



500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEMS



Date: June 22, 2021

To: Honorable Mayor and City Council Members

From: Lori Grigg Bluhm, City Attorney

Subject: Proposed Consolidated and Codified Downtown Development Authority Ordinance

A proposed Eighth Amendment to the Troy Downtown Development Authority's Development Plan and Tax Increment Financing Plan is scheduled for public hearing for June 28, 2021. If City Council approves the proposed amendment, there needs to be a corresponding amendment to the Downtown Development Authority Ordinance, since it's required by the State Statute.

In 1993, when Troy's Downtown Development Authority was created, the City accomplished the statutory mandate by passing Special Ordinances 78 and 80. Although this was an acceptable procedure, these Special Ordinances were not officially incorporated into the City's Code of Ordinances. As a result, persons could not access these ordinances through the City's website, and instead needed to obtain a copy through the City Clerk's office.

With the anticipated need for Downtown Development Authority ordinance amendments, it was a perfect opportunity to consolidate and codify Special Ordinances 78 and 80 into a new Chapter in the City's Code of Ordinances. Since there are existing Chapters 78 and 80 in Troy's Code of Ordinances, and it made the most sense to include these provisions with other business regulations, City Administration proposes to create a new Chapter 58.

The proposed Chapter 58 Ordinance essentially mirrors the language from Special Ordinance 78 and 80, with the exception that the previous section requiring annual reporting to the State has been deleted, since this is no longer required by State Statute. Additionally, the citations to the public act and the state statute are updated to reflect the changes brought by the Michigan Legislature's Re-codified Tax Increment Financing Act, which resulted in new statutory section numbers and a new public act citation for the Downtown Development Authority's provisions.

In addition to these minor modifications, there is a proposed amendment that recognizes the proposed eighth amendment to the Development Plan and Tax Increment Financing Plan. Also, since City Administration anticipates that there will be over 100 residents in the Downtown District this summer, the proposed new ordinance creates an advisory Development Area Citizens Council, which would now be required under State law.

Since these are the only proposed modifications, this item is being presented to City Council as a proposed action item that corresponds with City Council action on the proposed revised Development Plan and Tax Increment Financing Plan.

CITY OF TROY
AN ORDINANCE TO CONSOLIDATE, AMEND, AND CODIFY SPECIAL
ORDINANCES 78 AND 80 AS A NEW ORDINANCE
CHAPTER 58- CITY OF TROY DOWNTOWN DEVELOPMENT AUTHORITY
ORDINANCE

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as a consolidation, amendment and codification of Special Ordinance 78 and 80, initially approved on December 13, 1993, into a new Ordinance Chapter 58- City of Troy Downtown Development Authority Ordinance.

Section 2. Adoption of Consolidated Ordinance and Amendment

Chapter 58 is hereby adopted as follows:

58.01. Title.

This Ordinance shall be known as the “Downtown Development Authority Ordinance” of the City of Troy.

58.02. Determination of Necessity; Purpose.

As of December 13, 1993, the Troy City Council determined that it was necessary for the best interests of the public to create a public body corporate which shall operate to halt property value deterioration, eliminate the causes of that deterioration, increase property tax valuation where possible in the business district of the City, and promote economic growth, pursuant to Act 197 of the Public Acts of Michigan, 1975, as amended, which was subsequently codified in Act 57 of the Public Acts of Michigan 2018, as amended. .

58.03. Definitions.

The terms used in this ordinance shall have the same meaning as given to them in Act 57 (MCL 125.4201 et. seq.) or as hereinafter in this section provided unless the context clearly indicates to the contrary.

As used in this ordinance:

“Authority” means the Downtown Development Authority of the City of Troy.

“Act 57” means Act 57 of the Public Acts of Michigan, 2018 (MCL 125.4201 et. seq.) as amended, which was part of the Re-codified Tax

Increment Financing Act (part 2), and was previously Act 197 of the Public Acts of Michigan, 1975, as amended.

“Board” or “Board of Directors” means the Board of Directors of the Authority, the governing body of the Authority.

“Chief Executive Officer” means the Mayor of the City.

“City” means the City of Troy, Michigan.

“Council” or “City Council” means the City Council of the City.

“Downtown District” means the downtown district designated by this ordinance, as now existing or hereafter amended, and within which the Authority shall exercise its powers.

58.04. Creation of Authority.

On December 13, 1993, a Downtown Development Authority for the City was created by ordinance, in conformance with the governing state statute. The Authority is a public body corporate and shall be known and exercise its powers under title of the “Downtown Development Authority of the City of Troy.” The Authority may adopt a seal, may sue and be sued in any court of this State and shall possess all of the powers necessary to carry out the purposes of its incorporation as provided by this ordinance or in Act 57. The enumeration of a power in this ordinance or in Act 57 shall not be construed as a limitation upon the general powers of the Authority.

58.05. Termination.

On December 31, 2033, or upon the retirement of all bonded indebtedness issued either by the City or the Authority pursuant to Act 57, whichever shall later occur, the Authority shall be dissolved by the Council. The property and assets of the Authority, after dissolution and satisfaction of its obligations pursuant to Act 57, shall revert to the City.

58.06. Description of Downtown District.

The Downtown District shall consist of the territory in the City described in Exhibit A, attached hereto and made a part hereof, subject to such changes as may hereinafter be made pursuant to this ordinance and Act 57.

58.07. Board of Directors.

The Authority shall be under the supervision and control of the Board. The Board shall consist of the Mayor and twelve (12) members. Members shall be

appointed by the Chief Executive Officer, subject to approval by the Council. Not less than a majority of its members shall be persons having an interest in property located in the Downtown District or an officer, member or principal of a legal entity with an interest in property in the Downtown District. At least one member shall be a resident of the Downtown District once there are at least 100 persons residing in the Downtown District. Terms of office shall be four years. A member shall hold office until the member's successor is appointed and qualified. Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office. An appointment to fill a vacancy shall be made by the Chief Executive Officer for the unexpired term subject to approval by the Council. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the Board shall be elected by the Board. The Boards shall adopt Bylaws governing its procedures subject to the approval of the Council. In the event that the Board determines to employ a Director of the Authority, such Director shall furnish a bond in a penal sum as determined by the Authority payable to the Authority for use and benefit of the Authority and shall file the same with the City Clerk of the City.

58.08. Powers of Authority.

Except as specifically otherwise provided in this ordinance, the Authority shall have all powers provided by law subject to the limitations imposed by law and herein.

58.09. Fiscal Year; Adoption of Budget.

- (a) The fiscal year of the Authority shall begin on July 1st of each year and end on June 30th of the following year, or such other fiscal year as may hereafter be adopted by the Council.
- (b) The **Executive Director** shall prepare annually a budget which shall be approved by the Board and submitted in the manner provided by the City Charter.
- (c) The Authority shall submit financial reports to the Council and shall be audited annually in the manner provided by the City Charter.

58.10. Downtown Development Plan and Tax Increment Financing Plan

- (a) The Plan and the carrying out of the projects described therein each constitutes a public purpose and is in the best interests of the City and the citizens of the City.
- (b) The "development plan" portion of the Plan meets the mandatory requirements of Section 217 of Act 57, MCL 125.217.

- (c) The “tax increment financing plan” portion of the Plan meets the mandatory requirements of Sections 214 and 215 of Act 57, MCL 125.214.
- (d) The proposed method of financing described in the Plan is feasible, and the Authority has the ability to arrange the financing described in the Plan.
- (e) The development described in the Plan is reasonable and necessary to carry out the purposes of Act 57.
- (f) The Plan is in reasonable accord with the Master Plan of the City.
- (g) The services such as fire, police and utilities will be adequate to serve the Development Area.
- (h) No changes in zoning are necessary for the proposed development.
- (i) Any changes in streets, street levels, intersections and utilities contemplated in the Plan are reasonably necessary for the proposed development and for the City.

58.11. Approval and Adoption of the Development Plan and Tax Increment Financing Plan.

The Development Plan and Tax Increment Financing Plan were initially adopted in accordance with the governing state statute. The Development Plan and the Tax Increment Financing Plan were subsequently approved and adopted, in accordance with the governing state statute, as follows:

Development Plan #1- Adopted April 18, 1995
 Development Plan #2- Adopted September 28, 1998
 Development Plan #3- Adopted February 7, 2000
 Development Plan #4- Adopted August 5, 2002
 Development Plan #5- Adopted December 16, 2002
 Development Plan #6- Adopted June 4, 2007
 Development Plan #7- Adopted August 12, 2013
 Development Plan #8- Adopted July 24, 2017
 Development Plan #9- Adopted June 28, 2021

A copy of the Development Plan and Tax Increment Financing Plan, as amended and adopted, shall be maintained on file in the City Clerk’s office.

58.12. Establishment of Project Fund; Approval of Depository.

The treasurer of the Authority shall establish a separate fund which shall be kept in a depository bank account or accounts in a bank or banks approved by the Treasurer of the City, to be designated *Downtown Development Authority Project Fund*. All moneys received by the Authority pursuant to the Plan shall be deposited in the Project Fund. All moneys in the Project Fund and earnings thereon shall be used only in accordance with the Plan.

58.13. Use of Moneys in the Project Fund.

The moneys credited to the Project Fund and on hand therein from time to time shall be used annually in the manner proved in the Development and Tax Increment Financing Plan.

58.14. Responsibility for Expenditures That Exceed Project Fund.

In the event the City or any agency of the City issues obligations on behalf of the Authority, and the City is required in any fiscal year to pay out of its general fund any portion of the debt service on such an obligation, the Authority shall be required to reimburse fully the City from its available funds (but only after the set aside for debt service for any fiscal year has been met).

58.16. Refund of Surplus Tax Increments.

Any surplus money in the Project Fund at the end of a year not held for payments required to be made on outstanding obligations of the Authority or the City or otherwise held as required pursuant to the Development and Tax Increment Financing Plan, as shown by the annual report of the Authority, shall be paid by the Authority to the City Treasurer or the County Treasurer, as the case may be, and rebated by each to the appropriate taxing jurisdiction pro rata.

58.17. Development Area Citizens Council.

After the Executive Director confirms that at least 100 persons reside in the Downtown District, a Development Area Citizens Council is created, in accordance with the provisions of Act 57, MCL 125.221 et. seq.. Once established, the Troy City Council shall appoint nine residents of the Downtown District to serve on the Development Area Citizens Council. The Development Area Citizens Council shall serve in an advisory role to the Board and to Council in the adoption of or amendment of Development Plans or Tax Increment Financing Plans.

Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

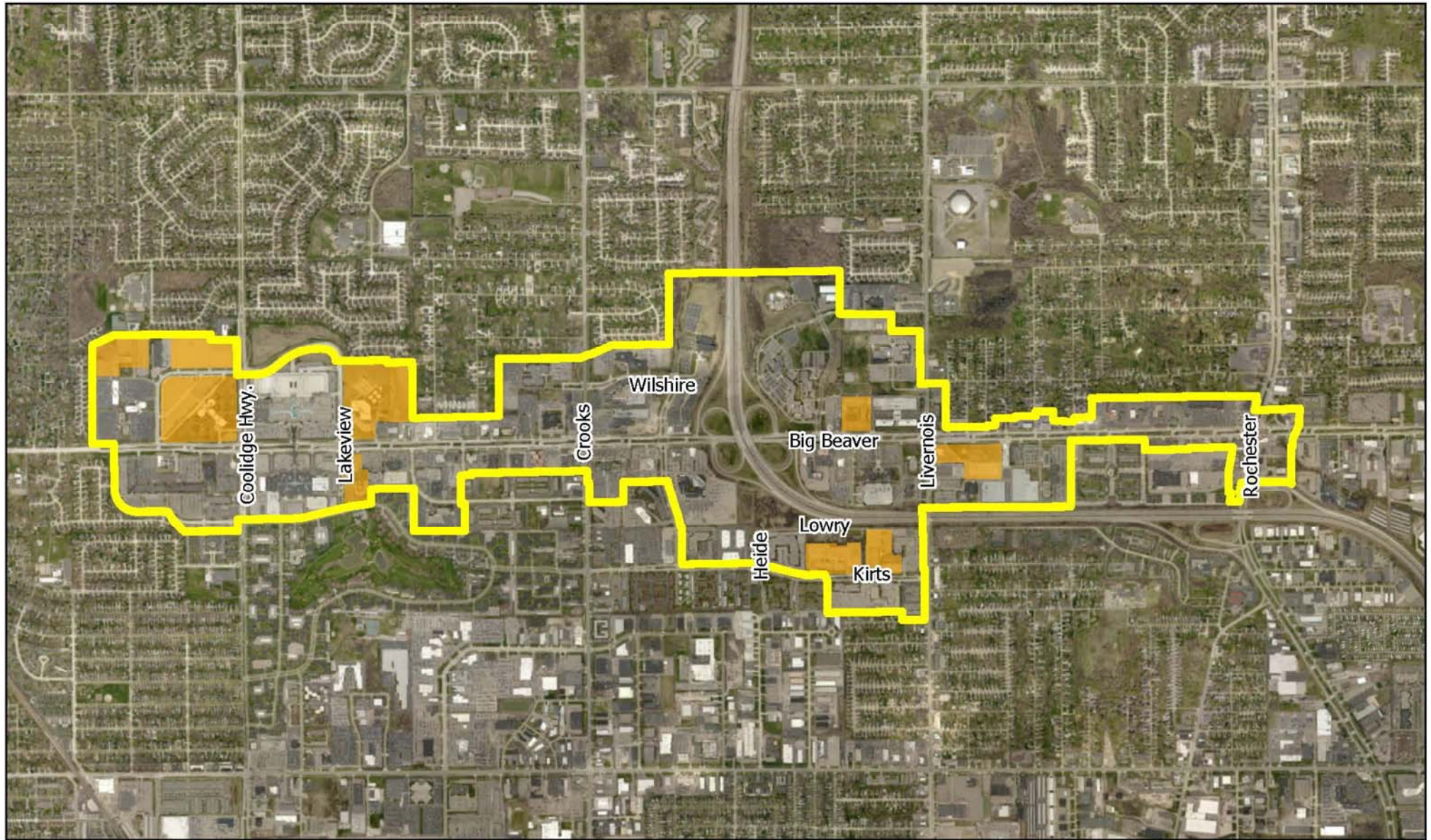
This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Ethan D. Baker, Mayor



M. Aileen Dickson, CMC, City Clerk



Troy Downtown Development Authority



Legend

-  Parcels Excluded From TIF Plan
-  DDA Boundary

