the Corporation for the financing of the Project, and for the operation, maintenance and insurance of the Project.

...

11-8 PAYMENT, COLLECTION AND ENFORCEMENT OF TAXES.

In addition to all other remedies provided in this Chapter, the Chief Financial Officer is authorized, with the assistance of the City Attorney, to file in the appropriate Court of competent jurisdiction an action to collect any ad valorem tax, penalty, interest or any other charge related thereto or necessary, including court costs and a reasonable attorney's fee, to enforce any provision of this Chapter. The Chief Financial Officer is granted authority to use his best judgment and discretion in bringing such claims for past due ad valorem taxes and the Chief Financial Officer is authorized to bring such actions in the name of the City of Bowling Green, Kentucky. The Chief Financial Officer is further authorized to establish by regulations additional penalties and fees to recover legal fees and costs incurred in filing any claims for past due ad valorem taxes. The City Attorney and Chief Financial Officer are also hereby authorized to enter into installment payment agreements with delinquent taxpayers.

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~~[11-9 — INCREMENTAL TAX DISTRICT- NATIONAL CORVETTE MUSEUM.]~~

~~[11-9.01 — Preamble.~~

~~a. — The City of Bowling Green and the County of Warren, Kentucky engaged in the study and analysis of the feasibility of the acquisition, construction and installation of a National Corvette Museum (the "Project") to serve the City of Bowling Green, the County of Warren and the economic area of the City and County, which facilities would provide and carry out the following public purposes: (i) the providing of a national museum for the study, display and preservation of the Corvette automobile which is assembled in Bowling Green, Warren County, Kentucky, (ii) the enhancement of economic development and economic growth within the Bowling Green-Warren County area, (iii) the enhancement of tourism in the Bowling Green-Warren County area through the providing of a modern museum for the study, display and preservation of the Corvette automobile, (iv) inducement of business and industrial expansion compatible with Bowling Green and Warren County, and (v) the enhancement of the tax base of the Bowling Green-Warren County area and creation of employment opportunities for the citizens of Bowling Green and Warren County; and,~~

~~b. — In order to finance the Project, the County of Warren initially caused to be created the North Interchange Improvement Corporation, a non-profit, non-stock corporation, which is a corporation created pursuant to KRS Chapter 58 (the "Corporation"); and,~~

~~e. — KRS 99.751 to 99.771, inclusive, (the "Tax Increments Act") now KRS 65.680 to 65.699, inclusive, (the "Kentucky Increment Financing Act") authorizes "taxing districts" including counties and cities of the second class, such as the City of Bowling Green and the County of Warren, to create "development areas," and to enter into contracts with "agencies" as defined in the Tax Increments Act (now the Kentucky Increment Financing Act) for the release of incremental revenues created in such development area to such agencies, and the Corporation, being a non-profit corporation established pursuant to KRS Chapter 58, constituted an "agency" within the meaning of the Tax Increments Act~~

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~~(now the Kentucky Increment Financing Act), and was legally qualified to accept tax increments derived from additional tax revenues generated within the tax increment district, including ad valorem taxes and occupational license fees generated within the development areas and to utilize such tax increments for public purposes, including for the financing of the Project. The City of Bowling Green has determined that it will, as a taxing district within the meaning of the Tax Increments Act (now the Kentucky Increment Financing Act), create a Development Area within the corporate limits of the City of Bowling Green and initially designated the Corporation as its Agency to receive tax increments from such Development Area following the establishment of the Development Area, so that such tax increments may be utilized by the Corporation for, with other funds, if required, the amortization of obligations issued by Warren County, Kentucky, for the benefit of the National Corvette Museum Foundation, Inc. in order to finance the construction, acquisition and installation of the Project; and,~~

~~d. — Warren County has now refunded the original bonds used for the financing of the Project, with new bonds being issued by Edmonson County in the form of Edmonson County Series 2004 Bonds; and,~~

~~e. — This refunding negates the need for the Corporation to act as the City's agency and to receive the City tax increments, and requires that the City of Bowling Green designate the National Corvette Museum Foundation, Inc. (the "Museum") as its Agency to receive tax increments from the Development Area, with such tax increments to be used for the amortization of obligations issued by Edmonson County, Kentucky for the benefit of the National Corvette Museum Foundation, Inc. in order to finance the construction, acquisition and installation of the Project; and,~~

~~f. — For the foregoing reasons, it is now deemed appropriate and necessary by the City of Bowling Green to (i) create a Development Area pursuant to the Tax Increments Act (now the Kentucky Increment Financing Act), and (ii) denote the Museum as the designated Agency under the Tax Increments Act (now the Kentucky Increment Financing Act) to release eighty percent (80%) of all ad~~

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~~valorem tax revenues and occupational license fee revenues derived within the Development Area, exclusive of occupational fee revenues generated from construction and related activities, over and above the amount of revenues received by the City of Bowling Green from such tax sources from the Development Area in the last year prior to the establishment of the Development Area, such tax increments to be used by the Museum to amortize and pay the obligations issued for the financing of the Project.]~~

~~[11-9.02— Approval of Public Project; Implementation of Project:~~

~~A public project consisting of the acquisition, construction and installation of an approximately 65,000 square foot facility to be operated by the National Corvette Museum Foundation, Inc. (the "Project") is hereby officially approved, adopted and confirmed. The Project is a public project within the meaning of KRS Chapter 58 and it has previously been found and determined that the Project is necessary and will perform essential governmental functions.]~~

~~[11-9.03— Creation of Development Area:~~

~~a. — Pursuant to KRS 99.751 through 99.771, inclusive, (the "Tax Increments Act") now KRS 65.680 to 65.699, inclusive, (the "Kentucky Increment Financing Act"), a Development Area is hereby officially designated and created by the City of Bowling Green which shall encompass the geographic area which is described as Exhibit "A" and attached to Ordinance Number BG93-49 and on file in the Office of the City Clerk.~~

~~b. — Pursuant to the Tax Increments Act (now the Kentucky Increment Financing Act), the City of Bowling Green, as the "Taxing District" under such Act hereby designates the Museum as the "Agency" under such Act to receive tax increments derived from the Development Area and to apply such tax increments to amortize the bond obligations issued by Edmonson County, Kentucky to acquire, construct and install the Project.~~

~~c. — There is hereby assigned to the Museum eighty percent (80%) of the incremental ad~~

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~~valorem taxes and occupational license fees, derived and to be derived within the Development Area. The incremental taxes shall be deemed to be the "increments" as defined in the Tax Increments Act (now the Kentucky Increment Financing Act) and shall be that amount of ad valorem tax receipts and occupational license fee receipts received by the City of Bowling Green from the Development Area in each year beginning calendar year 1994 over the amount of such ad valorem tax revenues and occupational license fee receipts authorized to be received by the City of Bowling Green from the Development Area, exclusive of occupational fee revenues generated from construction and related activities in calendar year 1993, being the last year prior to the establishment by the City of Bowling Green as Taxing District of the Development Area. It is hereby determined and declared that the increments hereby assigned to the Museum as Agency pursuant to the Tax Increments Act (now the Kentucky Increment Financing Act) represent increments expected to be derived by the City of Bowling Green as a direct and proximate result of the undertaking of the Project. Pursuant to the provisions of KRS 99.761, now KRS 65.680 to 65.699, inclusive, (the "Kentucky Increment Financing Act"), all tax increments hereby assigned to the Museum by the City of Bowling Green shall be used solely and only for the purposes of the Project and in the Development Area, and shall be used solely for the amortization of the refunding bonds issued by the County of Edmonson for the financing of the Project. Once the bond issue is paid in full, this Ordinance shall automatically be repealed and the Development Area shall cease.]~~

11-[4]09 SPECIAL TAXING DISTRICTS AND ASSESSMENT OF AD
VALOREM TAXES FOR INSTALLATION OF STREET LIGHTING.

11-[4]09.01 Definitions.

...

11-[4]09.02 Street Lighting for New Subdivisions.

...

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11-[1]09.03 Assessment of Costs and Payment.

...

11-[1]09.04 Termination of Special Taxing District.

...

11-10[1] PROCEDURES FOR ACCEPTING DONATIONS AND GIFTS.

11-10[1].01 Acceptance of Donations and Gifts.

...

11-10[1].02 Use of Donations or Gifts.

Any cash donations or gifts accepted by the City shall be deposited with the Finance Department [~~City Treasurer~~]. The Finance Department [~~City Treasurer~~] shall record any funds donated for a specific purpose in the proper revenue account to be appropriated in the budget solely for the specified purpose and directly related administrative expenses. If no specific purpose is designated, the Finance Department [~~City Treasurer~~] shall deposit such donations or gifts in the General Fund to be used for purposes designated by the Board of Commissioners. If the donation or gift is in the form of stock, bonds or other intangible or tangible personal property or in the form of real estate, the City Manager is authorized to use the gift for its intended purpose or to sell and convert to cash such items and to use the proceeds as set out in this Section.

11-10[1].03 Duties of City Officials and Employees.

...

11-11[2] DEVELOPMENT AREA – INTER-MODAL COMMERCE AND
DISTRIBUTION CENTER AND INDUSTRIAL PARK (KENTUCKY TRANSPARK).

11-11[2].01 Preamble.

a. The City of Bowling Green and the County of Warren, Kentucky, in cooperation with various other local governments, have for several years engaged in the study and analysis of the

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feasibility of the establishment of an Inter-Modal Commerce and Distribution Center and Industrial Park, referred to as the Kentucky Transpark, (the "Project") to serve the City of Bowling Green, the County of Warren and the economic area of the City and County, which project would provide and carry out the following public purposes: (i) the enhancement of economic development and economic growth within the Bowling Green-Warren County area, (ii) inducement of business and industrial expansion compatible with Bowling Green and Warren County, and (iii) the enhancement of the tax base of the Bowling Green-Warren County area and creation of employment opportunities for the citizens of Bowling Green and Warren County;

b. In order to finance the Project, the County of Warren has heretofore caused to be created the Inter-Modal Transportation Authority, Inc. (ITA), a nonprofit, non-stock corporation which is a corporation created pursuant to KRS Chapter 58 (the "Corporation");

...

11-11[2].02 Approval of Public Project; Implementation of Project.

...

11-11[2].03 Creation of Development Area.

a. Pursuant to KRS 65.680 through 65.699, inclusive, (the "Kentucky Increment Financing Act"), a Development Area is hereby officially designated and created by the City of Bowling Green which shall be known as the Inter-Modal Commerce and Distribution Center and Industrial Park Development Area (Kentucky Transpark) which shall encompass the geographic area described below:

...

11-12[3] TAX INCREMENT FINANCING DEVELOPMENT AREA – WKU
GATEWAY TO DOWNTOWN BOWLING GREEN.

11-12[3].01 Preamble.

...

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b. The City by virtue of the provisions of KRS 65.7041 to 65.7083 (the “Act”) is authorized to, among other things: ~~[(1)]~~ establish a development area to encourage reinvestment in and development and reuse of areas of the City, ~~[(2)]~~ enter into agreements in connection with the establishment and development of the development area, ~~[(3)]~~ establish a special fund for deposit of incremental revenues resulting from the development of the development area, and ~~[(4)]~~ designate an agency to oversee, administer and implement projects within the development area. The Act further authorizes the City of Bowling Green and Warren County to create development areas and to enter into contracts and grant agreements as set out in the Kentucky Increment Financing Act for the release of incremental revenues created in such development areas to nonprofit corporations established pursuant to KRS Chapter 58. In order to finance the Project, Warren County has heretofore caused to be created the Warren County Downtown Economic Development Authority, Inc. (“Authority”), a nonprofit, non-stock corporation which is a corporation created pursuant to KRS Chapter 58 as its agency, instrumentality and constituted authority for the purpose of issuing Increment Bonds to finance portions of the Project (as further defined hereinbelow) and performing other functions to implement the Project. The City has previously designated the Authority as the agency with the duties and responsibilities for the oversight, administration and the implementation of the Development Area Ordinance (as further defined hereinbelow) on behalf of the City.

11-12~~[3]~~.02 Approval of Public Project; Implementation of Project.

...

11-12~~[3]~~.03 Creation of WKU Gateway to Downtown Bowling Green Tax Increment Financing (TIF) Development Area.

a. Pursuant to the Act, a tax increment financing development area is hereby officially designated and created by the City of Bowling Green which shall be known as the WKU Gateway to Downtown Bowling Green Tax Increment Financing Development Area which shall encompass the

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geographic area as set out in Ordinance No. BG2007-33 and amended by Ordinance No. BG2007-38 and amended by Ordinance No. BG2008-54 and Ordinance No. BG2016-30.

...

~~[11-13.04 Application Review and Approval~~

~~a. Pursuant to the provisions of the Amended and Restated Master Development Agreement, all sub-developer agreements and proposals for projects to be located in the TIF development area shall be submitted to the City for review and approval. The materials shall first be submitted to the City's Finance Department and to the Office of the City Manager with sufficient information and documentation as requested by the City. Submissions of proposed projects shall include a detailed description of the sub-developer including information related to the experience and financial capacity of the sub-developer, the names, addresses and financial information of the owners of the sub-developer and the names and addresses of the officers and directors of the sub-developer, a copy of the sub-developer agreement, a description of the project, a detailed concept plan, with proposed uses, building sizes and designs for that particular block of the Development Area along with adequate provisions for the public infrastructure needed to support the Project, the number of new employees to be employed by the project, a statement regarding the public benefits of the project, the amount of TIF assistance being provided and the use of the TIF assistance and other information that may be requested by the Finance Department or the Office of the City Manager. In addition, the proposal shall include information on the impact of the project on existing City revenues. The proposal shall include information regarding the relocation of existing City businesses and/or jobs into the TIF Development Area, including the number of jobs being relocated, the payroll and occupational fees / net profits being paid by those jobs and the existing business currently, and the number, if any, of new jobs being created due to the relocation. The Master Developer or sub-developer shall include documentation in the proposal to justify its location in the TIF Development Area and provide justification that without TIF~~

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~~assistance, the proposed project would not occur. The Master Developer or sub-developer should not assume that the City will approve a request to locate a project in the TIF Development Area. The City Finance Department, in cooperation with the Office of the City Manager and other appropriate City departments, shall review the proposed project and make recommendations to the Board of Commissioners. Decisions to approve or disapprove proposed projects shall be made on a project-by-project basis by the Board of Commissioners and shall be made in writing based on appropriate municipal orders.~~

~~b. In all situations in which projects are approved that include the relocation of existing City businesses or jobs, the tax increment financing base revenue shall be adjusted based on the following Section. In no case shall the City net profits or employee withholdings revenues being generated from an existing City business or employee being relocated into the TIF Development Area be distributed to the Authority.]~~

11-12[3].04[5] Calculation and Distribution of Tax Increment Financing Revenue Related to Growth of Existing Businesses or Jobs that Relocate Into the TIF Development Area.

a. It is not the purpose of TIF to shift existing commercial, professional or other businesses that already exist in the City, but outside the TIF area, into the TIF area without an adjustment to Old Revenue (hereinafter also called "base revenues"). Therefore, any existing City business outside the TIF area that moves into the TIF area shall file with the City Finance Department and the Office of the City Manager information related to the number of employees at its existing location or locations and the amount of occupational withholding fees paid by those employees for the preceding calendar year prior to its relocation into the TIF area and the amount of its net profit fees paid to the City for its previous fiscal year. The base revenue for the TIF area shall then be adjusted to include the occupational withholding fees and net profit fees reported by the existing City business and these revenues shall be included as Old Revenue to determine an adjusted base revenue. ~~[The adjusted base revenue shall be~~

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~~adjusted annually by the 20-year average CPI of 2.03%.]~~ Such businesses shall report the existing revenues to the City Finance Department on forms provided by the Department.

...

d. If the growth of Western jobs in the TIF area exceeds the actual increase in total Western jobs from the preceding calendar year, the City Finance Department and the Office of the City Manager shall then examine the Western jobs that were created in the TIF area and that are being considered for TIF revenue calculation. If any of the claimed Western jobs were existing jobs that relocated into the TIF area, the base revenue for the TIF area shall be adjusted to include the occupational withholding fees from the preceding calendar year paid by the existing Western jobs that relocated into the TIF area and these revenues shall be included as Old Revenue.

As an example for illustration purposes only and using the example above, the City will examine the 100 new Western jobs in the TIF area. It is determined that an existing Western department relocated into the TIF area. Ninety-five of these jobs existed prior to the relocation of the department. The occupational withholding fees paid on those 95 jobs for the previous calendar year shall be included as Old Revenue to determine an adjusted base revenue. ~~[The adjusted base revenue shall be adjusted annually by the 20-year average CPI of 2.03%.]~~ The five new positions shall be classified as new jobs and 80% of the occupational withholding fees generated from those five new jobs will be paid to the Authority.

11-13[4] ENERGY PROJECT ASSESSMENT DISTRICT.

11-13[4].01 Preamble.

...

11-13[4].02 Definitions.

...

11-13[4].03 Adoption of EPAD Program and Designation of EPAD Program Area.

...

11-13[4].04 Operation of the EPAD Program.

...

d. The Department of Finance staff, in cooperation with any other City department staff, shall review each application for compliance with the applicable State statutes and the Department of Finance procedures, including a review of the energy project being proposed, an examination of the property's baseline energy or water usage conditions and the energy or water savings projected to be achieved as a result of the energy project. For any energy project requiring a total assessment of two hundred and fifty thousand (\$250,000) dollars or more, that review shall include evidence that the energy project has been examined by a Kentucky Licensed Professional Engineer who has attested that: [(1) the scope of work is in compliance with all applicable building codes; [(2) the scope of work and the project budget are consistent with completed projects of a similar nature; and [(3) the estimated energy savings calculations are accurate and achievable.

...

g. Upon the recording of the written notice and the imposition of the assessment, the Department of Finance is authorized to add the assessment to the City property tax bill for the relevant property. The assessment shall be imposed and collected in the same manner as other City property taxes and any unpaid assessment shall bear the same interest rate and penalty as other City property taxes. The assessment shall, together with any interest and penalties, constitute a first and prior lien against the real property on which the assessment is imposed from the date on which the notice of assessment is recorded until paid. [and] Furthermore, this lien shall have the same priority status as a lien for any other State or local ad valorem tax upon the property. The Department of Finance is authorized to pursue collection actions for unpaid assessments in the same manner it pursues collections of unpaid property taxes. The Department of Finance shall collect the assessments annually and make

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the required payments to the entity financing the energy project. Any bonds or notes issued under the applicable State statutes or this Subchapter for an EPAD project shall not be general obligations of the City and the City of Bowling Green and its officers, officials or officers shall have no liability to any persons for uncollected EPAD assessments and unpaid EPAD debt.

h. The owner shall notify the City Department of Finance upon completion of the energy project and, in the event the total assessment for the energy project is two hundred and fifty thousand (\$250,000) dollars or greater, provide the Department of Finance a certification from a Kentucky Licensed Professional Engineer that an on-site inspection verifies the actual construction and installation was in compliance with the application and contract.

2. Chapter 18 (Occupational License Fees and Taxes) is hereby amended as follows:

...

18-4 INSURANCE PREMIUM TAX.

18-4.01 Insurance Premium Tax Imposed.

...

e. All collections made from the license fees imposed upon and related to inland marine, fire and allied perils, all other risks, and multiple line policies with indivisible premium shall be credited to a special reserve fund within the City's general accounting system entitled, "Fire Improvement Fund."

1. All disbursements, withdrawals and debits from the Special Reserve Fund herein created shall be restricted to the purchase of apparatus, vehicles, equipment, tools, personal protective gear, safety items and any other necessary capital expenditures, as well as for the construction, maintenance and furnishings of facilities and buildings for the Fire Department, and related debt service on financing of the above items; provided, however, the Board of Commissioners may authorize by Municipal Order expenditures from the fund for other City purposes.

2. No transfers to other funds shall be made from the Special Reserve Fund without

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the approval of the Board of Commissioners.

...

3. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

4. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

5. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on December 20, 2016, and given final reading on January 3, 2017, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: January 3, 2017

APPROVED: Bruce Wilkinson
Mayor, Chairman of Board of Commissioners

ATTEST: Katie Schaller Ward
City Clerk

SPONSORED BY: Kevin D. DeFebbo, City Manager, 12/15/2016, 8:45 a.m.