

ORDINANCE NO. 2007-133

AUTHORIZING THE ACCEPTANCE OF A PERMANENT PUBLIC RECREATION EASEMENT FROM FIFTH THIRD BANK FOR THE CREATION OF A PARK AREA AS PART OF THE DOWNTOWN REVITALIZATION PROJECT

WHEREAS, Fifth Third Bank is the owner of certain real property located in Downtown Mason; and

WHEREAS, Fifth Third Bank has expressed an interest in conveying a permanent public recreation easement to the City of Mason in order for a new pocket park to be included as part of the Downtown revitalization project; and

WHEREAS, the City of Mason has expressed an interest in accepting such an easement so that the City can construct and maintain the park improvements.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, six members elected thereto concurring:

Section 1. That the City of Mason hereby accepts a Permanent Public Recreation Easement, in substantially the same form as attached hereto as Exhibit "A", with such changes as are subsequently approved by the Law Director.

Section 2. That the easement set out in Exhibit "A" is hereby declared to be needed for the municipal purpose of the construction and maintenance of public park improvements as part of the Downtown revitalization project.

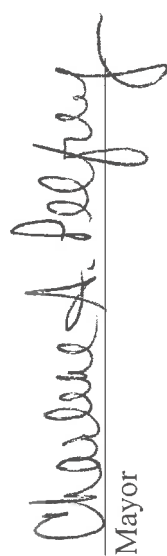
Section 3. That the City Manager is hereby authorized and directed to execute any and all documents necessary to accept said easement.

Section 4. That this ordinance shall be effective from and after the earliest period allowed by law.

Passed this 24th day of September 2007.

Attest:


Clerk of Council


Mayor

PERPETUAL PUBLIC RECREATIONAL EASEMENT

This Perpetual Public Recreational Easement is made and entered into this _____ day of _____, 20____ by and between _____ (hereinafter referred to as “_____”) and the City of Mason, Ohio (hereinafter referred to as “Mason”).

WHEREAS, _____ is the fee simple owner of the real estate consisting of _____ acres located in the City of Mason, Warren County, Ohio and designated as Auditor’s Parcel No. _____ (the “Property”); and

WHEREAS, _____ has agreed to grant to Mason a public recreational easement on the Property (“Easement Area”). A copy of the legal description of the Easement Area is attached as Exhibit “A”; and

WHEREAS, Mason has agreed to certain restrictions related to the use, care and maintenance of the Easement Area.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

PERPETUAL EASEMENT

1. _____ hereby grants to Mason a Public Recreational Easement on that portion of the Property which has been designated as the Easement Area. A copy of the legal description of the Easement Area is attached hereto as Exhibit “A”.
2. Mason hereby agrees that the uses of the Easement Area shall be limited to those typically associated with a park and green space and may also include improvements consistent with that use such as a bicycle path, amphitheater, pedestrian walkway or roadway. Any use by Mason of the Easement Area shall be restricted to public recreation and maintenance by Mason consistent with such public recreation use as shall be determined by Mason.
3. Mason shall not be permitted to commit any waste or cause any other damage to the Easement Area or use the Easement Area for purposes other than those specified.
4. Consistent with the use associated with a park and green space, the Easement Area shall be free and open to the public.
5. Mason further agrees to obtain and maintain in force public liability insurance in one or more companies, insuring against liability to third persons for personal injuries or property damage arising out of the use of the Easement Area. The insurance shall provide minimum limits of \$1,000,000.00 combined single limit for

injury to any one person and for damage to any one person's property. Each policy shall name _____ as an additional insured and shall provide that the insurer will give _____ written notice at least 30 days prior to the effective date of cancellation. Mason shall furnish appropriate certificates or other satisfactory proof of insurance to _____.

6. It is the intent of the parties that the Perpetual Public Recreational Easement granted herein and the rights, responsibilities and obligations set forth shall be perpetual and shall run with the land and shall inure to the benefit of, and be binding upon, the parties, their heirs, successors and assigns forever.

Executed by _____ and the City of Mason on this _____ day of _____, 20__.

_____:

By _____

CITY OF MASON:

By _____
Eric Hansen, City Manager

STATE OF OHIO)
)SS:
COUNTY OF WARREN)

BE IT REMEMBERED that on this ____ day of _____, 20__, before me, the subscriber, a Notary Public in and for said county and state, personally came _____ and acknowledged the signing of the foregoing instrument, and that the same is their voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.

Notary Public
My commission expires: _____

STATE OF OHIO)
)SS:
COUNTY OF WARREN)

BE IT REMEMBERED that on this ____ day of _____, 20__, before me, the subscriber, a Notary Public in and for said County and State, personally came Eric Hansen, the City Manager of the City of Mason, who acknowledged that he did sign said instrument as such officer on behalf of said City and by authority of the City Council; that said instrument was signed as his free act and deed individually, and the free act and deed of said municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name affixed my notarial seal on the day and year first above written.

Notary Public
My commission expires: _____