

**RESOLUTION NO. 46-2019 (AMENDED)**

**INTRODUCED BY: MAYOR GRAVEN AND COUNCIL AS A WHOLE**

**A RESOLUTION DECLARING THE NECESSITY OF CONTROLLING THE BLIGHT AND DISEASE OF SHADE TREES WITHIN PUBLIC RIGHTS-OF-WAY, AND FOR PLANTING, MAINTAINING, TRIMMING AND REMOVING SHADE TREES IN AND ALONG THE STREETS OF THE CITY OF OLMSTED FALLS; ESTABLISHING A SINGLE DISTRICT FOR THAT PURPOSE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 727.011 OF THE OHIO REVISED CODE; PROVIDING FOR THE ASSESSMENT OF THE COST OF THOSE SERVICES AND DECLARING AN EMERGENCY**

**WHEREAS**, the Shade Tree Commission of the City of Olmsted Falls has recommended to the Mayor and Council a program for controlling the blight and disease of shade trees within public rights-of-way and for planting, maintaining, trimming and removal of shade trees in and along the streets of the City during calendar years 2020 and 2021, in accordance with plans, estimates and schedules therefore, heretofore prepared and now on file in the office of the Clerk of Council; Now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OLMSTED FALLS, CUYAHOGA COUNTY, OHIO THAT:**

**SECTION 1.** It is hereby declared necessary to control the blight and disease of shade trees within public rights-of-way and provide for planting, maintaining, trimming and removing shade trees in and along the streets of the City during calendar years 2020 and 2021. The services to be provided by the City for that control, planting, maintenance, trimming and removal in calendar years 2020 and 2021 are referred to collectively in this Resolution as the "Services". For purposes of providing the Services and assessing their cost, there is hereby created and established a single district known as the "City of Olmsted Falls Forest District" which district shall include all territory within the boundaries of and be co-extensive with the City of Olmsted Falls, pursuant to the provisions of Section 727.011 of the Ohio Revised Code.

**SECTION 2.** The plans, specifications, estimate of cost and schedules for the Services, prepared by the Shade Tree Commission, and on file and available for public inspection in the office of the Clerk of Council, are hereby approved. The specifications and schedules, and the grade of each of the streets, alleys, and public ways serviced and of the Services shall be the existing grade. The Shade Tree Commission is authorized and directed to purchase or rent the necessary tools, machinery and appliances and to purchase the necessary materials and employ the necessary labor to carry out the provision of the Services in accordance with the plans, specifications and schedules.

**SECTION 3.** The Council finds and determines that (i) the Services are conducive to the public health, convenience and welfare of the City and the residents thereof and (ii) the lots and lands to be assessed for the Services as described in Section 4 of this Resolution are specially

benefited by the Services.

**SECTION 4.** The entire cost of the Services, presently estimated at Thirty-Seven Thousand Six Hundred Four Dollars and 63/100 (\$37,604.63) per year, shall be assessed by a percent of the tax value over the property to be assessed upon all lots and lands bounding, abutting or otherwise specially benefited upon each of the streets and public ways within the City of Olmsted Falls Forestry District. Said assessment shall be levied at the rate of 0.18 mills annually.

**SECTION 5.** The cost of the Services shall include the costs of preliminary and other surveys, plans, specifications, profiles, estimates and schedules and of printing, serving, and publishing notices and ordinances, the costs incurred in connection with the preparation, levy and collection of the special assessments, expenses of legal services including obtaining approving legal opinions, costs of labor and material, and interest on bonds and notes issued in anticipation of the levy and collection of the special assessments, together with all other necessary expenditures.

**SECTION 6.** The Director of Finance is authorized and directed to prepare and file in the office of the Clerk of Council the estimated special assessments of the cost of the Services. Those estimated special assessments shall be based upon the estimate of cost of the Services now on file in the office of Olmsted Falls Shade Tree Commission and shall be prepared pursuant to the provisions of this Resolution. When the estimated special assessments have been so filed, the Clerk of Council shall cause notice of the passage of this Resolution and the filing of the estimated special assessments to be given by publishing a notice in a newspaper of general circulation in the City once a week for two consecutive weeks, and by mailing a notice, by certified mail, return receipt requested, to the owner of each property to be assessed more than Two Hundred Fifty Dollars (\$250.00) for the Services.

**SECTION 7.** The special assessments so levied shall be paid in two annual installments (two semi-annual installments each year) with interest on the unpaid principal amount of each special assessment at the same rate as shall be borne by the bonds or notes to be issued in anticipation of the collection of the total of the unpaid assessments; provided that the owner of any property assessed may pay the special assessment in cash within thirty (30) days after the passage of the assessing ordinance.

**SECTION 8.** To provide a fund out of which shall be paid the entire cost of the Service, bonds or notes of the City shall be issued and sold as needed in anticipation of the levy and collection of the special assessments.

**SECTION 9.** The Clerk of Council shall deliver a certified copy of this Resolution to the Cuyahoga County Fiscal Officer within fifteen (15) days after its adoption.

**SECTION 10.** That the Council finds and determines that all formal actions of this Council relating to the adoption of this Resolution have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 11.** This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of Olmsted Falls for the reason that it must be immediately effective to authorize preparation of the program to combat blight and disease of shade trees to be implemented during the 2020 and 2021 growing seasons. It shall therefore take effect immediately upon passage by the affirmative vote of not less than five (5) members elected to Council and approval by the Mayor or otherwise at the earliest time allowed by law.

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*Paul Stibich, Council President*

PASSED: \_\_\_\_\_

APPROVED: \_\_\_\_\_  
*James P. Graven, Mayor*

\_\_\_\_\_  
*Date*

APPROVED AS TO FORM: \_\_\_\_\_  
*Andrew D. Bemer, Director of Law*

ATTEST: \_\_\_\_\_  
*Angela Mancini, Clerk of Council*

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_