

ORDINANCE NO. 64-25

AN ORDINANCE ESTABLISHING THE NAGEL FARMS INCENTIVE DISTRICT AND DECLARING IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY IN THE INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE, DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE TO BENEFIT OR SERVE THE INCENTIVE DISTRICT, REQUIRING THE OWNERS OF THE PARCELS WITHIN THE INCENTIVE DISTRICT TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A NAGEL FARMS MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS AND RELATED MATTERS AND DECLARING AN EMERGENCY

WHEREAS, Ohio Revised Code (“Revised Code”) Sections 5709.40(C), 5709.42 and 5709.43 (collectively, the “Act”) provide that Council of the City of Avon, Ohio (the “City”) may describe public infrastructure improvements (“Public Improvements”) to be made which benefit certain parcels, declare the Improvement (as defined in Revised Code Section 5709.40(A)) with respect to such parcels of real property located in the City to be a public purpose, thereby exempting 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 owners of such Improvements, and establish a municipal public improvement tax increment equivalent fund into which such service payments will be deposited; and

WHEREAS, the Public Improvements are generally described in the attached Exhibit A and such Public Improvements will benefit or serve certain parcels of real property located within the City identified below; and

WHEREAS, the City wishes to declare 100% of the Improvement, as defined by Section 5709.40(A) of the Revised Code, to be a public purpose, thereby exempting the Improvement from real property taxation; 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 pursuant to Section 5709.42 of the Revised Code; and

WHEREAS, the Public Improvements will benefit or serve the parcels of real property within the Nagel Farms Incentive District depicted on the attached Exhibit B-1 (the “Incentive District”), the permanent parcel numbers of which are listed in the attached Exhibit B-2 both of which are incorporated by reference into this Ordinance; and

WHEREAS, the parcel of property in the Incentive District with current Permanent Parcel No. 0400027101203 (the “Non-Performing Parcel”) was previously included in a tax increment financing arrangement under Revised Code Section 5709.40(B) pursuant to Ordinance No. 144-08 passed by this Council on November 24, 2008, as amended by Ordinance Nos. 14-09 and 116-09, passed by this Council on February 9, 2009 and September 14, 2009, respectively (“TIF No.

9”), which required the owner of the Non-Performing Parcel to make service payments in lieu of taxes in accordance with Section 5709.42 of the Revised Code; and

WHEREAS, the area in which the Non-Performing Parcel is located is zoned R-1—Single-Family Residential and, accordingly, no service payments in lieu of taxes have been previously paid pursuant to Section 5709.42 of the Revised Code because (a) the area of the Non-Performing Parcel is not a “blighted area” and the City is not an “impacted city” for purposes of Section 5709.40(B) of the Revised Code, and (b) any Improvements occurring before the passage of this Ordinance would have been for residential purposes that do not qualify as an eligible Improvement under Section 5709.40(B) of the Revised Code; and

WHEREAS, pursuant to Section 5709.40(C)(1) of the Revised Code, after the passage of this Ordinance, (a) the Non-Performing Parcel shall no longer be eligible for exemption from taxation under TIF No. 9, (b) the owner of such Non-Performing Parcel shall not be required to make service payments in lieu of taxes pursuant to TIF No. 9, and (c) the Non-Performing Parcel shall be subject to the provisions of this Ordinance; and

WHEREAS, one or more developers have proposed the construction and development of approximately 36 single-family residential units within the Incentive District that will place additional demand on the current public infrastructure serving the Incentive District; and

WHEREAS, the Incentive District comprises less than 300 acres and has a contiguous boundary and the City Engineer, as required by Section 5709.40(A)(5)(f) of the Revised Code, has certified to this Council that the City that the public infrastructure serving the Incentive District is inadequate to meet the development needs of the Incentive District evidenced by (a) the Master Plan of the City of Avon, which was adopted by this Council in Ordinance No. 98-92, which also includes the Master Thoroughfare Plan, as each have been amended from time to time, and (b) the Subdivider Agreement dated May 9, 2022, between the City and Liberty Development Company which was approved by City Council on May 9, 2022 in Ordinance No. 61-22, as amended or supplemented by Ordinance No. 36-24 passed by City Council on March 25, 2024 and by Ordinance No. 121-24 passed by City Council on December 9, 2024; and

WHEREAS, notice of the above-described property tax exemptions has been transmitted to (a) the Board of Education of the Avon Local School District (the “School District”), (b) the Board of Education of the Lorain County Joint Vocational School District (the “JVSD”), and (c) the Board County Commissioners of the County of Lorain, Ohio (the “County”) pursuant to Revised Code Sections 5709.40 and 5709.83; and

WHEREAS, on July 7, 2025, this Council held a public hearing regarding the consideration of this Ordinance and no owners of property within the proposed Incentive District have requested that their property be excluded from the Incentive District; and

WHEREAS, the County has not objected to the property tax exemptions described in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, COUNTY OF LORAIN AND STATE OF OHIO:

Section 1 - The Public Improvements described in the attached [Exhibit A](#) and anticipated to be made by the City are hereby designated Public Improvements that benefit or serve, or that once made, will benefit or serve the Incentive District set forth in the attached [Exhibits B-1](#) and [B-2](#) which are incorporated into this Ordinance.

Section 2 - Pursuant to Section 5709.40(C) of the Revised Code, Council hereby finds and determines the 100% of the increase in the assessed value of the parcels in the Incentive District that would first appear on the tax list and duplicate of real and public utility property after the effective date of this Ordinance (which increase in assessed value is referred to as the "Improvement" as defined in Section 5709.40(A)) is a public purpose, and 100% of the Improvement is hereby declared to be a public purpose for a period of 30 years and exempt from taxation commencing with respect to any Improvement with the tax year in which such Improvement first appears on the tax list and duplicate of real and public utility property and that begins after the effective date of this Ordinance and ending on the earlier of (a) the date the Improvement has been exempted from taxation for a period of 30 years or (b) the date on which the City has collected into the Fund established in Section 4 hereof a total amount sufficient to pay those costs of the Public Improvements authorized in Section 4 hereof which are to be paid from that fund.

Section 3 - As provided in Section 5709.42 of the Revised Code, the owners of the Improvements are hereby required to, and shall make, Service Payments in lieu of taxes to the Lorain County Treasurer semiannually, on or before the date on which real property taxes would otherwise be due and payable for the Improvements. In accordance with Section 5709.42 of the Revised Code, the Lorain County Treasurer shall distribute a portion of the Service Payments directly to the School District and the JVSD in an amount equal to the property tax payments that the School District and the JVSD each would have received had the Improvements not been exempted under this Ordinance.

The remaining Service Payments when distributed to the City by the Lorain County Treasurer shall be deposited in the Fund established by Section 4 hereof. Council hereby authorizes and directs the Mayor, Manager, Finance Director, Law Director, and other appropriate officers of the City, to provide such information and certifications, to sign and deliver any necessary property tax exemption applications and execute and deliver or accept delivery of such instruments, as are necessary and incidental to obtaining the exemptions, and to make such arrangements as are necessary and proper for payment of said service payments in lieu of taxes.

Section 4 - Council hereby establishes pursuant to and in accordance with the provisions of Section 5709.43 of the Revised Code, the Nagel Farms Municipal Public Improvement Tax Increment Equivalent Fund (the "Fund"), into which shall be deposited all of the Service Payments in lieu of taxes distributed to the City with respect to the Improvements in the Incentive District by or on behalf of the Lorain County Treasurer as provided in Section 5709.42 of the Revised Code, and hereby provides that all of the moneys deposited in the Fund shall be used solely for the following purposes:

- (i) To pay any and all direct and indirect costs of the Public Improvements, including to reimburse the City for any such costs incurred; and

- (ii) To pay the interest on and principal of bonds or notes, including refunding bonds or notes, or other loans, issued by the City to finance those costs of the Public Improvements provided in clause (i) above until such notes or bonds are paid in full.

The Fund shall remain in existence so long as such 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 the Council is hereby directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within 15 days after its passage. On or before March 31 of each year that the exemption set forth in Section 2 remains in effect, the Finance Director or other authorized officer of this City shall prepare and submit to the Director of the Department of Development of the State of Ohio the status report required under Section 5709.40 of the Revised Code.

Section 6 - It is found and determined that all formal actions of this Council concerning and relating to the passage 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 the law, including 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 must be immediately effective in order to provide for service payments in lieu of taxes to provide for the construction of Public Improvements to lessen existing hazards to vehicular traffic and to make other Public Improvements for the benefit of residents of the City; provided it receives the affirmative vote of at least six members elected to this Council; otherwise it shall take effect and be in force after the earliest period allowed by law.

PASSED: _____ DATE SIGNED: _____

By: _____
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara J. Brooks, Clerk of Council

Posted: _____
Electronically and at City Hall as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director