

**RESOLUTION NO.:** 2013-R19 (AMENDED APRIL 23, 2013)  
**SPONSOR:** MAYOR NORTON  
**INTRODUCED:** MARCH 26, 2013 **ASSIGNED TO:** INTERGOV. & UTIL.

**A RESOLUTION AUTHORIZING SUBMISSION OF AN INITIATIVE TO THE VOTERS OF GREEN AT THE GENERAL ELECTION IN NOVEMBER 2013 TO AUTHORIZE THE ABOLISHMENT OF MUNICIPAL UTILITY DISTRICTS, PERMIT STRATEGIC PARTNERSHIPS BETWEEN UTILITY DISTRICTS, PROVIDE FOR THE CREATION OF UTILITY DISTRICTS BY PETITION, AND DECLARING AN EMERGENCY.**

WHEREAS, Initiative Petitions were submitted to the City of Green Finance Department in February 2012; and

WHEREAS, in January 2013, the Petitioners filed the petitions with the City of Green Finance Department with approximately 1,281 signatures; and

WHEREAS, the Finance Department submitted the petitions to the Summit County Board of Elections to determine the amount of valid signatures; and

WHEREAS, February 8, 2013, the Summit County Board of Elections notified the City of Green that the petitions contained 1,115 valid signatures; and

WHEREAS, pursuant to R.C.731.28 and Green Charter Section 10.1, Ordinances may be submitted by the public to the voters as long as the petitions contain at least ten percent (10%) of the number of electors who voted for Governor at the most recent General Election for the Office of Governor in a Municipal Corporation; and

WHEREAS, the most recent election for Governor in Green occurred on November 2, 2010, at which 10,342 individuals voted in the City of Green, thus requiring any Initiative Petition submitted to the City to contain 1,034 valid signatures; and

WHEREAS, the Board of Elections shall submit the proposed Ordinance to the voters at the next General Election subsequent to seventy-five (75) days after the Clerk certifies the sufficiency and validity of the Initiative Petition at the Board of Elections; and

WHEREAS, the next General Election in Green will occur on or about November 5, 2013.

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

**SECTION ONE:**

The Ordinance that shall be submitted to the voters on November 5, 2013, states:

## **Chapter 1042 Green Codified Ordinances - - Districts**

- (1) A municipal utility district created under guidance of ORC 6115.69 from area that, at the time of the district's creation, is located wholly in the City, may be abolished as provided by this section. The district may be abolished by ordinance with a vote of at least two-thirds of the entire Green Council on finding that:
- (A) the district is no longer needed; or
  - (B) the services furnished and functions performed by the district can be furnished and performed by the municipality; and that the abolition of the district is in the best interests of the residents and property in the City and the district.
  - (C) If before the effective date of the ordinance, a petition that is signed and verified by a number of qualified owners of the District equal to at least 20 percent of the total property valuation is filed with the Council Clerk protesting the enactment or enforcement of the ordinance, the ordinance is suspended and any action taken under the ordinance is void. Immediately after the filing of the petition, the Clerk shall present it to Council. Immediately after the presentation of the petition, Council shall reconsider the ordinance. If Council does not repeal the ordinance, the governing body shall submit it to a popular vote at the next municipal election or at a special election Council may order for that purpose. The ordinance does not take effect unless a majority of the votes received in the election favor the ordinance. This procedure does not cancel any referendum rights of the City's citizens. The ordinance may not be passed as emergency legislation.
  - (D) On the adoption of the ordinance, the district is abolished, the property and other assets of the district vest in the municipality, and the municipality assumes and becomes liable for the bonds and other obligations of the district. The municipality shall perform the services and other functions that were performed by the district.
    - (i) If a district bond, warrant, or other obligation payable in whole or in part from property taxes is assumed by the municipality, the governing body shall levy and collect taxes on all taxable property in the municipality in an amount sufficient to pay the principal of and interest on the bond, warrant, or other obligation as it becomes due and payable.
      - (a) The municipality may issue refunding bonds in its own name to refund bonds, warrants, or other obligations, including unpaid accrued interest on an obligation, that is assumed by the municipality.
      - (b) A refunding bond must bear interest at the same rate or at a lower rate than that borne by the refunded obligation unless it is shown mathematically that a different rate results in a savings in the total amount of interest to be paid.
    - (ii) If the district has outstanding bonds, warrants, or other obligations payable solely from the net revenues from the operation of any utility system or property, the municipality shall take over and operate the system or property and shall apply the net revenues from the operation to the payment of the outstanding revenue bonds, warrants, or other obligations as if the district had not been abolished. The municipality may not combine the district system or property with the municipality's similar system or property if revenues produced, during the five-year period previous, created an annual surplus in an amount sufficient to meet the annual obligations for which the district revenues are pledged.
- (2) There is nothing in law to prevent a written Strategic partnership agreement requested by the District and under mutual consent of Council being negotiated between a 6115 or 6115.69 District.
- (A) A strategic partnership agreement shall not be effective until adopted by the governing

bodies of the municipality and the district. The agreement shall be recorded in the deed records of the county or counties in which the land included within the district is located and shall bind each owner and each future owner of land included within the district's boundaries on the date the agreement becomes effective.

(B) Before the governing body of a municipality or a district adopts a strategic partnership agreement, it shall conduct public hearing at which members of the public who wish to present testimony or evidence regarding the proposed agreement shall be given the opportunity to do so. Notice of public hearings conducted by the governing body of a municipality under this subsection shall be published in a newspaper of general circulation in the municipality and in the district. The notice must be published at least once on or after the 20<sup>th</sup> day before each date. Notice of public hearings conducted by the governing body of a district under this subsection shall be given in accordance with the district's notification procedures for other matters of public importance. Any notice of a public hearing conducted under this subsection shall contain a statement of the purpose of the hearing, the date, time, and place of the hearing, and the location where copies of the proposed agreement may be obtained prior to the hearing.

(C) A strategic partnership agreement may provide for the following:

- (i) A strategic partnership agreement may provide that the district shall not incur additional debt, liabilities, or obligations, to construct additional utility facilities, or sell or otherwise transfer property without prior approval of the municipality.
- (ii) the provision of services is specified and agreed to in the agreement; concerning permits, inspections or impose fees for services, permits, or inspections within the district; and
- (iii) the provision of services is not solely the result of a regulatory plan adopted by the City; and
- (iv) payments by the municipality to the district for services provided by the district;
- (v) agreements existing between districts and governmental bodies and private providers of municipal services in existence on the date a municipality evidences its intention by adopting a resolution to negotiate for a strategic partnership agreement with the district shall be continued and provision made for modifications to such existing agreements; and
- (vi) such other lawful terms that the parties consider appropriate.

(D) A strategic partnership shall include provisions setting forth the following:

- (i) the boundaries of the district;
- (ii) the functions of the district and the term during which the district shall exist, which term may be renewed successively by the governing body of the municipality, provided that no such original or renewed term shall exceed 10 years;
- (iii) the name by which the district shall be known; and
- (iv) the procedure by which the district may be dissolved

(E) An agreement under this section:

- (i) may not require the district to provide revenue to the municipality solely for the purpose of obtaining an agreement with the municipality to forgo disallusion of the district; and
- (ii) must provide benefits to each party, including revenue, services, and regulatory benefits, that must be reasonable and equitable with regard to the benefits provided by the other party.

(F) A sub-district totally in Green of a regional multi-jurisdictional district shall not have a strategic partnership agreement contrary to interest of the larger district.

(3) Districts shall have a resident board of trustees of not more than 5 approved by the Court in open Hearing. The trustees shall be collectively known as the Board with one member acting

**Resolution 2013-R19 (AMENDED APRIL 23, 2013)**

as Chairman. The trustees' duties are overseeing responsibility of all operation, capitol expense contracting, bonding, and warrants obligations.

- (4) Upon petition of at least 10% of property owners in value to create a 6115.69 sub district, Council will request that all non-petitioning property owners be informed by any verifiable means of pendency of District. If after 30 days the total value of property of petitioners minus any objector's valuation remains above 10%, Council shall offer legislation promoting District before the Court. Any property not contacted shall be considered as opposing formation of District for purpose of final total valuation evaluation. 30 days will start when 90% of unsigned properties are verified as to receiving notice. Lack of returned first class postal notice is sufficient proof of delivery to listed tax address. The City shall not be compelled to promote any proposed district of less than \$20,000,000 valuation. Objection may be in writing to Clerk of Council listing parcel numbers.
- (5) The same procedure in (4) shall be used to add an area to district but upon 20% of original District opposing, actions taken to promote before the Court may be rescinded.
- (6) The City shall not deny supporting legislation to District because of area's existing status. The District may wish to exist for the sole purpose to alter or reform policies or practices presently existing as a right guaranteed by the Constitution to so alter.
- (7) A District petitioned for by property owners and incorporated under ORC 6115 shall not be exposed to Charter 4-14 related to 25 year limitation or the setting of rates.

**SECTION TWO:**

The proposed Initiative Ordinance shall be placed before the qualified electors for their approval at the Municipal Election in the City of Green at the November 5, 2013 election.

**SECTION THREE:**

Green City Council requests the following ballot language:

“Shall Green’s Codified Ordinance be amended to permit the abolishment of Municipal Utility Districts created under Ohio Revised Code 6115.69; and further to permit strategic partnerships between Utility Districts existing under Section 6115.69 of the Revised Code and further allowing the creation of Utility Districts upon petition from property owners..”

\_\_\_\_\_ **FOR THE INITIATIVE**                      \_\_\_\_\_ **AGAINST THE INITIATIVE**

**SECTION FOUR:**

The City of Green finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meetings of this Council and any deliberations of this Council 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 FIVE:**

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. It is necessary to immediately

Page 5  
Resolution 2013-R19 (AMENDED APRIL 23, 2013)

pass this Resolution to expedite the proposed Project and promote highway safety. 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: April 23, 2013

Molly Kapeluck  
Molly Kapeluck, Clerk

Dave France  
Dave France, Council President

APPROVED: April 23, 2013

Richard G. Norton  
Richard G. Norton, Mayor

COPIED  
SVCE ZONE PARK ROAD ENG  
LAW FIN MAY PLAN FIRE

ENACTED EFFECTIVE: April 23, 2013

ON ROLL CALL: Colopy -yea France -yea Humphrey -NAY Knodel -yea  
Neugebauer -yea Reed -yea Summerville -NAY Adopted 5-2

Suburbanite publication on April 28 and MAY 5, 2013

Molly Kapeluck  
Molly Kapeluck, Clerk

4/18/2013 Approved as to form and content by Stephen J. Pruneski, Law Director Stephen Pruneski (LS)  
4/18/2013

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