

ORDINANCE NO. 89-2022

**TITLE: IMPLEMENTING TAX INCREMENT FINANCING
TRUCEN FARM**

AN ORDINANCE DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN THE CITY OF BARBERTON, OHIO TO BE A PUBLIC PURPOSE; EXEMPTING SUCH IMPROVEMENTS FROM REAL PROPERTY TAXATION; REQUIRING THE OWNERS OF THE PROPERTY TO MAKE SERVICE PAYMENTS IN LIEU OF REAL PROPERTY TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SERVICE PAYMENTS, MAKING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40, 5709.42, 5709.43 AND 5709.83; AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code (“R.C.”) Sections 5709.40, 5709.42 and 5709.43 (the “TIF Statutes”) provide that this Council may, under certain circumstances, declare an Improvement or Improvements (as defined below and in the TIF Statutes) to certain parcels of real property located in the City of Barberton, Ohio (the “City”) to be a public purpose and exempt from real property taxation, provide for the payment service payments in lieu of real property taxes by the owners of such property and establish a municipal public improvement tax increment equivalent fund for the deposit of such service payments in lieu of taxes; and

WHEREAS, 2070 Turkeyfoot Barberton, LLC, and/or one or more entities associated with Turkeyfoot Barberton, LLC (collectively, the “Developer”) desires to construct or cause to be constructed approximately 120-150 multi-family units and approximately 60-80 single-family units (the “Project”) on certain parcels of real property described and depicted on Exhibit A attached hereto (the “Property”) within the City; and

WHEREAS, the Property is located within a blighted area of an “impacted city,” as defined and described in R.C. Section 1728.01 and the TIF Statutes; and

WHEREAS, the Developer has requested that the City enact this Ordinance pursuant to the TIF Statutes to assist the Developer with the development of the Project;

WHEREAS, in order to successfully develop the Property, it is necessary to construct or to cause to be constructed by the Developer certain public infrastructure improvements as defined in Section 5709.40(A)(8) of the Revised Code and as further described in Exhibit B attached hereto (the “Public Infrastructure Improvements”) that will directly benefit the Property; and

WHEREAS, the Public Infrastructure Improvements and the Project are a public purpose of the City, and provide the conditions necessary to permit the City to lawfully exempt the Property from real property taxation as authorized herein; and

WHEREAS, the presence of the Project in the City will benefit the City and its residents by creating economic opportunities, increasing local employment opportunities, enlarging the property tax and income tax bases, and stimulating collateral development in the City; 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 Improvements on the Property, pursuant to Section 5709.42 of the Revised Code, to pay costs of the Public Infrastructure Improvements; and

WHEREAS, as required by the TIF Statutes and R.C. Section 5709.83, the City has provided all required notices to the Coventry Local School District (the “School District”) and the Portage Lakes Joint Vocational School District (the “Vocational School District”), or such notice has been waived; and

WHEREAS, the Property is, or will be, located within a community reinvestment area (“CRA”), and any exemptions (the “CRA Exemptions”) provided for the Project under the CRA shall take precedence over the exemptions authorized in this Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by City Council for the City of Barberton, Summit County, Ohio, that:

SECTION 1. One hundred percent (100%) of the increase in the assessed value of each parcel comprising the Property (each a “Parcel”) that would first appear on the tax list and duplicate of real property after the effective date of this Ordinance (each of which increase in assessed value is an “Improvement” as defined in R.C. Section 5709.40) shall be a public purpose and shall be exempt from real property taxation commencing for commencing, for each parcel, with the first tax year that begins after the effective date of this Ordinance and in which an improvement resulting from the construction of a structure on that parcel first appears and ending on the date the Improvements have been exempted from taxation for a period of 30 years, 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. The exemption for each Improvement pursuant to this Ordinance shall be subordinate to any CRA Exemption on the Property, irrespective of who files the exemption application under R.C. Section 5709.911.

SECTION 2. As provided in R.C. Section 5709.42, the owner of any Parcel with an Improvement is required hereby to make annual payments in lieu of taxes to the Summit County Fiscal Officer (the “County Fiscal Officer”) on or before the final dates for payment of real property taxes. Each such payment (including interest and penalties) 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 (with the payments in lieu of tax, including any penalties and interest, being the “Service Payments”). No Service Payments shall be required with respect to Improvement for which a CRA Exemption also applies for the period and to the extent that the assessed value is exempt under the CRA. The County Fiscal Officer shall remit all Service Payments to the City for deposit in the Trucen Farm Municipal Public Improvement Tax Increment Equivalent Fund (the “Fund”) established in Section 3 hereof, except for amounts paid directly to the School District and Vocational School District as provided in Section 4 hereof. This Council hereby authorizes the Mayor or 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 and incidental to collect those Service Payments and to make such arrangements as are necessary and proper for payment of the Service Payments. Any late payments shall be subject to penalty and bear interest at the then current rate established under R.C. Sections 323.121 and 5703.47, as may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time. The Service Payments, and any other payments in connection with the Improvement which are received by the City in connection with any reduction required by R.C. Section 319.302, 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 deposited in accordance with Sections 3 and 4 of this Ordinance.

SECTION 3. This Council hereby establishes the Fund, pursuant to and in accordance with the provisions of R.C. Section 5709.43, into which shall be deposited all of the Service Payments and Property Tax Rollback Payments distributed to the City with respect to the Improvement to Parcels of the Property by or on behalf of the County Fiscal Officer, as provided in R.C. Section 5709.42, and, except for amounts paid directly to the School District and Vocational School District as provided in Section 4 hereof, hereby appropriates all of the moneys deposited in the Fund from time to time to pay any costs associated with the Public Infrastructure Improvements, including, but not limited to, the “costs of permanent improvements” described in R.C. Section 133.15(B).

The Fund shall remain in existence so long as Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, subject to the limits set forth in Section 1 hereof, after which said Fund shall be dissolved in accordance with R.C. Section 5709.43(D). Upon dissolution, any incidental surplus money remaining in the Fund shall be transferred to the City general fund as provided in R.C. Section 5709.43(D).

SECTION 4. The City shall make semi-annual payments to the School District and Vocational School District, solely from the Service Payments and Property Tax Rollback Payments deposited into the Fund, collectively in the amount equal to the property tax payments that the School District and Vocational School District would otherwise have received from the Improvements had the Improvements not been exempted pursuant to this Ordinance. No such payments to the School District or Vocational School District shall be made with respect to the Improvements exempted from real property taxation under the CRA for the period and to the extent that the Improvements are exempt under the CRA.

SECTION 5. This Council hereby authorizes the Mayor or other appropriate officers of the City to take such actions as are necessary or appropriate to implement the transactions contemplated by this Ordinance, including the filing of one or more applications for exemption and any related forms in accordance with R.C. Section 5709.911.

SECTION 6. This Council hereby designates the City’s tax incentive review council (“TIRC”) previously established by this County as the TIRC that shall annually review the exemptions provided pursuant to this Ordinance as required by R.C. Section 5709.85. In the event it is determined that such a TIRC did not previously exist, then the TIRC shall be established by the City pursuant to Section 5709.85 of the Ohio Revised Code.

SECTION 7. In accordance with Ohio Revised Code Section 5709.832, the City hereby determines that no employer located on the Property shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin or ancestry.

SECTION 8. Pursuant to R.C. Section 5709.40(I), the Mayor is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Department of Development (“ODOD”) within fifteen (15) days after its passage. On or before March 31 of each year that the exemption set forth in Section 1 hereof remains in effect, the Mayor or other authorized officer of this City shall prepare and submit to the Director of ODOD the status report required under R.C. Section 5709.40(I).

SECTION 9. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision-making bodies of the City that resulted in such formal actions were in meetings open to the public and in compliance with all legal requirements.

SECTION 10. This Ordinance is hereby declared to be an emergency measure necessary to pass this TIF Ordinance as quickly as possible, which will result in the creation and retention of jobs, and the creation of new housing within the City, all of which improve the health, safety and welfare of the residents of the City, and shall be effective immediately upon signature by the Mayor.

Passed _____ 2022

Clerk of Council

President of Council

Approved _____ 2022

Mayor

EXHIBIT A

PROPERTY

The Property is the real estate situated in the City of Barberton, Summit County, Ohio depicted on the attached site plan, described in the attached legal description and consisting of the following tax year 2021 parcel numbers:

7400218

7400217

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of the following, including, in each instance, the acquisition of interests in real estate and demolition and remediation related thereto:

- **Roadways.** Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways; streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians, and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto;
- **Water/Sewer.** Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto;
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the construction of the Public Infrastructure Improvements and the construction of public health facilities;
- **Utilities.** Construction, reconstruction or installation of gas, electric and communication service facilities and all appurtenances thereto;
- **Stormwater.** Construction, reconstruction and installation of stormwater and flood remediation facilities, including facilities on private property when determined to be necessary for public health, safety and welfare;
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare;
- **Streetscape/Landscape.** Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in "Roadways" above;
- **Professional Services.** Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction, and installation of the foregoing improvements.