

**ORDINANCE NO. 2018-89**  
**INTRODUCED BY: ADMINISTRATION**

**AN ORDINANCE DECLARING IMPROVEMENTS TO A CERTAIN PARCEL OF REAL PROPERTY TO BE A PUBLIC PURPOSE, DESCRIBING THE PUBLIC IMPROVEMENTS TO BE MADE TO DIRECTLY BENEFIT SUCH PARCEL, REQUIRING THE OWNER OF THE IMPROVEMENTS ON SUCH PARCEL TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS, AND RELATED AUTHORIZATIONS 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 with respect to such parcels of real property located in the City of Lyndhurst (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**, the City expects the real property described in Exhibit A hereto to be developed with commercial improvements (that area, as the parcels therein are consolidated or subdivided, is hereinafter referred to as the “Property,” excluding the portions thereof to be part of public streets and other public improvements otherwise exempt from property taxation for their governmental use); and

**WHEREAS**, to improve the flow of vehicular and pedestrian traffic and to provide other public improvements in and around the Property, this Council desires to cause the construction of the public infrastructure improvements described in Exhibit B hereto (the “Public Improvements”) that once made will directly benefit the Property; 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 Property pursuant to Section 5709.42 of the Ohio Revised Code to pay costs of the Public Improvements (the “Service Payments”); and

**WHEREAS**, the South Euclid Lyndhurst City School District has been notified of this Ordinance consistent with Revised Code Section 5709.83;

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNDHURST, COUNTY OF CUYAHOGA, OHIO, THAT:**

**SECTION 1.** Public Improvements. The Public Improvements described in Exhibit B hereto intended to be 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 Property and are hereby determined to be necessary for the development of the Property and for the public health, safety and welfare.

**SECTION 2.** Property Tax Exemption. 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 the Property 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 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 with tax year 2019 and ending 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 has collected into the Fund established in Section 4 hereof a total amount of payments in lieu of taxes available for and sufficient to pay the costs provided in Section 4 hereof.

**SECTION 3.** Service Payments. 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 shall be deposited in The Avenue Public Improvement Tax Increment Equivalent Fund established in Section 4 hereof. In accordance with Ohio Revised Code Section 5709.42, the City requests that the County Fiscal Officer distribute a portion of the Service Payments directly to the South Euclid Lyndhurst City School District in an amount equal to the property tax payments the School District would have received from the portion of the Improvements exempted from taxation, had such Improvements not been exempted from taxation. This Council authorizes the Mayor, Director of Finance, and Director of Law, and other appropriate officials 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.

**SECTION 4.** Tax Increment Equivalent Fund. This Council hereby establishes pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the City Area Public Improvement Tax Increment Equivalent Fund (the "Fund"), into which shall be deposited all of the Service Payments and any associated rollback payments and related interest and penalty payments distributed to the City with respect to the Improvements on the Property (and not owed to the School District as provided in Section 3 hereof), by or on behalf of the County Fiscal Officer as provided in Section 5709.42 of the Ohio Revised Code, and hereby provides that all of the moneys deposited in the 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 trustee and other costs related to servicing the obligations and providing and replenishing a reserve fund and to pay costs charged by the issuer of the obligations; and
- (iii) to reimburse the City, the State of Ohio or other governmental entity, or a private entity under contract with the City, 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.** Filing and Reporting to State. 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 Development Services Agency of the State of Ohio 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 Director of Finance or other appropriate City official shall prepare and submit to the Director of the Development Services Agency the status report required under Section 5709.40 of the Ohio Revised Code.

**SECTION 6.** Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

**SECTION 7. Captions and Headings.** The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

**SECTION 8. Declaration of Emergency; Effective Date.** 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 enable the City to provide for the construction of needed Public Improvements; wherefore, this Ordinance shall be in full force and effect immediately upon its passage by the affirmative vote of not less than five (5) members elected to Council, and approval by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: November 19, 2018

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**MAYOR**

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**VICE MAYOR**

ATTEST: \_\_\_\_\_  
**Clerk of Council**

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on November 29, 2018 and December 6, 2018.

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**Clerk of Council**

First Reading: November 5, 2018

Second Reading: November 19, 2018

Third Reading: Suspended