



## City of Powell, Ohio

ORDINANCE 2015-64

Adopted December 23, 2015

**AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION; PROVIDING FOR THE COLLECTION OF SERVICE PAYMENTS; PROVIDING FOR THE DISTRIBUTION OF THE APPLICABLE PORTION OF THOSE SERVICE PAYMENTS DIRECTLY TO THE OLENTANGY LOCAL SCHOOL DISTRICT AND DELAWARE AREA CAREER CENTER; CREATING AND PROVIDING FOR THE DEPOSIT OF THE REMAINDER OF THOSE SERVICE PAYMENTS INTO A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; PROVIDING FOR PAYMENT OF A PORTION OF THOSE SERVICE PAYMENTS RECEIVED BY THE CITY TO THE LIBERTY TOWNSHIP FIRE DEPARTMENT; SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS AND COSTS TO BE PAID FROM THAT FUND; APPROVING AND AUTHORIZING THE EXECUTION OF AGREEMENTS TO IMPLEMENT THIS ORDINANCE; AND DECLARING AN EMERGENCY.**

**WHEREAS**, Ohio Revised Code ("ORC") Sections 5709.40(B), 5709.42 and 5709.43 (collectively, the "*TIF Statutes*") authorize the legislative authority of a municipal corporation, by ordinance, to declare the improvement to each parcel of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to overlapping school districts including any overlapping joint vocational school district, and establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and provide for public infrastructure improvement costs and other amounts to be paid from that fund; and

**WHEREAS**, the parcels of real property that are identified and depicted in Exhibit A attached hereto (collectively, the "*Property*"), have been annexed to the City of Powell, and this Council has determined to declare the Improvements (as defined in Section 2 of this Ordinance) to that Property to be a public purpose; and

**WHEREAS**, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one-hundred percent (100%) of the Improvements (as defined in Section 2 of this Ordinance) to each Parcel as permitted and provided for in ORC Section 5709.40 for up to thirty (30) years (the "*TIF Exemption*") and to simultaneously direct and require the current and future owner(s) of each Parcel (each such owner, individually, an "*Owner*," and, collectively, the "*Owners*") to make annual Service Payments (as defined in Section 4 of this Ordinance) in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the exemption provided by this Ordinance; and

**WHEREAS**, this Council has determined that the applicable portion of the service payments shall be paid to the Olentangy School District and the Delaware Area Career Center (each a "*School District*" and together, the "*School Districts*") in an amount equal to the real property taxes that each would have been paid if the Improvements (as defined herein) to each Parcel had not been exempted from taxation pursuant to this Ordinance; and

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Jon Bennehoof

Frank Bertone

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**WHEREAS**, this Council has determined that the applicable portion of the service payments received by the City shall be paid to the Liberty Township Fire Department in an amount equal to the fire/EMS taxes that it would have been paid if the Improvements (as defined herein) to each Parcel had not been exempted from taxation pursuant to this Ordinance; and

**WHEREAS**, notice of this proposed Ordinance has been delivered to the Boards of Education of the School Districts in accordance with and within the time periods prescribed in ORC Sections 5709.40 and 5709.83; and

**WHEREAS**, this Council has also determined to provide for agreements in connection with the development of the Parcels and to implement this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF POWELL, DELAWARE COUNTY, STATE OF OHIO, THAT:**

Section 1. Parcels. The parcels of real property subject to the exemption granted by this Ordinance are identified and depicted in Exhibit A attached hereto (each, as currently or subsequently configured, individually, a "Parcel" and collectively, the "Parcels").

Section 2. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described on Exhibit B attached hereto (the "Public Infrastructure Improvements") and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

Section 3. Authorization of Tax Exemption. This Council hereby finds and determines that one-hundred percent (100%) of the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement" as defined in ORC Section 5709.40(A) and collectively referred to herein as the "Improvements") is hereby declared to be a public purpose and will be exempt from taxation for a period commencing on the date an Improvement attributable to a new structure on that Parcel first appears on the tax list and duplicate were it not for the exemption granted in this Ordinance and ending on the earlier of (a) 30 years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

Section 4. Service Payments and Property Tax Rollback Payment. Pursuant to ORC Section 5709.42, this Council hereby directs and requires the Owner of each Parcel it owns to make annual Service Payments (as defined herein) in lieu of taxes with respect to the Improvement allocable thereto to the Delaware County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest (collectively, the "Service Payments"), shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 3 of this Ordinance. The Service Payments, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by ORC Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with Section 7 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners.

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Section 5. Tax Increment Equivalent Fund. There is hereby established, pursuant to and in accordance with the provisions of ORC Section 5709.43(A), a Municipal Public Improvement Tax Increment Equivalent Fund (the "TIF Fund"), into which shall be deposited the Service Payments collected from the Parcels not required to be distributed to the School Districts pursuant to Section 7(a) of this Ordinance. The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 7(b) of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to any Improvement of any Parcel and so deposited pursuant to ORC Sections 5709.42 and 5709.43 shall be used solely for the purposes authorized in the TIF Statutes and this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with ORC Section 5709.43.

Section 6. Appropriation of Funds. The Service Payments and Property Tax Rollback Payments deposited in the TIF Fund shall be deemed appropriated for the purposes set forth in this Ordinance and the TIF Agreement approved and entered into under Section 8 of this Ordinance. The Finance Director is hereby authorized to make payments from the TIF Fund in accordance with this Ordinance and that TIF Agreement.

Section 7. TIF Distributions and Payments from TIF Fund. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments as follows:

(a) to each of the School Districts, the amount equal to the respective amount each School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance; and

(b) to the City, all remaining amounts for further deposit into the TIF Fund for payment of the following:

(i) first, amounts required to be paid by the City to the Liberty Township Fire Department equal to the fire/EMS taxes that it would have been paid if the Improvements to each Parcel had not been exempted from taxation pursuant to this Ordinance; and

(ii) second, costs of the Public Infrastructure Improvements designated in Section 2 of this Ordinance.

Section 8. Tax Increment Financing Agreement. The form of Tax Increment Financing Agreement (the "TIF Agreement") presently on file with the Clerk of this Council is hereby approved and authorized with changes therein and amendments thereto not inconsistent with this Ordinance and not substantially adverse to this City and which shall be approved by the City Manager. The City Manager, for and in the name of this City, is hereby authorized to execute one or more TIF Agreements with one or more Owners in substantially that form along with any amendments thereto, provided that the approval of such changes and amendments thereto by the City Manager, and the character of those changes and amendments as not being substantially adverse to this City, shall be evidenced conclusively by the City Manager's execution thereof.

Section 9. Further Authorizations. This Council ratifies the delivery of notices of this Ordinance to School Districts. This Council hereby also further authorizes and directs the City Manager, the Finance Director, the Law Director, the Clerk of Council and other appropriate officers of the City to make such arrangements as are necessary and proper for the implementation of this Ordinance and collection of the Service Payments, and to prepare, execute and deliver all other documents and instruments (including but not limited to any

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exemption applications under the TIF Statutes) and to take any other actions as may be appropriate to implement this Ordinance.

Section 10. Reports. Pursuant to ORC Section 5709.40(I), a copy of this Ordinance shall be delivered by an authorized officer of the City to the Director of the Ohio Development Services Agency within 15 days after its passage. Further, and on or before March 31 of each year that the exemption set forth in this Ordinance remains in effect, the an authorized officer of the City is directed to prepare and submit to the Director of the Ohio Development Services Agency the status report required under ORC Section 5709.40(I).

Section 11. Tax Incentive Review Council. The City of Powell, Ohio, Tax Incentive Review Council shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other matters as may properly come before that Council, all in accordance with ORC Section 5709.85.

Section 12. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC Section 121.22

Section 13. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to enable the City to be assured it can provide the needed financial support for timely development of the Public Infrastructure Improvements including Seldom Seen Park in connection with the development of the Parcels; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

VOTE ON ORDINANCE 2015-64: Y 7 N 0

  
Jim Hrivnak  
Mayor

12-31-15  
Date

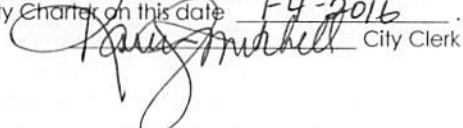
  
Karen J. Mitchell  
City Clerk

Date

EFFECTIVE DATE: December 23, 2015



The legislation has been posted in accordance with the City Charter on this date 1-4-2016

  
City Clerk

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