

CITY OF BELLEVUE, KENTUCKY

ORDINANCE NO. 2015-10-01

AN ORDINANCE OF THE CITY OF BELLEVUE TO CREATE AN ENERGY PROJECT ASSESSMENT DISTRICT PURSUANT TO K.R.S. §65.205-209.

WHEREAS, the Commonwealth of Kentucky, through the adoption of AN ACT relating to energy project assessment districts or EPAD (KRS §65.205-209), has authorized local governments to establish programs to advance the conservation and efficient use of energy and water resources within their jurisdictions, which program are declared to be a valid exercise of the powers of local government and in the best interest of the people of the Commonwealth, by allowing for energy projects to be financed by assessments imposed upon the real property being improved through energy projects; and

WHEREAS, the City of Bellevue (the “City”) finds that the financing of energy efficiency and water efficiency projects through contractual assessments (hereinafter referred to as “EPAD” financing) furthers essential government and community purposes, including, but not limited to, economic development, job growth, reduced energy costs, and conservation of water resources; and

WHEREAS, to establish the Energy Project Assessment District (EPAD) program, the City is required to adopt an ordinance providing the terms and conditions of the program including the designation of the EPAD, a description of the EPAD boundaries, and the procedure for the property owners located in the EPAD area to petition the City for participation in the program; and,

WHEREAS, the City hereby states that it intends to use assessments on relevant real property to support private sector energy projects.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AS FOLLOWS:

SECTION 1 – PROGRAM ESTABLISHED; DEFINITIONS; DESIGNATION OF EPAD PROGRAM AREA.

(a) The City declares as a public purpose the establishment of a municipal program to enable its citizens to participate in an Energy Project Assessment District (“EPAD”) program so that owners of real property can finance energy saving improvements. The City adopts this program pursuant to the Energy Project Assessment District Act of 2015 (“EPAD Act”) (KRS §65.205-209) and further declares that the City intends to use assessments on real property in the EPAD to support private sector energy projects.

(b) Definitions for determining this ordinance shall have the same meaning as the definitions set forth in the EPAD Act.

(c) The City hereby designates the entire area within the City’s jurisdictional boundaries, including any future annexed area, as the EPAD.

SECTION 2 – ADMINISTRATION OF THE EPAD PROGRAM.

(Ordinance No. O-____-15)

- (a) The City shall designate a Department, Departments, and may also designate a third-party entity to administer the EPAD program, including the performance of the following functions:
- (i) Review petitions to determine if they comply with applicable policies and procedures;
 - (ii) Develop proposed energy projects and timelines for completion;
 - (iii) Prepare and recommend written agreements between the City and the property owners requiring participation in the EPAD program; and
 - (iv) Collect and distribute assessments created through the EPAD program.
- (b) The City, by and through a designated Department, or a designated Third Party entity, must develop procedures for property owners of record to petition the City for participation in the EPAD program, At a minimum, such procedures shall require that:
- (i) Any petition must be signed by all record owners of the property;
 - (ii) Any holder of a mortgage lien on the property must give written consent for the assessment and state that the lien holder does not object to the imposition of the EPAD assessment; and
 - (iii) The record owner of the participating real property shall notify the City upon the completion of the energy project.
- (c) In order to be considered for approval the contents of a petition must include the following:
- (i) A legal description of the real property that includes a deed book and page number;
 - (ii) The real property's Property Identification number (PIDN);
 - (iii) The names and addresses of all owners of the real property;
 - (iv) A general description of the proposed energy project; and
 - (v) A proposed time schedule for undertaking and completing the project.
- (d) Any petition for a project requiring a total assessment of \$250,000 or more, the project shall include a review of (1) the proposed scope of work for the project; (2) the project budget; and (3) the estimated energy and/or water savings calculations for the project. The review shall be conducted by:
- (i) A Kentucky License Professional Engineer
 - (ii) An Energy Service Professional;
 - (iii) A Water Efficiency Professional; or
 - (iv) Another relevant professional.
- (e) Any bonds or notes issued under the applicable state statutes or this ordinance for an EPAD project shall not be general obligations of the City, and its officials and officers shall have no liability to any persons for uncollected EPAD assessments and unpaid EPAD debt.

SECTION 3 – REVIEW OF PETITION FOR EPAD PROJECT.

(Ordinance No. O-_____-15)

(a) An authorized official from the City or designated third-party shall review each petition for an EPAD project and all other materials presented with it to determine if the petition complies with the EPAD Act and other applicable rules.

(b) If a petition is approved, an authorized official from the City or designated third-party entity shall prepare a written agreement between the City and the record owners of the real property accepting the energy project, including the establishment of the necessary assessment to finance the cost of the project. The written contract shall set forth the total amount and terms of the assessment.

(c) Once an assessment has been imposed, an authorized official from the City or designated third-party shall file a written notice of the assessment in the real property records of the Campbell County Court Clerk's Office indicating:

- (i) The amount of the assessment;
- (ii) The legal description of the real property;
- (iii) The name of each owner of record of the real property; and
- (iv) A reference to the statutory assessment lien.

SECTION 4 – COLLECTION OF THE ASSESSMENT.

(a) Upon imposition of an assessment, the City shall add the assessment to the property tax bill for the participating real property.

(b) The City shall collect any assessment imposed under this ordinance in the same manner as the other taxes on the bill and any unpaid assessment shall bear the same interest rate and penalties as other delinquent ad valorem property taxes.

(c) The City shall collect the assessments annually and make the required payments to the entity financing the energy project.

(d) Any assessment shall, together with any interest and penalties, constitute a first and prior lien against the real property on which the assessment is imposed from the date on which the notice of assessment is recorded until paid and this lien shall have the same priority status as a lien for any other state or local ad valorem tax upon the property.

SECTION 5 – SEVERABILITY AND CONFLICTS

(a) The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

(b) All prior Ordinances or parts of any Ordinance in conflict herewith are hereby repealed.

PASSED by the City Council the _____ day of _____, 2015.

CITY OF BELLEVUE, KENTUCKY

APPROVED:

(Ordinance No. O-____-15)

By _____
MAYOR, Ed Riehl

ATTEST:

CITY CLERK, Mary H. Scott

1st Reading: _____

2nd Reading: _____

Publication: _____