

**ORDINANCE NO.:** 2019-12  
**SPONSOR:** MAYOR NEUGEBAUER  
**INTRODUCED:** JUNE 11, 2019 **ASSIGNED TO:** \_\_\_\_\_

**AN ORDINANCE APPROVING A PETITION FOR SPECIAL ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS AND A PLAN FOR PUBLIC IMPROVEMENTS; APPROVING THE NECESSITY OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF GREEN IN COOPERATION WITH THE AKRON-SUMMIT COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT; DETERMINING TO PROCEED WITH SUCH PROJECT; AND DETERMINING TO LEVY SPECIAL ASSESSMENTS IN CONNECTION WITH SUCH PROJECT, AND DECLARING AN EMERGENCY.**

WHEREAS, as set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to include their properties within energy special improvement districts (“ESIDs”) upon a petition to a municipal corporation or city, which ESIDs are voluntary organizations of property owners who undertake special energy improvement projects for their properties and finance such special energy improvement projects by way of voluntary special assessments; and

WHEREAS, the County of Summit, Ohio (the “Owner”), as the owner of certain real property located within the City of Green, has identified certain real property located at 1363 Greensburg Rd., Green, Ohio 44685 (the “Project Site”), as an appropriate property for special energy improvement projects pursuant to Ohio Revised Code Chapter 1710; and

WHEREAS, the Akron-Summit County Energy Special Improvement District (the “District”) was created under Ohio Revised Code Chapters 1702 and 1710 as an ESID and established pursuant to a resolution adopted by the City of Akron, Ohio (the “Creation Resolution”); and

WHEREAS, by the Creation Resolution and under Ohio Revised Code Section 1710.02, articles of incorporation (the “Articles of Incorporation”) for a nonprofit corporation, the board of directors of which governs the District, were approved and filed with the Ohio Secretary of State; and

WHEREAS, by the Creation Resolution and under Ohio Revised Code Section 1710.06, the District’s Akron Energy Special Improvement District Project Plan (as duly amended and supplemented from time to time, the “Plan”) was approved as a plan for public improvements and public services for the District; and

WHEREAS, as permitted under Ohio Revised Code Section 1710.02, the Plan and the Articles of Incorporation allow for the addition of real property within any “participating political subdivision” of the District or within any municipal corporation or city which is adjacent to any participating political subdivision of the District to the territory of the District by the approval of the municipal corporation or city in which that real property is located; and

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WHEREAS, the Owner has determined to submit to the Board a Petition for Special Assessments for Special Energy Improvement Projects (the “Petition”), together with an Akron-Summit County Energy Special Improvement District Project Plan Supplement to Plan (the “Supplemental Plan”), all in accordance with Ohio Revised Code Section 1710.02, each of which are now on file with the Board and the Director of Finance of the City of Green; and

WHEREAS, the Petition and the Supplemental Plan request that the Project Site be added to the District and that the City of Green participate in and levy special assessments on the Project Site to pay the costs of special energy improvement projects to be provided on the Project Site, all as described more particularly in the Petition and the Supplemental Plan (the “Project”); and

WHEREAS, the Petition is for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2 of Article VIII of the Ohio Constitution, including, without limitation, the Project, and further, the Petition identifies the amount and length of the special assessments to be imposed with respect to the Project; and

WHEREAS, this Council, as mandated by Ohio Revised Code Section 1710.02, must approve or disapprove the Petition within sixty (60) days of the submission of the Petition; and

WHEREAS, this Council has determined to approve the Petition, together with the Supplemental Plan; and

WHEREAS, the City of Green desires to participate in the A-Summit County Energy Special Improvement District Project; and

WHEREAS, in the Petition, the Owner requests that the Project be paid for by special assessments assessed upon the Property (the “Special Assessments”) in an amount sufficient to pay the costs of the Project, which are estimated to be Seven Hundred Dollars (\$700.00) including other related costs of financing the Project, which include, without limitation, the payment of principal of, and interest on, obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses and ongoing trustee fees and District administrative fees and expenses, and requests that the Project be undertaken cooperatively by the City of Green, the District, and such other parties as the City of Green may deem necessary or appropriate.

**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 approves the Petition and the Supplemental Plan now on file with the Board and the Director of Finance. Under the Creation Resolution, Plan, and the Articles of Incorporation, the Project Site is added to the territory of the District. The Mayor, or his designee, is hereby appointed to serve on the Board of Directors of the District as provided in Ohio Revised Code Section 1710.04(A).

**SECTION TWO:**

Green City Council approves and consents to (i) any addition of real property to the territory of the District within the boundaries of any municipal corporation or any city which is contiguous to the municipal corporations or cities in which a portion of the territory the District is located; (ii) the addition of the municipal corporation or city in which such real property is located as a “participating political subdivision,” as defined in Ohio Revised Code Section 1710.01(E), of the District; and (iii) any amendment to the Articles of Incorporation necessary to recognize and effect such addition.

**SECTION THREE:**

Each capitalized term used in this Ordinance where the rules of grammar would otherwise not require and not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Petition.

**SECTION FOUR:**

Green City Council declares necessary, and a vital and essential public purpose of the City, to improve the Property by providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Petition, and providing for the payment of the costs of the project, including any and all architectural, engineering, legal, insurance, consulting, energy auditing, planning, acquisition, installation, construction, surveying, testing, and inspection costs; the amount of any damages resulting from the Project and the interest on such damages; the costs incurred in connection with the preparation, levy and collection of the special assessments; the cost of purchasing and otherwise acquiring any real estate or interests in real estate; expenses of legal services; costs of labor and material; and other financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, and District administrative fees and expenses; together with all other necessary expenditures, all as more fully described in the Petition and profiles, specifications, and estimates of cost of the Project, all of which are on file with the Director of Finance and open to the inspection of all persons interested.

**SECTION FIVE:**

Green City Council determines that the Project’s elements are so situated in relation to each other that in order to complete the acquisition and improvement of the Project’s elements in the most practical and economical manner, they should be acquired and improved at the same time, with the same kind of materials, and in the same manner; and that the Project’s elements shall be treated as a single improvement, pursuant to Ohio Revised Code Section 727.09, and the Project’s elements shall be treated as a joint improvement to be undertaken cooperatively by the City and the District pursuant to Ohio Revised Code Section 9.482 and Ohio Revised Code Chapter 1710.

**SECTION SIX:**

The plans and specifications and total cost of the Project now on file in the office of the Director of Finance are approved, subject to changes as permitted by Ohio Revised Code Chapter 727. The Project shall be made in accordance with the plans, specifications, profiles, and estimates for the Project.

**SECTION SEVEN:**

Green City Council hereby determines and declares that the Project is an essential and vital public, governmental purpose of the City as a Special Energy Improvement Project, as defined in Ohio Revised Code Section 1710.01(I); and that in order to fulfill that essential and vital public purpose of the City, it is necessary and proper to provide, in cooperation with the District, for the acquisition, construction, and improvement of the Project in the manner contemplated by the Petition. This Council determines and declares that the Project is conducive to the public peace, health, safety, and welfare of the City and the inhabitants of the City.

**SECTION EIGHT:**

Green City Council declares that its intention is to participate and proceed with the acquisition, construction, and improvement of the Project described in the Petition and the Plan. The Project shall be made in accordance with the provisions of the Plan.

**SECTION NINE:**

Pursuant to, and subject to, the provisions of a valid Petition signed by the owners of One Hundred percent (100%) of the Property, the entire cost of the Project shall be paid by the Special Assessments levied against the Property, which is the benefited property. The provisions of the Petition are ratified, adopted, approved and incorporated into this Ordinance as if set forth in full in this Ordinance. The method of levying the Special Assessments shall be in proportion to the benefits received, allocated among the parcels constituting the Property as set forth in the Petition.

**SECTION TEN:**

The lots or parcels of land to be assessed for the Project shall be the Property, described in Exhibit "A" to the Petition, all of which lots and lands are determined to be specially benefited by the Project.

**SECTION ELEVEN:**

The Special Assessments shall be levied and paid in one annual installment pursuant to the list of estimated Special Assessments set forth in the Petition, and the Owner has waived its option to pay the Special Assessment in cash within thirty (30) days after the passage of this Ordinance. The period over which the services and improvements provided pursuant to the Plan are useful is determined to exceed one (1) year.

The aggregate amount of Special Assessments estimated to be necessary to pay the costs of the Project is Seven Hundred Dollars (\$700.00). Each annual Special Assessment payment represents payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and of administrative expenses. The interest portion of the Special Assessments, together

with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City. In addition to the Special Assessments, the Summit County Fiscal Officer (the "County Fiscal Officer") may impose a special assessment collection fee with respect to each annual payment, which amount will be added to the Special Assessments by the County Fiscal Officer.

The Special Assessments are assessed against the Property commencing in tax year 2019 for collection in 2020. The semi-annual installments of the Special Assessments shall be collected in each calendar year equal to the maximum semi-annual amounts of Special Assessments as shown in Exhibit "A", attached to and incorporated into this Ordinance.

The Special Assessments shall be allocated among the parcels constituting the Property as set forth in the Project Petition and the List of Special Assessments attached to and incorporated into this Ordinance as Exhibit "A".

**SECTION TWELVE:**

The Director of Finance or any designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project.

**SECTION THIRTEEN:**

The Director of Finance or any designee is authorized, pursuant to Ohio Revised Code Section 727.12, to cause the Special Assessments to be levied and collected at the earliest possible time including, if applicable, prior to the completion of the acquisition and construction of the Project. Pursuant to the Petition, the Owner has waived notice of the adoption of this ordinance and the filing of the estimated Special Assessments, as provided in Ohio Revised Code Section 727.13, and the City hereby accepts that waiver. The Owner has waived its right to pay the Special Assessments in cash within thirty (30) days after the passage of this Ordinance, and all Special Assessments and installments of the Special Assessments shall be certified by the County Fiscal Officer as provided by the Petition and Ohio Revised Code Section 727.33 to be placed by him or her on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition. The Director of Finance shall keep the Special Assessments on file in the office of the Director of Finance.

**SECTION FOURTEEN:**

Green City Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Project Petition and are not in excess of any applicable statutory limitation.

**SECTION FIFTEEN:**

The Special Assessments will be used by the City to provide the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City

to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

**SECTION SIXTEEN:**

Green City Council accepts and approves the waiver of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including but not limited to those specified in the Ohio Constitution, Ohio Revised Code Chapter 727 and Ohio Revised Code Chapter 1710 and consents to the immediate imposition of the Special Assessments upon the Property. This waiver encompasses, but is not limited to, waivers by the Owner of the following rights:

- (i) The right to notice of the adoption of the resolution of necessity under Ohio Revised Code Sections 727.13 and 727.14;
- (ii) The right to limit the amount of the Special Assessments under Ohio Revised Code Sections 727.03 and 727.06;
- (iii) The right to file an objection to the Special Assessments under Ohio Revised Code Section 727.15;
- (iv) The right to the establishment of, and any proceedings by and any notice from an Assessment Equalization Board under Ohio Revised Code Sections 727.16 and 727.17;
- (v) The right to file any claim for damages under Ohio Revised Code Sections 727.18 through 727.22 and Ohio Revised Code Section 727.43;
- (vi) The right to notice that bids or quotations for the Project may exceed estimates by 15%;
- (vii) The right to seek a deferral of payments of Special Assessments under Ohio Revised Code Section 727.251;
- (viii) The right to notice of the passage of the assessing ordinance under Ohio Revised Code Section 727.26; and
- (ix) Any and all procedural defects, errors, or omissions in the Special Assessment process.

**SECTION SEVENTEEN:**

Green City Council hereby approves the Loan Agreement, a copy of which is on file in the office of the Clerk of Council. The Mayor shall sign and deliver, in the name and on behalf of the City, the Loan Agreement, in substantially the form as is now on file with the Clerk of Council. The Loan Agreement is approved, together with any changes or amendments (including the addition or subtraction of any parties) that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Loan Agreement or amendments thereto.

**SECTION EIGHTEEN:**

Green City Council hereby approves the Special Assessment Agreement, a copy of which is on file in the office of the Clerk of Council. The Mayor shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as is now on file with the Clerk of Council. The Special Assessment Agreement is approved, together with any changes or amendments (including the addition or subtraction of any parties) that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Mayor on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments thereto.

**SECTION NINETEEN:**

That in compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is directed to deliver a certified copy of this Ordinance to the County Fiscal Officer within twenty (20) days after its passage.

**SECTION TWENTY:**

Green City Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22

**SECTION TWENTY-ONE:**

This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare in order to allow the Owner to begin work on the Project, and the District to take advantage of financing available to it for a limited time, and provided this ordinance receives the affirmative vote of two-thirds 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, its shall take effect and be in force at the earliest time allowed by law.

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

\_\_\_\_\_  
Molly Kapeluck, Clerk of Council

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

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

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Gerard M. Neugebauer, Mayor

ON ROLL CALL:	Babbitt	Dyer	Humphrey	Shaughnessy
	Speight	Yeargin	Young	

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

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Molly Kapeluck, Clerk of Council

06/06/2019 Approved as to form and content by William G. Chris, Director of Law, Interim \_\_\_\_\_