

**ORDINANCE 2025-01**

**AN ORDINANCE APPROVING CONSTRUCTION OF STREET LIGHTING IMPROVEMENTS IN AND TO ADOPT ASSESSMENTS FOR ANNUAL LIGHTING CHARGES UPON LOTS LOCATED WITHIN EVERGREEN TRACE SUBDIVISION IN THE CITY OF BROOKVILLE, OHIO.**

**WHEREAS**, by Resolution 24-35, enacted December 17, 2024, ("Resolution of Necessity") and in accordance with Ohio Revised Code 727.12, Council declared the necessity of constructing street lighting improvements in Evergreen Trace Subdivision; and

**WHEREAS**, the owner of the land included within Evergreen Trace Subdivision has executed a petition requesting street lighting improvements and waiving notice of the passage of the Resolution of Necessity under Ohio Revised Code Section 727.13 and the filing of the estimated assessment under Ohio Revised Code Section 727.12; 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 improvements; 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 BROOKVILLE, OHIO THAT:**

**SECTION I:** The City hereby approves construction of the street lighting improvements in Evergreen Trace Subdivision, in accordance with the plans, specifications and assessments, rates and charges provided for in the Resolution of Necessity duly enacted by Council on December 17, 2024, under the authority of Ohio Revised Code Chapter 727.

**SECTION II:** The assessments prepared and filed in accordance with the Resolution of Necessity passed under Ohio Revised Code Chapter 727.12 and on file in the offices of the City of Brookville are hereby ratified, confirmed and adopted.

**SECTION III:** No claims for damages were filed in accordance with Ohio Revised Code Section 727.18, and pursuant to that Section of the Code, such claims are deemed waived and therefore barred.

**SECTION IV:** 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 \$993.48 against the lots in Evergreen Trace Subdivision.

**SECTION V:** The lots or parcels of land to be assessed for the Evergreen Trace Subdivision Street Lighting Improvement Project are Lots 2813-2846, Evergreen Trace Subdivision, located in City of Brookville, Montgomery County, Ohio, and further described in the attached Petition (Exhibit A) and Subdivision Map (Exhibit B).

**SECTION VI:** The Evergreen Trace Subdivision, Street Lighting Improvement Project is estimated to consist of five (5) light poles and fixtures at a developers' cost of \$42098.00 and total annual lighting charges for said five (5) poles and fixtures of \$993.48 to be assessed and delineated herein with no portion of the improvement to be paid by the City.

**SECTION VII:** The boundaries of the areas to be assessed include all of the land within Evergreen Trace Subdivision.

**SECTION VIII:** The Improvements are more particularly described and set out in the plans, specifications, estimates of cost, rates, and tentative assessments which are on file at the City of Brookville offices, 301 Sycamore Street, Brookville, Ohio 45309, where they can be examined and which plans, specifications, estimates of costs, rates, charges and tentative assessments are hereby approved.

**SECTION IX:** The total annual lighting charge is estimated to be \$993.48 and shall be funded as follows: The portion to be specially assessed to property owners on an annual basis totals \$993.48, being \$29.22 per lot, 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.

**SECTION X:** 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.

**SECTION XI:** 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.

**SECTION XII:** Notice of the passage of this Ordinance shall, after the assessment has been made and filed as provided 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, return receipt requested, addressed to such owner at his or her last known address or to the address to which the property tax bills are sent.


**SECTION XIII:** A certified copy of this Ordinance shall be filed with the Montgomery County Auditor.

**SECTION XIV:** It is hereby found and determined 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 were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION XV:** This Ordinance shall take effect thirty (30) days after passage by the Council of the City of Brookville as provided by the Charter of the City of Brookville.

PASSED this 7TH day of JANUARY, 2025.


ATTEST:

  
\_\_\_\_\_  
Kimberly Duncan, Clerk

  
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Charles Letner, Mayor

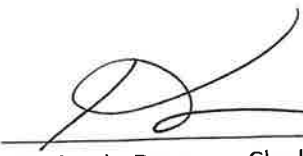
**CERTIFICATE**

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2025-01, passed by the Council of the City of Brookville, Ohio, on the 7TH day of JANUARY, 2025.

  
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Kimberly Duncan, Clerk

**CERTIFICATE OF POSTING**

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2025-01 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 8TH day of JANUARY, 2025, to the 6TH day of FEBRUARY, 2025, both days inclusive.

  
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Kimberly Duncan, Clerk