

**ORDINANCE NO. 1 - 2019**

**AN ORDINANCE CREATING THE FRANKFORT/FRANKLIN COUNTY  
ENERGY PROJECT ASSESSMENT DISTRICT (EPAD)**

**WHEREAS**, the Commonwealth of Kentucky, through the adoption of AN ACT relating to energy project assessment districts or EPAD (KRS 65.205-209), has authorized local governments to establish programs to advance the conservation and efficient use of energy and water resources within their jurisdictions, which programs are declared to be a valid exercise of the powers of local government and in the best interest of the people of the Commonwealth, by allowing for energy projects to be financed by assessments imposed upon the real property being improved through energy projects; and

**WHEREAS**, the Franklin County Fiscal Court wishes to adopt and create an ordinance relating to the financing of energy projects; and

**WHEREAS**, the Franklin County Fiscal Court finds that the financing of energy efficiency and water efficiency projects through special assessments (hereinafter referred to as "EPAD" financing) furthers essential County and community purposes, including, but not limited to, economic development, job growth, reduced energy costs, and conservation of water resources; and

**WHEREAS**, to establish the Energy Project Assessment District (EPAD) program, the County is required to adopt an ordinance providing the terms and conditions of the program including the designation of the EPAD, a description of the EPAD boundaries, and the procedure for the property owners located in the EPAD area to petition the County for participation in the program; and

**WHEREAS**, the County hereby states that it intends to use assessments on relevant real property to support private sector energy projects; and

**WHEREAS**, it is in the best interests of the County to adopt and create an ordinance to incorporate the creation of the EPAD in the County.

**NOW THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE  
COUNTY OF FRANKLIN, COMMONWEALTH OF KENTUCKY, AS FOLLOWS:**

## Section 1

### PROGRAM ESTABLISHED; DEFINITIONS; DESIGNATION OF EPAD PROGRAM AREA

- A. The County declares as a public purpose the establishment of an Energy Project Assessment District program so that owners of real property, as defined in KRS 65.205(6), can finance energy saving improvements. The County adopts this program pursuant to the Energy Project Assessment District Act of 2015 ("EPAD Act") (KRS 65.205-209) and further declares that the County intends to use assessments on real property in the EPAD to support private sector energy projects.
- B. Definitions for interpreting this Chapter shall have the same meaning as the definitions set forth in the EPAD Act, KRS 69.205, *et seq.*
- C. The County hereby designates the entire area within the County's jurisdictional boundaries, including any future annexed area, as the EPAD.

### ADMINISTRATION OF THE EPAD PROGRAM

- A. The County shall designate a department, departments, and may also designate a third-party entity to administer the EPAD program through the performance of the following functions.
  - 1. Review petitions to determine if the petitions comply with applicable policies and procedures;
  - 2. Develop proposed energy projects and timelines for completion;
  - 3. Prepare and recommend written agreements between the County and the property owners accepting the energy project pursuant to reasonable terms and conditions established; and
  - 4. Collect and distribute assessments created through the EPAD program.
- B. The County, by and through a designated department, or a designated third-party entity, must develop procedures for property owners of record to petition the County for participation in the EPAD program. At a minimum, such procedures shall require that:
  - 1. Any petition must be signed by all record owners of the property;
  - 2. Any holder of a mortgage lien on the property must give written consent for the assessment and state that the lien holder does not object to the imposition of the EPAD Act assessment and lien; and

3. The record owner of the participating real property shall notify the County upon the completion of the energy project.
- C. In order to be considered for approval, the contents of a petition must include the following:
1. A legal description of the real property that includes a deed book and page number;
  2. The real property's Property Identification Number (PIDN);
  3. The names and addresses of all owners of the real property;
  4. The reference to the statutory assessment lien provided by the state statutes and this Chapter.

### **COLLECTION OF THE ASSESSMENT**

- A. The Sheriff's Office is hereby designated as the Office to collect and distribute any assessment imposed under this Chapter.
- B. Upon the imposition of an assessment, the Sheriff's Office shall add the assessment to the property tax bill for the participating real property.
- C. The Sheriff's Office shall collect any assessment imposed under this Chapter in same manner as the other taxes on the bill and any unpaid assessment shall bear the same interest rate and penalty as other delinquent ad valorem property taxes.
- D. The Sheriff's Office may impose fees not to exceed 1% of the amount assessed per payment, on participating real property to offset the costs of administering the EPAD program, including costs of assessment and collection.
- E. The Sheriff's Office shall collect the assessments annually and make the required payments to the entity financing the energy project.

### **EFFECT OF BONDS OR NOTES**

- A. Any bonds or notes issued under the applicable state statutes or this Chapter and the Act for an EPAD project shall not be general obligations to the County, and its officials or officers shall have no liability to any persons for uncollected EPAD assessments and unpaid EPAD debt.

### **SEVERABILITY AMENDMENTS: CONFLICTING PROVISION**


- A. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such

declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

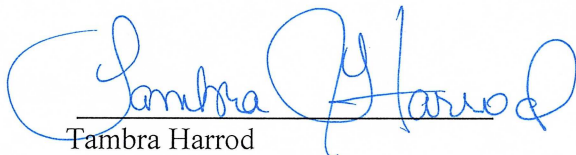
- B. The County may amend the terms and conditions of this Chapter except that no amendment shall be adopted to retroactively change the conditions under which an existing assessment was imposed, unless the owner of record of the affected real property consents to the amendment in writing.

INTRODUCED AND GIVEN FIRST READING IN SUMMARY at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky held on the 21 day of February, 2019.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on 12 day of March, 2019, and of record in Fiscal Court Order Book 29, Page 293.

  
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Huston Wells  
County Judge/Executive

ATTESTED TO:

  
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Tandra Harrod  
Fiscal Court Clerk