

**ORDINANCE NO.:** 2019-04  
**SPONSOR:** COUNCILMEN SHAUGHNESSY AND DYER  
**INTRODUCED:** FEBRUARY 26, 2019      **ASSIGNED TO:** \_\_\_\_\_

**AN ORDINANCE ESTABLISHING PUBLIC NOTIFICATION REQUIREMENTS PRIOR TO CITY COUNCIL ACTION AUTHORIZING CITY FUNDS OR AUTHORIZING THE APPLICATION FOR GRANTS OR OTHER FUNDING METHODS TO BE USED FOR THE DESIGN OR CONSTRUCTION OF THE MASTER TRAIL PLAN OR SIMILAR LONG-RANGE CITY-DEVELOPED PLANNING, OR PORTIONS THEREOF, AND DECLARING AN EMERGENCY.**

WHEREAS, since Green became a City in 1992, there has been a steady transformation from a rural landscape to a thriving City; and

WHEREAS, since 1992, various plans developed by the City have considered connectivity for bicycle and pedestrian transportation at various levels and in 2007 the Bike and Hike Committee created a plan to connect neighborhoods to the center of the city via 4 trail segments, and in 2009 the Public Service and Transportation strategic committee developed recommendations for future sidewalks; and

WHEREAS, in 2014 the Living Green Task Force reviewed the previous trail and sidewalk plans and considered additional connection points which culminated in a Master Trail Plan included in the City Land Use Plan, 2014 update; and

WHEREAS, in 2017 the City endeavored to develop a new Master Trails Plan taking a holistic approach to connectivity to all destinations within the City and regional destinations as well. This new Master Trails Plan when approved by Council will replace the 2014 Master Trail Plan; and

WHEREAS, the Master Trails Plan is a conceptual plan used to guide the future development of connectivity trails, and portions thereof; and

WHEREAS, some portions of the Master Trails Plan cross private individually owned property and pass through or abut, the front, rear, or side, lot lines; and

WHEREAS, many affected property owners object to the use of their land for connectivity trails for various reasons including but not limited to safety concerns, loss of value, loss of marketability, loss of wildlife habitat, and privacy concerns; and

WHEREAS, owners affected by the plan have requested better notification of action taken with regard to the Master Trails Plan in meetings of Council and Master Trail Plan public hearings; and

WHEREAS, the city will continue to develop long-range plans for future public and private uses of property located within the city and it is city council's desire to apply these standards to all current and future long-range plan development

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT AND STATE OF OHIO, THAT:**

**SECTION ONE:**

Green City Council establishes the following public notification requirements prior to City Council action authorizing the expenditure of City funds or the seeking of grants for the design, development or construction of the Master Trails Plan, or portions thereof. As used in this ordinance “design” means professional work typically performed by an engineer to develop construction plans, it is not intended to mean work done to establish or amend a Master Trails Plan.

**SECTION TWO:** The public notification requirements shall be as follows:

1. **Public Notification.**

(A) Content. Notices for public hearings, whether by publication or by mail (written notice), shall, at a minimum:

1. Identify the segment or portions of the Master Trails Plan for which the use of city funds, application for grants, or other funding methods is contemplated by City Council.
2. Indicate the date time and place of the first Council meeting which legislation seeking to authorize the use of funds, application for grants, or other methods of funding is first introduced.
3. Describe the nature and scope of the proposed segment or portion of the Master Trails Plan for which funding is sought.
4. Identify the location (e.g., the offices of the planning department) where the public may view related documents.
5. Include a statement that the public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the legislation.
6. Include a statement describing where written comments will be received prior to the public hearing.
7. Include a statement that Council has the right to act on the first reading of the legislation.
8. Conspicuously publish all documents related to the trail development on the city’s website and social media channels.

(B) **Notice Requirements.** Published and mailed notice shall be provided as follows:

1. Published notice: The Planning Department shall be responsible for publishing notice a minimum of ten days prior to the first Council Meeting in which the legislation is introduced.
2. Mailed notice: The Planning Department shall provide written notice to all property owners within, contiguous with, and directly across the street from, the segment or portion of Master Trails Plan for which funding is sought. Such written notice shall be by regular mail and postmarked no later than ten days prior to the hearing.

(C) Constructive Notice.

1. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the agency having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this Code, and such finding shall be made available to the decision-making body prior to final action on the request.
2. When the records of the City document the publication, mailing, and posting of notices as required by this chapter, it shall be presumed that notice of a public hearing was given as required by this section.

**SECTION THREE:** Nothing in this Ordinance shall apply to City Council action authorizing the expenditure of City funds or the application for grants or other funding methods to develop new or amend existing Master Trails Plans.

**SECTION FOUR:** This Ordinance shall be attached to the existing 2014 Master Trails Plan and to any subsequently City Council approved Master Trails Plan or other long-term planning documents.

**SECTION FIVE:**

The City of Green finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meeting of this Council and any deliberations of this City and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

**SECTION SIX:**

Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of Green and for the further reason that the plat may be recorded immediately and forthwith. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: \_\_\_\_\_

\_\_\_\_\_  
Nichole Baldinger, Clerk of Council, Interim

\_\_\_\_\_  
Bob Young, Council President

APPROVED: \_\_\_\_\_, 2019

\_\_\_\_\_  
Gerard M. Neugebauer, Mayor

ENACTED EFFECTIVE: \_\_\_\_\_, 2019

ON ROLL CALL:   Babbitt                      Dyer                      Humphrey                      Shaughnessy  
                          Speight                      Yeargin                      Young

*Suburbanite* publication on \_\_\_\_\_ and \_\_\_\_\_

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Nichole Baldinger, Clerk of Council, Interim