

# CITY OF CLAYTON, OHIO

## ORDINANCE NO. O – 01 -23- 01

### **AN ORDINANCE APPROVING CONSTRUCTION OF STREET LIGHTING IMPROVEMENTS IN AND TO ADOPT ASSESSMENTS FOR ANNUAL LIGHTING CHARGES UPON LOTS LOCATED WITHIN WENGER VILLAGE, SECTION THREE IN THE CITY OF CLAYTON, OHIO**

**WHEREAS**, by Resolution No. R-12-22-80, enacted December 1, 2022 (“Resolution of Necessity”) and in accordance with Ohio Revised Code Section 727.12, Council declared the necessity of constructing street lighting improvements; and

**WHEREAS**, in accordance with Ohio Revised Code Section 727.13, notice of the passage of the Resolution of Necessity and the filing of the estimated assessment under Section 727.12 of the Revised Code was served upon the owners of the lots and/or parcels of land to be assessed for the proposed improvement by certified mail; and

**WHEREAS**, no objections were made or requests for the creation of an Assessment Equalization Board under Ohio Revised Code Section 727.16 nor have claims been received pursuant to Ohio Revised Code Section 727.18 by any owner of a lot or parcel of land asserting that the owner will sustain damages by reason of the proposed improvement; and

**WHEREAS**, Council desires and hereby declares its intent to proceed with approval of the construction of the street lighting improvements in accordance with the provisions of the Resolution of Necessity and impose the required assessments for said improvements.

### **NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the City hereby approves construction of the street lighting improvements in Wenger Village Section Three, in accordance with the plans, specifications and assessments, rates and charges provided for in the Resolution of Necessity duly enacted by Council on December 1, 2022, under the authority of Ohio Revised Code Chapter 727.
2. That the assessments prepared and filed in accordance with the Resolution of Necessity passed under Ohio Revised Code Section 727.12 and on file in the Clayton Government Center are hereby ratified, confirmed and adopted.
3. That as no claims for damages were filed in accordance with Ohio Revised Code Section 727.18, pursuant to that Section of the Code, such claims are deemed waived and therefore barred.
4. That this Council hereby declares it necessary for the preservation and promotion of the public health and welfare, for the reasons set forth in the preambles hereof, to enter into an agreement with AES/Miami Valley Lighting LLC for full-service lighting and to assess the

accumulated annual charge estimated to be \$3,270.72 against the lots in Wenger Village, Section Three.

5. The lots or parcels of land to be assessed for the Wenger Village Section Three, Street Lighting Improvement Project are Lots 58 through 116, Wenger Village, Section Three, located in Section 29, Town 5, Range 5 East, City of Clayton, Montgomery County, Ohio and as further described in the attached Petition (**Exhibit A**) and Lot Map (**Exhibit B**).

6. The Wenger Village Section Three, Street Lighting Improvement Project is estimated to consist of installation and trenching of eight (8) light poles and fixtures at a developers cost of \$84,342 and total annual lighting charges for said 8 poles and fixtures of \$3,270.72 to be assessed as delineated herein with no portion of the improvement to be paid by the City.

7. The boundaries of the area to be assessed include all properties within Wenger Village, Section Three.

8. The Improvements are more particularly described and set out in the plans, specifications, estimates of cost, rates, charges and tentative assessments which are on file in the Clayton Government Center, 6996 Taywood Road, Englewood, Ohio, 45322 where they may be examined and which plans, specifications, estimates of costs, rates, charges and tentative assessments are hereby approved.

9. That the total annual lighting charge is estimated to be \$3,270.72 and shall be funded as follows:

- (a) The portion to be specially assessed to property owners on an annual basis totals \$3,270.72 - ***\$55.44 per parcel***, as adjusted to reflect increases in future years, in an equal amount against each benefited lot, the amount to be determined by dividing the total cost per semiannual installment by the number of benefited lots in the district.

10. The City does not intend to issue securities in anticipation of the levy of the assessments. The City does not intend to issue securities in anticipation of the collection of the assessments.

11. That the assessments against each parcel of property subject to assessment shall be prepared and filed in the office of the Clerk of Council and shall be open for inspection during regular business hours.

***12. That Notice of the passage of this Ordinance shall, after the assessment has been made and filed as provided herein be served by the Clerk of Council, or a person designated by the clerk, upon the owners of the lots or parcels of land to be assessed for the Improvements, by Certified Mail, RRR, addressed to such owner at his/her last known address or to the address to which tax bills are sent.***

***13. That a certified copy of this Ordinance shall be filed with the Montgomery County Auditor.***

14. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.

15. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on January 5, 2023 and January 19, 2023.

16. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON JANUARY 19, 2023.

AUTHENTICATION:

  
Mayor (Presiding Officer of Council)

  
Clerk of Council

APPROVED AS TO FORM:

  
Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper  
Brookville Star

Date of publication  
January 25, 2023

  
CLERK

Ref.: R.C. 727.12, R.C. 727.18, Clayton Charter Section 4.031 and 4.031(H), Clayton Charter Section 8.02

**LIGHTING ASSESSMENT PETITION  
(Wenger Village Section 3)**

**CITY OF CLAYTON, OHIO**

**TO: THE COUNCIL OF THE CITY OF CLAYTON, OHIO**

**1. We, the undersigned owners of seventy-five (75%) percent or more of the parcels that abut the street or streets on which lighting improvements are being requested, do hereby petition the Council for the following public improvement:**

**Installation and maintenance of streetlights for the purpose of making our community more desirable, with such streetlights to be supplied power through a contract that will be funded with monies from the assessment:**

**Description:** Please describe, as thoroughly as possible, the street or streets to be included in the assessment area. This should be accomplished by referring to cross streets, subdivision names, and specific address boundaries, so that an accurate accounting of affected parcels or lots can be attained.

The streets included with this project include only the sections of Marjoram Place, Cilantro Way and Parsly Place, found specifically in Section 3 of Wenger Village, more specifically all sections of these three streets located south of Coriander Trail.

**Number of Affected Parcels:** Please determine the number of affected parcels or lots that abut the street or streets on which light improvements are being requested. Also, provide any additional information that may be needed to properly understand or verify this accounting.

59 parcels

**2. We, the undersigned, request that the entire cost of the lighting improvements be assessed equally amongst all abutting property owners as, regardless of the size of the individual lots, each property owner will equally benefit from the safety and aesthetic enhancement provided by the streetlights.**

**3. We, and each of us, further acknowledge and agree, in consideration of the installation and maintenance of the street light improvement, that no property, other than that which abuts the above-described streets, will receive special benefits from the improvements, and request that all assessments be limited to the parcels or lots that abut the street on which the improvement will be made.**

4. In consideration of the improvement, we and each of us, agree to promptly pay all special assessments as they become due and that the determination of the special assessments by the Council against lots and lands owned by each of the undersigned will be final, conclusive and binding upon each of us.

5. We and each of us, consent and request that these special assessments be levied and collected without limitation as to the value of the property assessed, and waive the following:

(a) Any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code, or by any other provision restricting these special assessments to thirty three and one-third percent (33-1/3%) of the actual improved value of the lots and lands as enhanced by the improvements to be made;

(b) Any and all resolutions, ordinances and notices required for the making of the improvement, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, the equalization of the estimated special assessments, any increase in the cost of labor and materials over the estimated costs and the passage of the assessing ordinance, including but not limited to, the notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code; and

(c) Any and all irregularities and defects in the proceedings.

6. We agree and consent to the submittal of petitions executed in duplicate counterparts all of which shall be considered as a single petition.

7. We, and each of us, further consent and request that all legislation required to be enacted to permit the improvements to commence immediately be enacted at a single Council meeting.

**Collection and Submission of Signatures:** In order for Council to consider this petition, all petitioners must provide their name, address, and signature, along with the parcel number or numbers of their property. Each owner of a particular property must sign in order for that parcel or lot to be included in the 75% calculation. Please number each individual entry.

<u>Name(s)</u>	<u>Address of Property</u>	<u>Parcel Number(s)</u>	<u>Signature</u>
	7942 - 7947 Parsley Place		
	7804 - 7843 Marjoram Place		
	7702 - 7739 Cilantro Way		



STREET IMPROVEMENTS:  
 FROM VARD 1 20' (TOTAL OF 120)  
 SIDE VARD 2 20'  
 FROM VARD 3 20' (TOTAL OF 120)  
 SIDE VARD 4 20'  
 FROM VARD 5 20' (TOTAL OF 120)  
 SIDE VARD 6 20'

STREET LIGHTING:  
 FROM VARD 1 10' (TOTAL OF 120)  
 SIDE VARD 2 10'  
 FROM VARD 3 10' (TOTAL OF 120)  
 SIDE VARD 4 10'  
 FROM VARD 5 10' (TOTAL OF 120)  
 SIDE VARD 6 10'

STREET FURNITURE:  
 FROM VARD 1 10' (TOTAL OF 120)  
 SIDE VARD 2 10'  
 FROM VARD 3 10' (TOTAL OF 120)  
 SIDE VARD 4 10'  
 FROM VARD 5 10' (TOTAL OF 120)  
 SIDE VARD 6 10'

GENERAL INFORMATION:  
 PROJECT NO. 1918  
 PREPARED BY: REINKE GROUP  
 DATE: 08/11/11  
 SHEET NO. 1 OF 1

NOTES:  
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
 2. THE SHOWN DIMENSIONS SHALL BE CONSIDERED AS THE FINAL DIMENSIONS.  
 3. THE SHOWN DIMENSIONS SHALL BE CONSIDERED AS THE FINAL DIMENSIONS.

LOT NO.	AREA (SQ. FT.)	AREA (SQ. YD.)	PERCENTAGE OF TOTAL
1	1,200	0.33	1.00
2	1,200	0.33	1.00
3	1,200	0.33	1.00
4	1,200	0.33	1.00
5	1,200	0.33	1.00
6	1,200	0.33	1.00
7	1,200	0.33	1.00
8	1,200	0.33	1.00
9	1,200	0.33	1.00
10	1,200	0.33	1.00
11	1,200	0.33	1.00
12	1,200	0.33	1.00
13	1,200	0.33	1.00
14	1,200	0.33	1.00
15	1,200	0.33	1.00
16	1,200	0.33	1.00
17	1,200	0.33	1.00
18	1,200	0.33	1.00
19	1,200	0.33	1.00
20	1,200	0.33	1.00
21	1,200	0.33	1.00
22	1,200	0.33	1.00
23	1,200	0.33	1.00
24	1,200	0.33	1.00
25	1,200	0.33	1.00
26	1,200	0.33	1.00
27	1,200	0.33	1.00
28	1,200	0.33	1.00
29	1,200	0.33	1.00
30	1,200	0.33	1.00
31	1,200	0.33	1.00
32	1,200	0.33	1.00
33	1,200	0.33	1.00
34	1,200	0.33	1.00
35	1,200	0.33	1.00
36	1,200	0.33	1.00
37	1,200	0.33	1.00
38	1,200	0.33	1.00
39	1,200	0.33	1.00
40	1,200	0.33	1.00
41	1,200	0.33	1.00
42	1,200	0.33	1.00
43	1,200	0.33	1.00
44	1,200	0.33	1.00
45	1,200	0.33	1.00
46	1,200	0.33	1.00
47	1,200	0.33	1.00
48	1,200	0.33	1.00
49	1,200	0.33	1.00
50	1,200	0.33	1.00
51	1,200	0.33	1.00
52	1,200	0.33	1.00
53	1,200	0.33	1.00
54	1,200	0.33	1.00
55	1,200	0.33	1.00
56	1,200	0.33	1.00
57	1,200	0.33	1.00
58	1,200	0.33	1.00
59	1,200	0.33	1.00
60	1,200	0.33	1.00
61	1,200	0.33	1.00
62	1,200	0.33	1.00
63	1,200	0.33	1.00
64	1,200	0.33	1.00
65	1,200	0.33	1.00
66	1,200	0.33	1.00
67	1,200	0.33	1.00
68	1,200	0.33	1.00
69	1,200	0.33	1.00
70	1,200	0.33	1.00
71	1,200	0.33	1.00
72	1,200	0.33	1.00
73	1,200	0.33	1.00
74	1,200	0.33	1.00
75	1,200	0.33	1.00
76	1,200	0.33	1.00
77	1,200	0.33	1.00
78	1,200	0.33	1.00
79	1,200	0.33	1.00
80	1,200	0.33	1.00
81	1,200	0.33	1.00
82	1,200	0.33	1.00
83	1,200	0.33	1.00
84	1,200	0.33	1.00
85	1,200	0.33	1.00
86	1,200	0.33	1.00
87	1,200	0.33	1.00
88	1,200	0.33	1.00
89	1,200	0.33	1.00
90	1,200	0.33	1.00
91	1,200	0.33	1.00
92	1,200	0.33	1.00
93	1,200	0.33	1.00
94	1,200	0.33	1.00
95	1,200	0.33	1.00
96	1,200	0.33	1.00
97	1,200	0.33	1.00
98	1,200	0.33	1.00
99	1,200	0.33	1.00
100	1,200	0.33	1.00

GRAPHIC SCALE  
 1" = 20' 0"

RECORD PLAN  
 WENGER VILLAGE  
 SECTION THREE  
 LOCATED IN:  
 SECTION 29 TOWN 5, RANGE 5 EAST  
 CITY OF CLAYTON  
 MONTGOMERY COUNTY, OHIO  
 CONTAINING: 18,536 AC.  
 JUNE 8, 2022

REINKE GROUP  
 10000 W. STATE ST.  
 SUITE 100  
 CINCINNATI, OH 45240  
 (513) 752-1000  
 WWW.REINKEGROUP.COM

**EXHIBIT**

**REINKE GROUP**