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Legislative Bulletin

An Official Publication of the Hilliard City Council

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ORDINANCES

The following Ordinances were passed on July 11, 2022

22-18 AMENDING CHAPTERS 1105, 1115, 1121 AND 1141 OF THE CITY'S CODIFIED ORDINANCES TO REGULATE SHORT-TERM RENTAL FACILITIES AND MODIFY REGULATIONS FOR BED AND BREAKFAST INNS (AMENDED)

WHEREAS, on October 27, 2014, City Council adopted Ordinance No. 14-29 establishing a new Planning and Zoning Code and adopted a new Zoning Map; and

WHEREAS, Short-term Rentals have become a relatively new use that was not contemplated at the time of the Code's adoption; and

WHEREAS, Short-term Rentals are currently not a permitted use within the City of Hilliard; and

WHEREAS, Old Hilliard provides a logical activity center in which to consider testing the incorporation of such uses that are gaining in popularity; and

WHEREAS, Bed and Breakfast Inns are currently only permitted within areas of the City zoned R-R, Rural Residential District; and

WHEREAS, on May 12, 2022, at its regularly scheduled and advertised meeting, the Planning and Zoning Commission considered Short-term Rental uses and approved Case #PZ-22-18 to amend the Zoning Code, making a positive recommendation to City Council

WHEREAS, at its regularly scheduled and advertised meeting on May 12, 2022, the City's Planning and Zoning Commission voted to forward a positive recommendation to City Council that the Short-term Rental and Bed and Breakfast Inn code amendments be adopted; and

WHEREAS, this Ordinance shall be reviewed in one year by City Staff, by members of Planning and Zoning Commission, City Council, Hilliard Division of Police, and Old Hilliard residents and business owners; and

WHEREAS, amending Chapters 1105, 1115, 1121, and 1141 as identified in Exhibit "A", attached hereto and incorporated herein, promotes the general health, safety, and welfare of the City and its residents.

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

SECTION 1. Council finds that amending Chapters 1105, 1115, 1121 and 1141 of the City's Codified Ordinances as identified in Exhibit "A", **attached** hereto and incorporated herein, is in the City's best interest. The changes and additions to Chapters 1105, 1115, 1121 and 1141, as shown in track changes in the attached Exhibit "A" is approved and shall be incorporated in the City's Codified Ordinances.

SECTION 2. All other provisions of the City's Codified Ordinances, not modified herein, remain unchanged and are in full force and effect.

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SECTION 3. This Ordinance shall be in effect from and after the earliest time provided for by law.

22-20 APPROPRIATING FUNDS FOR THE CONSTRUCTION OF THE CITY'S RECREATION AND WELLNESS CAMPUS.

WHEREAS, on November 2, 2021, City electors approved increasing the City's municipal income tax by 0.5% and dedicating the resulting funds to recreation and parks, including the design and construction of the Recreation and Wellness Campus; and

WHEREAS, City Council has approved multiple agreements for the design and construction of the Recreation and Wellness Campus; and

WHEREAS, on March 14, 2022, City Council passed Ordinance No. 22-10 authorizing the issuance of an amount not to exceed \$95 million in bonds in order to fund the design and construction of the Hilliard Recreation and Wellness Campus; and

WHEREAS, due to the volatility of the construction market and the long lead times construction materials, the City will need to purchase items later this year and appropriating funds now will ensure that the City is able seek authorization and purchase in a timely manner; and

WHEREAS, appropriating these funds is in the best interest of the City and its residents.

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

SECTION 1. An appropriation in the amount of \$40,000,000 from Fund 103, Object 53/55 is authorized in order to initiate construction of the City's Recreation and Wellness Campus.

SECTION 2. This Ordinance shall be in effect from and after the earliest time provided for by law.

22-21 AMENDING SECTION 537.16 AND ENACTING SECTIONS 537.161, 537.162, AND 539.07 OF THE CITY'S CODIFIED ORDINANCES REGARDING THE SALE OR OTHER DISTRIBUTION OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, AND ELECTRONIC SMOKING DEVICES TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE.

WHEREAS, the City of Hilliard is dedicated to promoting and supporting the health and wellbeing of its residents; and

WHEREAS, there has been a dramatic increase in electronic vaping device use among the youth in the Hilliard community and throughout the nation; and

WHEREAS, the use of electronic vaping devices, especially in youth, include health risks such as chronic nicotine addiction, lung disease and damage, cardiovascular damage, changed brain development, and increased risk for additional substance use; and

WHEREAS, the American Journal of Respiratory and Critical Care Medicine has published research showing the components of electronic smoking devices aerosol have known pulmonary toxicity and that adolescent electronic smoking device users had increased rates of chronic bronchitic symptoms; and

WHEREAS, the American College of Cardiology reports that persons who use electronic vaping devices are significantly more likely to have a heart attack, coronary artery disease, and depression compared with those who don't use them or any

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tobacco product; and

WHEREAS, research confirms the prefrontal cortex of the brain, which is responsible for emotions and decision making, does not fully develop until about age 25 and nicotine, THC, and other substances affect the development of the brain and the prefrontal cortex; and

WHEREAS, JAMA Pediatrics published research showing young people who use electronic smoking devices are 3.5 times more likely to smoke marijuana later in life; and

WHEREAS, on July 18, 2019, the Ohio legislature acknowledged these health, safety, and welfare concerns and passed HB 166, which amended numerous Sections in Ohio Revised Code increasing the age from 18 to 21 at which a person may purchase, use, or possess tobacco products or other alternative nicotine products; and

WHEREAS, additionally, HB 166 defined vapor products and electronic smoking devices and incorporated them into the definition of alternative nicotine products that are prohibited under twenty-one (21) years of age; and

WHEREAS, the City of Hilliard, recognizing the dangers of smoking and the use of vapor products and/or electronic smoking devices, has determined that it is necessary to incorporate State Code into its Codified Ordinances, as well as ensure that all electronic smoking devices and their component parts cannot be purchased, used, or possessed by those under the age of twenty-one; and

WHEREAS, the City of Hilliard believes that amending Section 537.16 and enacting Sections 537.161, 537.162, and 539.07 of the City's Codified Ordinances, as shown in Exhibits "A", "B", "C", and "D", attached hereto and incorporated herein, promotes the general health, safety and welfare of the City and its residents; and

WHEREAS, the City of Hilliard is a home-rule charter municipality pursuant to Article XVIII, Section 7 of the Ohio Constitution, which enables the City to have and exercise all powers of local self-government under the Constitution and laws of the State of Ohio.

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

SECTION 1. Council finds that amending Section 537.16, **attached** hereto as Exhibit "A" and incorporated herein, regarding the Illegal Distribution of Cigarettes, Other Tobacco Products, Alternative Nicotine Products, or Electronic Smoking Devices promotes the general health, safety and welfare of the City of Hilliard and its residents. The changes and additions to Section 537.16, as shown and identified in track changes on the attached Exhibit "A", are approved and shall be incorporated into the City's Codified Ordinances, from and after the effective date of this Ordinance. All other provisions of Section 537.16, not modified or deleted herein, remain unchanged and are in full force and effect.

SECTION 2. Council finds that enacting Section 537.161, **attached** hereto as Exhibit "B" promotes the general health, safety, and welfare of the City of Hilliard and its residents.

SECTION 3. Council finds that enacting Section 537.162, **attached** hereto as Exhibit "C" promotes the general health, safety, and welfare of the City of Hilliard and its residents.

SECTION 4. Council finds that enacting Section 539.07, **attached** hereto as Exhibit "D" promotes the general health, safety, and welfare of the City of Hilliard and its residents.

SECTION 5. The Council finds that all deliberations and actions of the public body relating to this Ordinance were taken in an open meeting in compliance with Section 121.22 of the Ohio Revised Code.

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SECTION 6. To the extent that grant funds, publications and/or proceeds from fines is available, the City of Hilliard may engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to persons affected by it, and to guide proprietors in their compliance with it.

SECTION 7. This Ordinance shall be in full force and effect from and after the earliest time provided for by law.

22-22 **APPROPRIATING FUNDS FOR THE HILLIARD DEVELOPMENT CORPORATION'S PURCHASE OF 3978 BROWN PARK DRIVE.**

WHEREAS, on July 13, 2020, City Council adopted Ordinance No. 20-19 (Amended) designating the Hilliard Development Corporation ("HDC") as the agency for the City of Hilliard, Franklin County, Ohio for the industrial, commercial, distribution and research development; and

WHEREAS, on March 25, 2022, the HDC entered into a purchase agreement for the acquisition of 3978 Brown Park Drive for future transit and economic development opportunities; and

WHEREAS, the City of Hilliard has determined that the acquisition of this property is necessary for community and economic development purposes; and

WHEREAS, it is necessary to appropriate \$725,000 and authorize the expenditure of these funds for HDC's acquisition of the 3978 Brown Park Drive; and

WHEREAS, following closing, HDC will transfer the Brown Park Drive Property to the City.

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

SECTION 1. An appropriation in the amount of \$725,000 from Fund 304, Object 55 is authorized in order to provide the Hilliard Development Corporation with funds for costs associated with the acquisition of the 3978 Brown Park Drive.

SECTION 2 City Council authorizes the expenditure of funds from Fund 304, Object 55 to the Hilliard Development Corporation for its acquisition of the 3978 Brown Park Drive.

SECTION 3. The City Manager is authorized to enter into any agreements or sign documents as may be necessary regarding the appropriation and expenditure of these Funds.

SECTION 4. This Ordinance shall be in effect from and after the earliest time provided for by law.

22-23 **AUTHORIZING ALL ACTIONS NECESSARY TO EFFECTUATE AN OPT-OUT ELECTRIC SERVICE AGGREGATION PROGRAM PURSUANT TO OHIO REVISED CODE 4928.20; AND DIRECTING THE FRANKLIN COUNTY BOARD OF ELECTIONS TO SUBMIT THE BALLOT QUESTION TO THE ELECTORS OF THE CITY. (AMENDED)**

WHEREAS, Section 4928.20 of the Ohio Revised Code authorizes the legislative authorities of municipal corporations, townships and counties to aggregate automatically, subject to opt-out provisions, competitive electric service for the retail electric loads located in the respective jurisdictions and to enter into service agreements to facilitate the sale and purchase of the service for the electricity loads; and

WHEREAS, such legislative authorities may exercise such authority jointly with any other legislative authorities; and

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WHEREAS, this Council seeks to establish a governmental aggregation program with opt-out provisions pursuant to Section 4928.20, Ohio Revised Code (the "Aggregation Program"), for the residents, businesses and other electric consumers in the City and in conjunction jointly with any other municipal corporation, township, county or other political subdivision of the State of Ohio, as permitted by law.

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

SECTION 1. This Council finds and determines that it is in the best interest of the City, its residents, and small businesses located within the incorporated areas of the City to establish an Electric Aggregation Program within the incorporated areas of the City that promotes local renewable clean energy generation and Hilliard's sustainable economy.

SECTION 2. That provided this Ordinance and the Aggregation Program is approved by the electors of the City of Hilliard pursuant to Section 3 of this Ordinance, the City of Hilliard is hereby authorized to aggregate in accordance with Section

4928.20 of the Ohio Revised Code, the retail electrical loads located within the City of Hilliard, and, for that purpose to enter into service agreements to facilitate for those loads the sale and purchase of electricity. The City of Hilliard may exercise such authority jointly with any other municipal corporation, township or county or other political subdivision of the State of Ohio to the full extent permitted by law which may include use of an energy broker/consultant/aggregator, so long as the broker/consultant/aggregator is certified by the Public Utilities Commission of Ohio. The aggregation will occur automatically for each person owning, occupying, controlling, or using an electric load center proposed to be aggregated and will provide for the opt-out rights described in Section 5 of this Ordinance.

SECTION 3. That the Board of Elections of Franklin County is respectfully directed to submit the following question, in language approved by the Board of Election, to the electors of the City of Hilliard at the general election on November 8, 2022:

"Shall the City of Hilliard have the authority to aggregate the retail electric loads located within the incorporated areas of the City, to support renewable, clean energy generation, for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of electricity, such aggregation to occur automatically except where any person elects to opt out?"

The Aggregation Program shall not take effect unless approved by a majority of the electors voting upon this Ordinance and the Aggregation Program provided for herein at the election held pursuant to this Section 3 and Section 4928.20 of the Ohio Revised Code.

SECTION 4. That the Clerk of Council is directed to certify a copy of this Ordinance to the Board of Elections of Franklin County before 4:00 p.m. August 10, 2022, for placement on the November 8, 2022, General Election Ballot for consideration by City of Hilliard electors.

SECTION 5. That upon the approval of a majority of the electors voting at the election provided for in Section 2 of this Ordinance, this Council individually or jointly with any other political subdivision, shall develop a plan of operation and governance for the Aggregation Program. Before adopting such plan this Council shall hold at least two public hearings on the plan. Before the first hearing, notice of the hearings shall be published once a week for two consecutive weeks in a newspaper of general circulation in the City. The notice shall summarize the plan and state the date, time, and location of each hearing. No plan adopted by this Council shall aggregate the electrical load of any electric load center with the City unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the Aggregation Program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the

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opportunity to opt out of the program every three years or at any time, without paying a switching fee. Any such person that opts out of the Aggregation Program pursuant to the stated procedure shall default to the standard service offer 22-

provided under division (a) of Section 4928.14 or division (d) of Section 4928.35, Ohio Revised Code until the person chooses an alternative supplier.

SECTION 6. That all formal actions of this Council concerning and related to the adoption of this Ordinance were taken in an open meeting of said Council, and that all deliberations of this Council that resulted in such formal action were made in meetings open to the public, when required by law, in full compliance with all legal requirements, including without limitation, provisions of the Charter of the City of Hilliard, and Section 121.22 of the Ohio Revised Code.

SECTION 7. Pursuant to Section 3.07 of the Charter for the City of Hilliard, Ohio, this Ordinance shall take effect upon passage.

The First Reading of the following Ordinance was held on July 11, 2022.

The Second Reading/Public Hearing is scheduled for August 22, 2022

22-25 AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED DEVELOPMENT AGREEMENT WITH EPCON CARR FARMS, LLC.

WHEREAS, Epcon Carr Farms, LLC ("Epcon") owns 79.45 ± acres of land located on the east side of Leppert Road and located approximately 200 feet north of Davidson Road, identified as parcel numbers 050-008252 and 050-011719 by the Franklin County Auditor's Office (the "Property"); and

WHEREAS, on December 14, 2020, City Council approved Ordinance No. 20-34 authorizing a Developer's and Reimbursement agreement with Epcon (the "Original Agreement"); and

WHEREAS, on October 11, 2021, City Council adopted resolution No. 21-R-62, approving a PUD Modification for the Property amending the number of residential units on the Property; and

WHEREAS, due to the change in the number of residential units, it is necessary to enter into a revised and restated Development Agreement; and

WHEREAS, this Amended Agreement also incorporates, restates and amends the material terms and conditions of the Original Agreement, and as such, replaces the Original Agreement in its entirety.

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

SECTION 1. The City Manager is authorized to enter into an Amendment Development Agreement with Epcon Carr Farms, LLC for the construction and installation of public infrastructure improvements, in a form substantially similar to the one **attached** hereto as Exhibit "A" and incorporated herein, with such non-material and non-adverse changes to the City as may be deemed appropriate by the City Manager and Director of Law, with her execution thereof on behalf of the City constituting conclusive evidence of Council's approval of such changes.

SECTION 2. The reference to "Owner" and "Developer" as used in this Ordinance, shall refer to any entity in control of the Property that submits plans to the City to develop the Carr Farms PUD and is issued a building permit.

SECTION 3. This Ordinance shall be in effect from and after the earliest time provided for by law.

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RESOLUTIONS

The following Resolutions were passed by Hilliard City Council on July 11, 2022.

22-R-55 VACATING A PORTION OF A SANITARY SEWER EASEMENT GRANTED TO THE CITY OF HILLIARD BY GREENWICH INVESTORS HICKORY CHASE, LLC.

WHEREAS, with the approval of Hilliard City Council Resolution No. 16-R-08 on January 25, 2016, Greenwich Investors Hickory Chase, LLC conveyed a twenty (20) foot wide sanitary sewer easement (“Easement”) to the City of Hilliard on Lot 3 for the Hickory Chase subdivision, as described in Plat Book 120, pages 61-63 of the Franklin County Recorder; and

WHEREAS, within the Easement, Hickory Chase constructed a sanitary sewer to provide sewer service for the residential building of the Hickory Chase development, which sewer the City of Hilliard now owns and maintains; and

WHEREAS, Green Courte Acquisition IV, LLC (“Developer”) submitted plans for and were approved for new garages (“Project”) to serve the recently opened Verena residential community in the Hickory Chase development; and

WHEREAS, a portion of the new garages for the Project is located over a portion of the sanitary sewer and the Easement; and

WHEREAS, the Developer has petitioned the City to be able to remove the sanitary sewer under the new garage, relocate a sewer manhole; and

WHEREAS, the sewer to be removed is at the “upstream” or beginning of the sanitary sewer, and removal of the sewer and relocation of the manhole will not affect sanitary sewer service for the Hickory Chase Development; and

WHEREAS, with the sanitary sewer removed, the Easement is no longer necessary for ownership and maintenance of the former sewer by the City of Hilliard; and

WHEREAS, the Developer has requested that the City vacate a portion of the original Easement granted to the City of Hilliard, as described and depicted in the “Easement Vacation”, **attached** hereto and incorporated herein as Exhibit “A”.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio that:

SECTION 1. This Council finds that the request by the Developer for the City to vacate a portion of the original sanitary sewer easement granted to the City of Hilliard, as described and depicted in the “Easement Vacation”, **attached** hereto and incorporated herein as Exhibit “A”, is in support of the development and not adverse to the general health, safety and welfare of the public. Said portion of the sanitary sewer easement identified in Exhibit “A” is hereby vacated.

SECTION 2. The Clerk of Council is directed to record this Resolution and Exhibit “A” in the Office of the Recorder of Franklin County, Ohio and notify the Auditor of Franklin County, Ohio about the vacation by sending the Auditor a certified copy of this Resolution and attachments.

SECTION 3. This Resolution is effective upon its adoption.

22-R-56 AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICE AGREEMENT (PSA) WITH CARPENTER MARTY TRANSPORTATION, INC. TO PROVIDE GENERAL ENGINEERING SERVICES AND AUTHORIZING AN EXPENDITURE.

WHEREAS, the City of Hilliard Division of Transportation & Mobility utilizes the services of consultants to provide on-call services and technical expertise to support the needs of the Division; and

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22-R-56 continued:

WHEREAS, Carpenter Marty Transportation assists the Division with safety studies, data collection and analysis, grant submittals, and general engineering services; and

WHEREAS, the PSA for General Engineering Services (GES) is an annual contract and tasks are performed on an “as-directed” basis, whereby Carpenter Marty Transportation will provide services only as requested and directed by the City based on specific work to be performed; and

WHEREAS, the existing GES contract for traffic engineering and plan review services expired on July 2, 2022; and

WHEREAS, the City of Hilliard desires to enter into a new PSA with Carpenter Marty Transportation based on their technical experience, training, and past performance; and

WHEREAS, by the passage of Ordinance No. 21-36 on November 22, 2021, funds in the amount of \$30,000 were appropriated in the 2022 Operating Budget for consultant services related to this PSA; and

WHEREAS, by passage of Ordinance No. 20-27 on November 23, 2020, funds in the amount of \$35,000 were appropriated in the 2021 Capital Budget for CIP T-124 Citywide Safety & Capacity Improvements and carried over for use in 2022 for consultant services related to this PSA; and

WHEREAS, pursuant to Section 3.10 of the Charter of the City, authorization to fund the Services may be established by Resolution of Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio that:

SECTION 1. An expenditure is authorized in 2022 as follows:

- Fund 101, Object 53 = \$30,000
- Fund 202, Object 55 = \$35,000

Total = \$65,000

SECTION 2. The City Manager is hereby authorized to enter into a professional services agreement (“Agreement”) with Carpenter Marty Transportation in substantially the same form as the one **attached** hereto as Exhibit “A” and incorporated herein, for General Engineering Services. The City Manager is authorized to make such changes to the Agreement that are not inconsistent with this Resolution and not adverse to the City.

SECTION 3. The City Manager is authorized to extend this Agreement for up to four additional years, subject to satisfactory performance and the appropriation of sufficient funds by City Council.

SECTION 4. The Finance Director is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with expenditure of the funds provided herein.

SECTION 5. This Resolution is effective upon its adoption.

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22-R-57 AUTHORIZING THE CITY MANAGER TO PURCHASE ONE (1) SPRINTER CARGO VAN AS IDENTIFIED IN CIP F-6 FROM MERCEDES BENZ OF FORT MITCHELL; AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, it is necessary for the health, safety, and welfare of the citizens of Hilliard, Ohio that the City appropriately maintains its fleet vehicle and equipment assets; and

WHEREAS, the City Manager has determined the Hilliard Division of Police (HPD) needs a new Mobile Command Vehicle; and

WHEREAS, at this time, existing HPD vehicles have an unknown trade-in value, but will be traded in and replaced by the newly acquired vehicle.

WHEREAS, funds were appropriated in the 2022 Capital Improvement Budget by Ordinance No. 21-41, passed by City Council on December 13, 2021, and pursuant to Section 3.10 of the Charter of the City, authorization for this purchase is established by resolution of Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hilliard, Ohio that:

SECTION 1. An expenditure is authorized in an amount not to exceed \$55,000 from Fund 304, Object 55 for the purchase of Sprinter Cargo Van.

SECTION 2. The City Manager is hereby authorized to enter into an agreement with Mercedes Benz of Fort Mitchell to purchase one Sprinter Cargo Van at a total cost not to exceed \$55,000.

SECTION 3. The City Manager is authorized to sign and execute any and all documents or agreements necessary to effectuate the purchase of one Sprinter Cargo Van as authorized hereunder.

SECTION 4. The Finance Director is authorized to make any accounting changes to revise the funding source for any contract or contract modification associated with expenditure of the funds.

SECTION 5. This Resolution is effective upon its adoption.

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