

ORDINANCE NO. 654

AN ORDINANCE AMENDING ORDINANCE NO. 501, 513, 553, 594, and 612 PROVIDING THAT GENERAL PROPERTY TAXES LEVIED AND COLLECTED EACH YEAR ON ALL PROPERTY LOCATED WITHIN THE AMENDED CARTER LAKE URBAN RENEWAL AREA #5, IN THE CITY OF CARTER LAKE, COUNTY OF POTTAWATTAMIE, STATE OF IOWA, BY AND FOR THE BENEFIT OF THE STATE OF IOWA, CITY OF CARTER LAKE, COUNTY OF POTTAWATTAMIE, COUNCIL BLUFFS COMMUNITY SCHOOL DISTRICT, AND OTHER TAXING DISTRICTS, BE PAID TO A SPECIAL FUND FOR PAYMENT OF PRINCIPAL AND INTEREST ON LOANS, MONIES ADVANCED TO AND INDEBTEDNESS, INCLUDING BONDS ISSUED OR TO BE ISSUED, INCURRED BY THE CITY IN CONNECTION WITH THE AMENDED CARTER LAKE URBAN RENEWAL AREA #5 (AMENDMENT NO. 3 TO THE CARTER LAKE AMENDED AND RESTATED URBAN RENEWAL PLAN #5)

WHEREAS, the City Council of the City of Carter Lake, State of Iowa, has heretofore, in Ordinance No. 501, 513, 553, 594, and 612, provided for the division of taxes within the Carter Lake Urban Renewal Area #5 ("Area" or "Urban Renewal Area"), pursuant to Section 403.19 of the Code of Iowa; and

WHEREAS, additional territory now has been added to the Carter Lake Amended and Restated Urban Renewal Plan #5 ("Urban Renewal Plan") through the adoption of Amendment No. 3 to the Carter Lake Amended and Restated Urban Renewal Plan #5; and

WHEREAS, indebtedness has been incurred by the City, and additional indebtedness is anticipated to be incurred in the future, to finance urban renewal project activities within the amended Carter Lake Urban Renewal Area #5, and the continuing needs of redevelopment within the amended Carter Lake Urban Renewal Area #5 are such as to require the continued application of the incremental tax resources of the amended Carter Lake Urban Renewal Area #5; and

WHEREAS, the following enactment is necessary to accomplish the objectives described in the premises.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARTER LAKE, STATE OF IOWA, THAT:

Ordinance Number(s) 501, 513, 553, 594, and 612 are hereby amended to read as follows:

Section 1. For purposes of this Ordinance, the following terms shall have the following meanings:

a) Carter Lake Urban Renewal Area #1 Original Project Area shall mean that portion of the City of Carter Lake, State of Iowa, described in the Urban Renewal Plan for the Carter Lake Urban Renewal Area #1 approved by Resolution No. 33-97 on the 17th day of June, 1997, which Original Project Area includes the lots and parcels located within the area legally described as follows:

The area described lies within the City of Carter Lake, Pottawattamie County, State of Iowa, and consists of Audit Tax Lot 9 and adjacent public rights-of-way more particularly described as follows: Beginning at the point of intersection of the south right-of-way line of Locust Street and the east city limits of the City of Carter Lake (Iowa-Nebraska Boundary) said point of intersection also being the northeast corner of Tax Audit Lot 14 located in Section 24, T75 N, R44 W, Pottawattamie County, State of Iowa, thence west along said south right-of-way line of Locust Street to its intersection with the extended west right-of-way line of 13th Street, thence north along said extended right-of-way line on 13th Street to its intersection with the extended north right-of-way line of Avenue K, thence east along said extended north right-of-way line of Avenue K to its intersection with the east city limits of the City of Carter Lake (Iowa-Nebraska Boundary), thence southwesterly along said city limits of the City of Carter Lake to the point of beginning. The above described area contains 18.43 acres more or less; and

b) Carter Lake Urban Renewal Area #3 Original Project Area shall mean that portion of the City of Carter Lake, State of Iowa, described in the Urban Renewal Plan for the Carter Lake Urban Renewal Area #3 approved by Resolution No. 104-98 on the 15th day of December, 1998, which Original Project Area includes the lots and parcels located within the area legally described as follows:

A tract of land located in part of Lot 15, Auditor's Subdivision of Section 21, Township 75 North, Range 44 West of the 5th P.M., Pottawattamie County, Iowa, described as follows: Beginning at the Southeast Corner of said Lot 15, being the intersection of the North right-of-way line of Avenue "H" with the Iowa-Nebraska State Line; thence West 144.46 feet along said North right-of-way line of Avenue "H"; thence North 604.46 feet to the North line of the NE 1/4 SW 1/4 of said Section 21; thence East 425.57 feet along said North line of the NE 1/4 SW 1/4 to the Iowa-Nebraska State Line; thence Southwesterly 666.29 feet along said Iowa-Nebraska State Line to the point of beginning.

c) Carter Lake Urban Renewal Area #4 Original Project Area shall mean that portion of the City of Carter Lake, State of Iowa, described the Urban Renewal Plan for the Carter Lake Urban Renewal Area #4 approved by Resolution No. 23-04 on the 30th day of March, 2004, which Original Project Area includes the lots and parcels located within the area legally described as follows:

CARTER LAKE PLAZA, Lots 1, 2 and 3, which is a replat of the following lots:

The East 168.11' of Lot L, M, and N, Auditor's Subdivision of Lot 10, in Auditor's subdivision of the Southwest Quarter of the Northwest Quarter of Section 21, Township 75, Range 44, in the town of Carter Lake, Pottawattamie County, IA; and

S150' W35' LT M & S150' LT L LT 10 Auditor's Subdivision of the Southwest Quarter of the Northwest Quarter of Section 21, Township 75, Range 44, in the town of Carter Lake, Pottawattamie County, IA; and

The West 150.02' of Lot L, M, and N, Auditor's Subdivision of Lot 10, in Auditor's subdivision of the Southwest Quarter of the Northwest Quarter of Section 21, Township 75, Range 44, in the town of Carter Lake, Pottawattamie County, IA.

d) 2007 Amended and Restated Area shall mean that portion of the City of Carter Lake, State of Iowa, described in the Amended and Restated Carter Lake Urban Renewal Plans #1, #3, and #4, approved by Resolution Nos. 52-07, 53-07 and 54-07 on the 18th day of June, 2007, but was not part of the original Urban Renewal Plans for the Carter Lake Urban Renewal Areas #1, #3, or #4.

e) Original Carter Lake Urban Renewal Area #5 shall mean that portion of the City of Carter Lake, State of Iowa, described in the Amended and Restated Carter Lake Urban Renewal Plan #5 (which consolidated the Carter Lake Urban Renewal Area #1 Project Area, the Carter Lake Urban Renewal Area #3 Project Area, the Carter Lake Urban Renewal Area #4 Project Area, and the 2007 Amended and Restated Area) approved by Resolution No. 33-09 on the 15th day of June, 2009, which Area includes the lots and parcels located within the area legally described as follows:

The Northern boundary is Avenue K from the intersection of Avenue K at the Eastern City Limits, Westerly to the intersection of Avenue K and 5th Street;

Then heading South on 5th Street to the Southwest corner of the property commonly known as Paxton Vierling, 501 Avenue H, owned by Owen Industries, Inc.;

Then heading East on the South boundary of the Paxton Vierling property until a location on the Southern border of the Paxton Vierling property that would intersect with 9th Street, which is the Southeast corner of the Paxton Vierling property;

Then heading South on the Western border of the property owned by American Business Information and Richard F. Owen Co., LLC;

Then heading Southeasterly on the Richard F. Owen Co., LLC property across Abbott Drive continuing along the Southwestern boundary of the Richard F. Owen Co., LLC property located on the East side of Abbott Drive and continuing along the property owned by Missouri River Real Co. to the City Limits boundary at the Missouri River;

Then continuing Northeasterly parallel to the Missouri River and the City Limits to the Northeasterly corner of the City Limits, then heading Northwesterly along the Northern boundary of the property owned by the City of Carter Lake and Richard F. Owen Co., LLC, continuing across Abbott Drive then heading Northerly on the Eastern boundary of the City Limits until reaching Avenue K, the point of beginning.

The area includes the full right-of-way of all streets forming the boundary.

f) Carter Lake Amended and Restated Urban Renewal Plan #5 Amendment No. 3 Area (“Amendment No. 3 Area”) shall mean that portion of the City of Carter Lake, State of Iowa, described in Amendment No. 3 to the Carter Lake Amended and Restated Urban Renewal Plan #5 for the Carter Lake Urban Renewal Area #5 approved by Resolution No. 57-2016 on the 21st day of November, 2016, which Area includes the lots and parcels located within the area legally described as follows:

A tract of land located in Section 20, Township 75 Range 44 West of the 5th PM in Carter Lake, Pottawattamie County, Iowa, more particularly described as follows:

Beginning at the NE corner of Lot 11, Auditor’s Subdivision, thence south 1933 feet to the SE corner of the South 376 feet of the East 464 feet of Lot 16, thence west 1645.36 feet to the State line of the State of Iowa shared with the State of Nebraska, thence northwesterly at a 45 degree angle a distance of 45 feet along the State line of the State of Iowa, thence northwesterly along the State line of the State of Iowa 1316.92 feet to the SW corner of the west 104.50 feet of the South 350 feet of Auditor’s Lot 7, thence north 361.92 feet to the NW corner of said portion of Auditor’s Lot 7, thence east 188 feet to the NW corner of *a part* of Auditor’s Lot 8 described as:

(“commencing at a point 40 feet North of the of the center line of Locust Street on the state line between Iowa and Nebraska, thence East and parallel with the center line of Locust Street a distance of 222.61 feet to the point of beginning; thence continuing East and Parallel with said center line a distance of 83.63 feet;

thence North at a right angle a distance of 360.00 feet, thence west at a right angle a distance of 135.39 feet to a point on the west line of said Lot 8; thence southeasterly along the west line of said Lot 8 a distance of 363.79 feet to the point of beginning”), thence north a distance 30 feet to the NW corner of Auditor’s Lot 8, thence east 135.39 to the NE corner of Auditor’s Lot 8, thence southerly a distance of 360 feet to the SE corner of said Auditor’s Lot 8, then east a distance of 520 feet to the SW corner of Auditor’s Lot 9, thence north 564.28 feet to the NW corner of Auditor’s Lot 9, thence east 614.91 feet to the NE corner of said Lot 9, thence north 29.38 feet to the NW corner of Lot 10, thence east 433 to the Point of Beginning, an area containing 72.79 acres more or less and including the entire right-of-way of the adjoining and intersecting streets and roadways of Avenue H, N. 5th Street, and Locust Street.

g) Amended Area shall mean that portion of the City of Carter Lake, State of Iowa, included within the Original Carter Lake Urban Renewal Area #5 and the Amendment No. 3 Area, which Amended Area includes the lots and parcels located within the area legally described in Sections (e)-(f) above.

Section 2. The taxes levied on the taxable property in the Amended Area, legally described in Section 1 hereof, by and for the benefit of the State of Iowa, County of Pottawattamie, Iowa, Council Bluffs Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.

Section 3. As to the Carter Lake Urban Renewal Area #1 Original Project Area, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in the Original Project Area upon the total sum of the assessed value of the taxable property in the Original Project Area as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the municipality certified to the county auditor the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue described in Ordinance No. 501, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid. The taxes so determined shall be referred herein as the "base period taxes" for such area.

As to the Carter Lake Urban Renewal Area #3 Original Project Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the municipality certified to the county auditor the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue described in Ordinance No. 513.

As to the Carter Lake Urban Renewal Area #4 Original Project Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the municipality certified to the county auditor the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue described in Ordinance No. 553.

As to the 2007 Amended and Restated Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2006, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance No. 594.

As to the Amendment No. 3 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2015, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of this Ordinance.

Section 4. That portion of the taxes each year in excess of the base period taxes for the Amended Area, determined for each sub-area thereof as provided in Section 3 of this Ordinance, shall be allocated to and when collected be paid into the special tax increment fund previously established by the City of Carter Lake, State of Iowa, to pay the principal of and interest on loans, monies advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under authority of Section 403.9 or Section 403.12 of the Code of Iowa, incurred by the City of Carter Lake, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Amended Area pursuant to the Urban Renewal Plan, as amended, except that (i) taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Iowa Code Section 298.2 and taxes for the instructional support program of a school district imposed pursuant to Iowa Code Section 257.19 (but in each case only to the extent required under Iowa Code Section 403.19(2)); (ii) taxes for the payment of bonds and interest of each taxing district; (iii) taxes imposed under Iowa Code Section 346.27(22) related to joint county-city buildings; and (iv) any other exceptions under Iowa Code Section 403.19 shall be collected against all taxable property within the Amended Area without any limitation as hereinabove provided.

Section 5. Unless or until the total assessed valuation of the taxable property in the areas of the Amended Area exceeds the total assessed value of the taxable property in the areas shown by the assessment rolls referred to in Section 3 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

Section 6. At such time as the loans, monies advanced, bonds and interest thereon and indebtedness of the City of Carter Lake, State of Iowa, referred to in Section 4 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Section 7. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to continue the division of taxes from property within the Original Carter Lake Urban Renewal Area #5 under the provisions of Section 403.19 of the Code of Iowa, as authorized in Ordinance Nos. 501, 513, 553, 594, and 612, and to fully implement the provisions of Section 403.19 of the Code of Iowa with respect to the division of taxes from property within the Amendment No. 3 Area as described above. Notwithstanding any provisions in any prior Ordinances or other documents, the provisions of this Ordinance and all prior Ordinances relating to the Urban Renewal Area, as amended, shall be construed to continue the division of taxes from property within the Amended Area to the maximum period of time allowed by Section 403.19 of the Code of Iowa. In the event that any provision of this Ordinance shall be determined to be contrary to law it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Amended Area and the territory contained therein.

Section 8. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this 5th day of December, 2016.

Gerald Waltrip, Mayor

ATTEST:

Jackie Stender, City Clerk

Read First Time: November 21, 2016

Read Second Time: Waived December 5, 2016

Read Third Time: December 5, 2016

PASSED AND APPROVED: December 5, 2016.