

ORDINANCE NO. 2021 - 109

AN ORDINANCE DECLARING IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE, DESCRIBING THE PUBLIC IMPROVEMENTS TO BE MADE TO DIRECTLY BENEFIT SUCH PARCELS, REQUIRING THE OWNERS OF THE IMPROVEMENTS ON SUCH PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A DAVEY TREE EXPANSION PROJECT MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40, 5709.42 AND 5709.43, AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (the "Act") provide that this Council may describe public improvements to be made which directly benefit certain parcels, declare Improvements (as defined in Ohio Revised Code Section 5709.40) with respect to such parcels of real property located in the City of Kent (the "City") to be a public purpose, thereby authorizing the exemption of those Improvements from real property taxation for a period of time, and provide for the making of service payments in lieu of taxes by the owner of such parcels, and establish a municipal public improvement tax increment equivalent fund into which such service payments shall be deposited; and

WHEREAS, to improve the flow of traffic in and around the parcels described in **Exhibit A** hereto, as such parcels may be consolidated or split (each a "Parcel" and collectively, the "Parcels"), this Council may cause construction of the public improvements described in **Exhibit B** hereto (collectively, the "Public Improvements"), that once made will directly benefit the Parcels and the City and its residents; and

WHEREAS, the City has determined that it is necessary and appropriate and in the best interests of the City to provide for service payments in lieu of taxes with respect to the Parcels pursuant to Section 5709.42 of the Ohio Revised Code (the "Service Payments") to pay costs of the Public Improvements; and

WHEREAS, the Kent City School District has been notified of this Ordinance consistent with Revised Code Sections 5709.40 and 5709.83.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, that:

SECTION 1. The Public Improvements described in Exhibit B hereto, and any other public infrastructure improvements hereafter designated by ordinance, if made or caused to be made by the City, are hereby designated as those Public Improvements that directly benefit, or that once made will directly benefit, the Parcels, and are determined to be necessary for the public health, safety and welfare and constitute 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 for purposes of the Act and this Ordinance.

SECTION 2. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40, and, in particular, Section 5709.40(B), this Council hereby finds and determines that 100% of the increase in the assessed value of each Parcel that would first appear on the tax list and duplicate of real property after the effective date of this Ordinance (which increase in assessed value is herein referred to as the "Improvement" or "Improvements" as defined in said Section 5709.40) is a public purpose, and 100% of said Improvement is hereby declared to be a public purpose for a period of 30 years and exempt from taxation commencing for each separate parcel on the January 1 of the tax year in which at least an aggregate of \$100,000 (\$35,000 of assessed value) of Improvements would appear on the tax list and duplicate for such tax year for that Parcel were it not for the exemption granted by

this Ordinance ending for each Parcel on the earlier of (1) the date the Improvements have been exempted from taxation for a period of 30 years or (2) 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 Act; provided, however, that Service Payments shall be paid to the Kent City School District in the amount of the taxes that would have been payable to the Kent City School District if the Improvements had not been exempted from taxation. The exemption authorized by this Ordinance is subordinate to any exemption granted pursuant to Section 5709.62 et. seq. of the Revised Code (Enterprise Zone exemption).

SECTION 3. As provided in Section 5709.42 of the Revised Code, the owner or owners of the Improvement are hereby required to and shall pay the Service Payments to the County Treasurer on or before the final dates for payment of real property taxes, which Service Payments, together with any associated rollback payments, shall be deposited in the Municipal Public Improvement Tax Increment Equivalent Fund established in Section 4 hereof. In accordance with Ohio Revised Code Section 5709.42, the County Treasurer shall distribute a portion of the Service Payments directly to the Kent City School District in an amount equal to the property tax payments the Kent City School District would have received from the portion of the Improvements exempted from taxation, had such Improvements not been exempted from taxation. This Council hereby authorizes the City Manager, Director of Budget & Finance and Law Director, and other appropriate officers of the City, to provide such information and certifications, and execute and deliver or accept delivery of such instruments, as are necessary or incidental to collect those Service Payments, and to make such arrangements as are necessary and proper for payment of the Service Payments.

SECTION 4. This Council hereby establishes pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the **Davey Tree Expansion Project** Municipal Public Improvement Tax Increment Equivalent Fund (the "Fund"), into which shall be deposited all of the Service Payments and any associated rollback payments distributed to the City with respect to the Improvements on the Parcels by or on behalf of the County Treasurer, as provided in Section 5709.42 of the Ohio Revised Code, and hereby agrees that moneys in that fund shall be used for any or all of the following purposes:

- (i) to pay any and all planning, engineering, acquisition, construction, installation, financing costs, and any and all other direct and indirect costs of the Public Improvements, including those costs set forth in Ohio Revised Code Section 133.15(B);
- (ii) to pay the interest on and principal of bonds or notes, and premium, if any, including refunding or additional bonds or notes or other obligations issued or loans entered into by the City or other governmental entity to finance costs of the Public Improvements until such notes or bonds or other obligations or loans are paid in full, and to pay any trustee, administrative and other costs related to servicing the obligations and providing and replenishing a reserve fund and to pay any costs charged by the issuer of the obligations; and
- (iii) to reimburse the City, or other governmental entity for any funds used to pay costs of the Public Improvements, or to pay interest, principal, or premium, and related costs on any of the aforesaid notes, bonds, loans or other obligations, prior to receipt of Service Payments.

The Fund shall remain in existence so long as the Service Payments are collected and used for the aforesaid purposes, after which said Fund shall be dissolved in accordance with said Section 5709.43.

SECTION 5. Pursuant to Section 5709.40 of the Ohio Revised Code, the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development

Services Agency within fifteen days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 hereof remains in effect, the City Manager or other authorized officer of this City shall prepare and submit to the Director of the Ohio Development Services Agency the status report required under Section 5709.40 of the Ohio Revised Code.

SECTION 6. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 7. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to eliminate existing hazards to vehicular traffic; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the City Manager, provided it receives the affirmative vote of at least two-thirds of the members of the Council, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: October 20, 2021
Date

J. T. Fiala
Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: October 20, 2021
Date

ATTEST: Amy Wilkens
Amy Wilkens
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. 2021-09, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON October 20, 2021.

(SEAL)

Amy Wilkens
AMY WILKENS
CLERK OF COUNCIL
(SEAL)

**Davey Tree Expert Co. Parcel
Subject to the Enterprise Zone Agreement**

Exhibit A



Exhibit B

Davey Tree Expansion Project TIF

Description of the Public Improvements

The Public Improvements consist of:

- (1) Improvements to State Route 43 (N. Mantua Street) from the northern City Limits on State Route 43 (N. Mantua Street) to Fairchild Avenue, including improvements to, or construction or installation of, intersections, signalization, resurfacing, repaving, public utilities, curbs, sidewalks, lighting, landscaping, and storm water management facilities, design and acquisition of real estate in connection therewith, and all related improvements,
- (2) Improvements to Fairchild Avenue from State Route 43. (N. Mantua Street) to Hudson Road, including improvements to, or construction or installation of, intersections, signalization, resurfacing, repaving, public utilities, curbs, sidewalks, lighting, landscaping, and storm water management facilities, design and acquisition of real estate in connection therewith, and all related improvements,
- (3) Improvements to Hudson Road from Fairchild Avenue to the northern City Limits on Hudson Road, including improvements to, or construction or installation of, intersections, signalization, resurfacing, repaving, public utilities, curbs, sidewalks, lighting, landscaping, and storm water management facilities, design and acquisition of real estate in connection therewith, and all related improvements,
- (4) Improvements of streets between State Route 43 (N. Mantua Street) and Hudson Road, (Needham Avenue, W. Grant Street, Wolcott Avenue, Carthage Avenue, Stinaff Street, and Cuyahoga Street), including improvements to, or construction or installation of, intersections, signalization, resurfacing, repaving, public utilities, curbs, sidewalks, lighting, landscaping, and storm water management facilities, design and acquisition of real estate in connection therewith, and all related improvements.

The Public Improvements further include the construction of or improvements to any other public streets, utilities and public facilities in and around the Parcels or directing benefiting or serving the Parcels.