



City of New Buffalo
SPECIAL COUNCIL MEETING AGENDA
DECEMBER 4, 2023 AT 5:00 PM

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Agenda
5. Public Comment
6. New Business
 - a. Amendment to Downtown Development Plan and Tax Increment Financing Plan of the City of New Buffalo's Downtown Development Authority – Second Reading
 - b. Ordinance to Repeal Article 13 of Chapter 2 of the Code of Ordinances and to Amend Article I of Chapter 7, and Article II of Chapter 14 – Second Reading
7. Council Comments
8. Adjournment



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: December 4, 2023

RE: Downtown Development Plan and Tax Increment Financing Plan Amendment – Second Reading

ITEM BEFORE THE COUNCIL:

Approval of the first amendment to the Downtown Development Plan and Tax Increment Financing Plan – Second Reading

DISCUSSION:

In February 2014, the City of New Buffalo created a Downtown Development Authority (“DDA”). Additionally, a Downtown Development Plan and Tax Increment Financing Plan was adopted which has an expiration date of December 31, 2023.

At the October 26, 2023 meeting of the DDA, a resolution was passed to amend the expiration date to December 31, 2028, an additional five (5) years. A Public Hearing pertaining to the amendment was conducted at the City Council meeting on November 20, 2023.

In accordance with Public Act 57 and prior to the Public Hearing:

- Notice of the Public Hearing was given by publication twice in a newspaper of general circulation designated by the City, the first of which shall not be less than 20 days before the date set for the hearing;
- Notifications were mailed to property owners within the district boundary at least 20 days prior to the public hearing;
- Notice of the Public Hearing were placed in a conspicuous place in at least 20 properties within the district boundaries; and
- Notification were mailed, via certified mail, to the affected taxing jurisdictions at least 20 days in advance of the Public Hearing.

RECOMMENDATION:

That the New Buffalo City Council approves the second reading of the first amendment to the Downtown Development Plan and Tax Increment Financing Plan.

**CITY COUNCIL
CITY OF NEW BUFFALO
Ord. No. __, Eff. _____.**

AN ORDINANCE TO APPROVE THE YEAR 2023 AMENDMENT TO THE DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN PROPOSED BY THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF NEW BUFFALO AND TO PROVIDE FOR THE COLLECTION OF TAX INCREMENT REVENUES.

THE CITY OF NEW BUFFALO ORDAINS:

Section 1. Title. This Ordinance shall be known and may be cited as the “Ordinance providing for the year 2023 amendment to the Development Plan and Tax Increment Financing Plan.”

Section 2. Definitions. The terms used herein shall have the same meaning given them in Act 57 as hereinafter in this section provided, unless the context clearly indicates to the contrary. As used in this Ordinance:

- (a) “Act 57” shall mean Act 57, Public Acts of 2018, as amended, as now in effect or hereinafter amended, being known as the Recodified Tax Increment Financing Act.
- (b) “Authority” shall mean the Downtown Development Authority of the City of New Buffalo.
- (c) “Authority Board” shall mean the Board of the Authority, its governing body.
- (d) “City Council” shall mean the City Council of the City of New Buffalo, Berrien County, Michigan, a municipal corporation of the state of Michigan.
- (e) “Development Area” shall mean the development area designated in the Development Plan.
- (f) “Development Plan” shall mean the Development Plan portion of the Plan.
- (g) “Plan” shall mean the Downtown Development Authority of the City of New Buffalo Development Plan and Tax Increment Financing Plan, originally approved and adopted by Ordinance No. 213, as amended by Ordinance 231.
- (h) “Tax Increment Financing Plan” shall mean the Tax Increment Financing Plan portion of the Plan for the collection of tax increments.

(i) “Year 2023 Amendment” shall mean the Year 2023 Amendment to the Downtown Development Authority of the City of New Buffalo Development Plan and Tax Increment Financing Plan, as amended, submitted by the Authority to the City Council pursuant to Act 57 and approved by this Ordinance and as it may be hereafter amended.

Section 3. Public Purpose. The City Council finds and confirms the continued necessity to halt property value deterioration, to eliminate the causes of such deterioration, and to promote economic growth, and hereby determines that the Year 2023 Amendment adopted by the Authority Board on October 26, 2023 constitutes a public purpose. A Copy of the Year 2023 Amendment shall be maintained on file in the City Clerk’s office and shall be cross-indexed to this Ordinance.

Section 4. Considerations. In accordance with Section 219 of Act 57, the City Council has considered the factors enumerated in that section and herein stated, making the following determinations:

1. The Year 2023 Amendment meets the requirements set forth in Section 217(2) of Act 57.
2. The proposed method of financing the development described in the Year 2023 Amendment is feasible and the Authority has the ability to arrange the financing.
3. The development is reasonable and necessary to carry out the purposes of Part 2 of Act 57.
4. The land included within the Development Area to be acquired is reasonably necessary to carry out the purposes of the Year 2023 Amendment and of Part 2 of Act 57 in an efficient and economically satisfactory manner.
5. The Year 2023 Amendment is in reasonable accord with the City of New Buffalo Master Plan.
6. Public services, such as fire and police protection and utilities, are or will be adequate to serve all of the projects described in the Year 2023 Amendment and the Development Area generally.
7. All changes in zoning, streets, street levels, intersections, and utilities, if any, as described in the Year 2023 Amendment are reasonably necessary for the projects described in the Year 2023 Amendment and for the City of New Buffalo.

Section 5. Meetings. Representatives of all taxing jurisdictions within which all or a portion of the Development Area lies have had a reasonable opportunity to present their opinions and comments regarding the Year 2023 Amendment to the City Council.

Section 6. Public Hearing. The City Council has held a public hearing on the Year 2023 Amendment with notice properly given in accordance with Section 218 of Act 57, and the City Council has provided an opportunity for all interested persons to be heard regarding the Year 2023 Amendment.

Section 7. Approval. The Year 2023 Amendment is hereby approved in the form attached hereto as Exhibit A.

Section 8. Development Area. The Development Area as set forth and described in the Plan, as amended, is hereby ratified and confirmed.

Section 9. Transmittal of Revenues. The City Treasurer shall continue to transmit to the Authority that portion of the tax levy of all taxing bodies paid each year on real and personal property in the Development Area on the captured assessed value as set forth in the Tax Increment Financing Plan.

Section 10. Severability and Repeal. If any portion of this Ordinance shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of Ordinances in conflict herewith are hereby repealed

Section 11. Publication and Effective Date. The City Clerk shall cause this Ordinance to be published and recorded as provided in the City Charter and shall be effective 20 days after its enactment or upon publication, whichever is later.

YEAS: Member(s) _____
NAYS: Member(s) _____
ABSTAIN: Member(s) _____
ABSENT: Member(s) _____

THIS ORDINANCE WAS ADOPTED ON _____, 2023.

John Humphrey, Mayor

Ann M. Fidler, City Clerk

CERTIFICATE

I, Amy Fidler, the Clerk for the City of New Buffalo, Berrien County, Michigan, certify that the foregoing Adoption of the Downtown Development Authority Development Plan and Tax Increment Financing Plan Amendment Ordinance was adopted at a regular meeting of the City Council held on .

Introduced: _____
Adopted: _____
Published: _____
Effective: _____

Ann M. Fidler, City Clerk
City of New Buffalo



TO: Mayor Humphrey and the New Buffalo City Council

FROM: Darwin Watson, City Manager

DATE: November 20, 2023

RE: Ordinance to Repeal Article XIII of Chapter 2 and amend Chapters 7 and 14 of the City's Code of Ordinances –Second Reading

ITEM BEFORE THE COUNCIL:

Second reading to repeal Article XIII of Chapter 2 and amend Chapters 7 and 14 of the City's Code of Ordinances

DISCUSSION:

In August 2019, the City Council established the Parks and Harbor Commission. This was a combination of the Harbor Commission and Parks and Recreation Board. Per the support documentation, it was stated that "historically, it has been difficult to maintain a quorum for both the Parks Board and the Harbor Commission throughout the year". Moreover, the two (2) Boards have overlapping responsibilities for navigational facilities, harbors, and recreational opportunities that make direction and communication difficult. Recently, there has been a desire to disestablish the Parks and Harbor Commission and to re-establish the Harbor Commission and Parks and Recreation Board. The City Attorney has prepared an ordinance to repeal Article XIII of Chapter 2 and amend Chapters 7 and 14 of the City's Code of Ordinances.

RECOMMENDATION:

That the New Buffalo City Council approves the second reading of the ordinance to repeal Article XIII of Chapter 2 and amend Chapters 7 and 14 of the City's Code of Ordinances.

**CITY OF NEW BUFFALO
BERRIEN COUNTY, MICHIGAN**

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL ARTICLE XIII OF CHAPTER 2 OF THE CITY OF NEW BUFFALO CODE OF ORDINANCES, AND TO AMEND ARTICLE I OF CHAPTER 7, AND ARTICLE II OF CHAPTER 14 IN ORDER TO DISESTABLISH THE PARKS AND HARBOR COMMISSION AND RECREATE THE PARK AND RECREATION BOARD AND HARBOR COMMISSION AS SEPARATE BOARDS

THE CITY OF NEW BUFFALO ORDAINS:

Section 1. Repeal. Article XIII, “Park and Harbor Commission,” of Chapter 2, “Administration,” is hereby repealed in its entirety.

Section 2. Amendment. Article I, “Park and Harbor Commission,” of Chapter 7, “Harbor,” is hereby amended in its entirety to read as follows:

**ARTICLE I
Harbor Commission**

Section 7-1. Commission created.

There is hereby recreated a Harbor Commission for the City.

Section 7-2. Composition; appointments; filling vacancies.

- A. Composition. The Harbor Commission shall consist of five members, who shall be resident electors of the City. The following individuals are ineligible to serve as members: City Council members, the City Manager, Department of Public Works Director, or any other elected official and/or employee of the City.
- B. Appointments. Appointments made to the Harbor Commission shall provide for staggered terms of office. Appointments to fill expired positions on such commission shall be for a period of three years, and shall be made by the Mayor with the consent of the majority of the City Council at the regular organizational meeting of the City Council following the regular City election.
- C. Alternate members. The Mayor with the consent of the majority of the City Council may appoint up to two alternate members, who shall have the same membership requirements as regular Harbor Commission members. Alternate members have voice and vote on the Harbor Commission in the event a regular Harbor Commission member is absent. At the time of appointment as alternate members, the City Council shall designate one alternate to serve first in the event of an absence during a meeting, with the other alternate member serving if the first alternate member is unavailable, or in the event of a second absence during a meeting.
- D. Filling vacancies. Appointments to fill vacancies on the Harbor Commission shall be for a period of time equivalent to the unexpired term of that office. Appointments to fill such vacancies shall be made by the Mayor with the consent of the majority of the City Council, but shall be made within 60 days of the date such vacancy occurs.

Section 7-3. Compensation of members.

The members of the Harbor Commission shall serve without compensation and shall not be considered employees of the City.

Section 7-4. Organization; officers; quorum.

The members of the Harbor Commission shall within 20 days after their appointment in the first instance, and thereafter annually within 20 days following the regular organizational meeting of the City Council following the regular City election, organize and elect one of their members chairperson, one of their members vice chairperson, and one of their members or another person not serving on the Commission as secretary. The Harbor Commission may select other such officers as it may deem advisable and expedient. A majority of the Harbor Commission shall constitute a quorum for the transaction of business.

Section 7-5. Meetings; rules of procedure.

The Harbor Commission shall establish by general rule the time and place for holding all regular and special meetings of such board and the manner of giving notice thereof. The Harbor Commission is also authorized to establish by general rule procedures for the transaction of its business.

Section 7-6. Removal of members.

The City Council shall have power and authority to remove any member of the Harbor Commission for malfeasance, misfeasance, misconduct, or neglect of duty after having given such member notice and an opportunity to be heard.

Section 7-7. Powers and duties; policies, rules, and regulations concerning harbor.

The Harbor Commission shall study and make recommendations to the City Council concerning policies, rules, regulations, and ordinances dealing with the management, government, maintenance, operation, and use of the harbor, waterways, channels, municipal docks, or other navigational facilities which are under the control of the City. The reasonableness and necessity of any such policies, rules, regulations, or ordinances shall be determined by the City Council after a review thereof. All such policies, rules, regulations, and ordinances, after adoption and publications by the City Council, shall be enforced by the appropriate City officials in like manner as any other provision of this chapter or other ordinance of the City.

Section 7-8. Budget.

The Harbor Commission shall annually submit to the City Manager, at a date of the City Manager's choosing, a proposed budget showing in detail the amount of money which, according to the judgment of the Harbor Commission, may be necessary for harbor purposes, and the supervision, maintenance and operation thereof during the fiscal year, which fiscal year shall correspond to that of the City. The proposed budget submitted and recommended by the Harbor Commission may be increased, modified, or adopted by the City Council in its sole discretion, as the City Council may deem advisable and expedient.

Section 3. Amendment. Article II, "Park and Harbor Commission," of Chapter 14, "Parks and Recreation," is hereby amended in its entirety to read as follows:

**Article II
Park and Recreation Board**

Section 14-21. Created.

There is hereby recreated a Park and Recreation Board for the City.

Section 14-22. Composition; appointment and terms of members; filling vacancies.

- A. Composition. The Park and Recreation Board shall consist of five members, who shall be resident electors of the City. The following individuals are ineligible to serve as members: City Council members, the City Manager, Department of Public Works Director, or any other elected official and/or employee of the City.
- B. Appointments. Appointments made to the Park and Recreation Board shall provide for staggered terms of office. Appointments to fill expired positions on such board shall be for a period of three years, and shall be made by the Mayor with the consent of the majority of the City Council at the regular organizational meeting of the City Council following the regular City election.
- C. Alternate members. The Mayor with the consent of the majority of the City Council may appoint one alternate member, who shall have the same membership requirements as regular Park and Recreation Board members. The alternate member has voice and vote on the Park and Recreation Board in the event a regular Park and Recreation Board member is absent.
- D. Filling vacancies. Appointments to fill vacancies on the Park and Recreation Board shall be for a period of time equivalent to the unexpired term of that office. Appointments to fill such vacancies shall be made by the Mayor with the consent of the majority of the City Council, but shall be made within 60 days of the date such vacancy occurs.

Section 14-23. Compensation of members; members not to be employees of City.

Members of the Park and Recreation Board shall serve without compensation and shall not be considered employees of the City.

Section 14-24. Organization; officers; quorum.

The members of the Park and Recreation Board shall within 20 days after their appointment in the first instance, and thereafter annually within 20 days following the regular organizational meeting of the City Council following the regular City election, organize and elect one of their members chairperson, one of their members vice-chairperson, and one of their members secretary. The Board may elect such other officers as it may deem advisable and expedient. A majority of the Board shall constitute a quorum for the transaction of business.

Section 14-25. Meetings; rules of procedure.

The Park and Recreation Board shall establish by general rule the time and place for holding all regular and special meetings of such board and the manner of giving notice thereof. The Board is also authorized to establish by general rule procedures for the transaction of its business.

Section 14-26. Removal of members.

The City Council shall have the power and authority to remove any member of the Park and Recreation Board for malfeasance, misfeasance, misconduct, or neglect of duty after having given such member notice and an opportunity to be heard.

Section 14-27. Powers and duties: policies, rules and regulations concerning City parks, playgrounds and recreation areas.

The Park and Recreation Board shall study and formulate policies as to the maintenance, control, and regulation of all City parks, recreational areas, and playgrounds. It shall also make recommendations to the City Council as to ways of improving, planning, and developing outdoor and indoor recreational, educational, and social facilities and programs for the community. The reasonableness and necessity of any such policy, rule, or regulations appertaining to any City park, recreational area, playground, recreation program, or construction shall be determined by the City Council after a review of the recommendation of the Park and Recreation Board.

Section 14-28. Gifts, appropriations and bequests.

The Park and Recreation Board is hereby empowered and authorized to solicit, receive, and acquire gifts, appropriations, bequests, donations, or endowments of money, funds, or property from any person, which shall be immediately turned over to the City Council and shall be used for the creation, improvement, maintenance, and operations of the City parks and recreation programs.

Section 14-29. Budget.

The Park and Recreation Board shall annually submit to the City Manager, at a date of the City Manager’s choosing, a proposed budget showing in detail the amount of money which, according to the judgment of the Board, may be necessary for park and recreation purposes, and the supervision, maintenance, and operation thereof during the ensuing fiscal year, which fiscal year shall correspond to that of the City. The proposed budget submitted and recommended by the Park and Recreation Board may be increased, modified, or adopted by the City Council in its sole discretion, as the City Council may deem advisable and expedient.

Section 4. Disestablishment of Predecessor Board. The board currently known as the Park and Harbor Commission is hereby disestablished.

Section 5. Publication and Effective Date. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after its enactment or upon publication, whichever is later.

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

This is a true and complete copy of Ordinance No. ____ adopted at a regular meeting of the New Buffalo City Council held on _____, 2023.

John Humphrey, Mayor

Amy Fidler, Clerk

Adopted:
Published:
Effective:

4891-6300-5313 v1 [74113-1]