

ORDINANCE NO. 48-2021

**INTRODUCED BY: COUNCIL-AT-LARGE JENNIFER JANSEN & COUNCIL
PRO TEMPORE LORI C. JONES**

AN ORDINANCE IMPOSING, RATIFYING, AFFIRMING, DECLARING AND CREATING A SIX (6) MONTH MORATORIUM ON ACCEPTING FOR FILING, CONSIDERATION, REVIEW AND APPROVAL OF ALL NEW CONSTRUCTION APPLICATIONS FOR RESIDENTIAL AND COMMERCIAL DEVELOPMENT IN THE CITY OF OLMSTED FALLS, OHIO AND DECLARING AN EMERGENCY

WHEREAS, the residents of the City of Olmsted Falls in the vicinity of the Western Reserve Estates have experienced recent flooding causing damage to personal and real property during the construction of a new housing development; and

WHEREAS, the residents of the City of Olmsted Falls in the vicinity of the Western Reserve Estates have experienced damage and loss of tree preservation during the construction of a new housing development; and

WHEREAS, members of the Olmsted Falls Shade Tree Commission have expressed their concern and questioned the enforcement of the Shade Tree Commission’s approved tree preservation plans; and

WHEREAS, the Olmsted Falls Law Director stated on September 2, 2021, “...that most of the code has really not been updated in a number of years, and as a result, a number of sections are inconsistent with the established protocols for management of land use projects and developments.”; and

WHEREAS, the Olmsted Falls Shade Tree Commission has NOT been provided any training pertaining to their roles, responsibilities, and authority to make informed decisions that impact the quality of life for the residents of Olmsted Falls,

WHEREAS, the Olmsted Falls Planning & Zoning Commission has NOT been provided any training pertaining to their roles, responsibilities, and authority to make informed decisions that impact the quality of life for the residents of Olmsted Falls,

WHEREAS, the residents of the City of Olmsted Falls have expressed their discontent with the current tax abatement given to new home construction through the application of Ordinance No. 27-2019 (Community Reinvestment Area); and

WHEREAS, the required “Community Reinvestment Area Housing Council” consisting of:

- (2) two members appointed by the City of Olmsted Falls Mayor,
- (2) two members appointed by the City of Olmsted Falls Council,
- (1) one member appointed by the City of Olmsted Falls Planning Commission,

(2) two additional members who shall be residents within the area appointed by the majority of the members, as directed to do so in Ordinance No. 27-2019 has NOT been created; and

WHEREAS, the “Community Reinvestment Area Council” has NOT made annual inspections of the properties within the City for which an exemption has been granted under Section 3735.67 (Applying for exemption from taxation) of the ORC as directed to do so in Ordinance No. 27-2019; and

WHEREAS, the required “Tax Incentive Review Council” consisting of:

- (3) three representatives appointed by the County Executive,
- (2) two representatives of the municipal corporation, appointed by the City of Olmsted Falls Mayor, with Council approval,
- (1) the County Fiscal Officer or designee,
- (1) representative of the Board of Education as declared in Ordinance No. 27-2019 has NOT been created; and

WHEREAS, the “Tax Incentive Review Council” has NOT annually reviewed the compliance of all agreements involving the granting of exemptions for commercial or industrial real property improvements under Section 3735.671 (Written agreement where commercial or industrial property is to be exempted), of the ORC and has NOT made written recommendations to the Council as to continuing, modifying, or terminating said agreement as declared in Ordinance No. 27-2019. Therefore,

- 1) to allow for adequate analysis, review and recommendations regarding the flooding in the City of Olmsted Falls; and;
- 2) to allow for adequate analysis, review, and recommendations regarding the preservation of trees in the City of Olmsted Falls; and;
- 3) to allow for adequate analysis, review and recommendations regarding the inconsistency of the code and protocol for the management of land use projects and developments; and;
- 4) to provide adequate training pertaining their roles, responsibilities, and authority to make informed decisions as members of the Shade Tree Commission; and;
- 5) to provide adequate training pertaining to their roles, responsibilities, and authority to make informed decisions as members of the Planning & Zoning Commission; and;
- 6) to allow for adequate analysis, review and recommendations regarding the Community Reinvestment Area (CRA) Ordinance No. 27-2019; and;
- 7) to allow for adequate analysis, review, and recommendations regarding the approval of CRA applicants PRIOR to the creation of required “Community Reinvestment Housing Council;” and;
- 8) to allow for adequate analysis, review, and recommendations regarding the approval of CRA applicants PRIOR to the creation of required “Tax Incentive Review Council;” and;
- 9) to allow for adequate analysis, review, and recommendations regarding the approval of CRA applicants who did NOT receive the required annual inspection; and;

- 10) to allow for adequate analysis, review, and recommendations regarding the approval of CRA applicants who did NOT receive the required annual review of agreement compliance; and;
- 11) to ensure adequate protections for the health, safety and general welfare of residents and businesses in the City of Olmsted Falls; Now therefore,
- 12) to allow for establishment of the CRA tax abatement oversight Councils (“The Community Reinvestment Council” & the “Tax Incentive Review Council”) to be created, bylaws established, and for the required annual reviews and recommendations by such Councils to be completed as declared in Ordinance No. 27-2019.

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

SECTION 1. The Director of the Building/Service Department is hereby instructed to cease and desist the issuance of any and all permits pertaining to new construction applications for residential and commercial development. NOT to include the expansion, improvement, or remodeling of any EXISTING residential or commercial development.

SECTION 2. The Director of the Building/Service Department is hereby instructed to submit to Council for review and approval the process and tracking of enforcement of tree preservation and management for authorized and permitted residential and commercial construction in line with the Federal, State, and Local law, specifically but not limited to Olmsted Falls local ordinances.

SECTION 3. The Director of the Building/Service Department is hereby instructed to submit to Council for review and approval the process and tracking of code enforcement for all authorized and permitted residential and commercial construction sites in line with the Ohio Environmental Protection Agency, the Federal, State, and Local law, specifically but not limited to Olmsted Falls local ordinances.

SECTION 4. The City Engineer is hereby instructed to submit to Council for review and approval the process and tracking of enforcement of water management for authorized and permitted residential and commercial construction sites in line with the Ohio Environmental Protection Agency, the Federal, State, and Local law, specifically but not limited to Olmsted Falls local ordinances.

SECTION 5. The Housing Officer/Mayor is hereby instructed to cease and desist the approval of any and all Community Reinvestment Area tax abatement applicants, and to provide to Council and the Board of Education a list of all previously approved applicants including the tax abatement dollar amount the applicant has received to date.

SECTION 6. The Law Director is hereby instructed to submit to Council his written legal opinion on the legal authority given to the Housing Officer/Mayor to approve tax abatements PRIOR to the establishment of the “Community Reinvestment Area Council” and the “Tax Incentive Review Council.”

SECTION 7. The Law Director is hereby instructed to submit to Council his written legal opinion on the legal authority given to the Housing Officer/Mayor for the continuance of approved tax abatements WITHOUT annual inspections completed by the “Community Reinvestment Area Council” and WITHOUT the annual review of compliance and written recommendations to Council to continue, modify, or terminate tax abatement agreements by the “Tax Incentive Review Council.”

SECTION 8. The Olmsted Falls Shade Tree Commission shall be provided with detailed information on all City of Olmsted Falls personnel who are responsible for the installation, upkeep, and enforcement of tree management and preservation. The Shade Tree Commission shall also be provided monthly fund balances to include all revenues and expenditures of such funds. The Shade Tree Commission shall also receive detailed instructions on the process of making requisitions of such funds to Council. Training specific to their responsibilities and duties shall also be provided.

SECTION 9. The Olmsted Falls Planning & Zoning Commission shall be provided with detailed information on all City of Olmsted Falls personnel who are responsible for the approval, installation (when applicable), upkeep (when applicable), and code enforcement of all residential and commercial development in the City of Olmsted Falls. The Olmsted Falls Planning & Zoning Commission shall be provided training specific to their responsibilities and duties.

SECTION 10. The timeline shall be as follows:

- 1) Within 60 days from passage of this ordinance,
 - a. the requested documentation from the Building/Service Director, City Engineer, and Housing Officer will be presented in a joint meeting consisting of Council, the Planning & Zoning Commission, and the Shade Tree Commission in both document and oral form.
 - b. IF the required overseeing boards of the CRA have NOT been established the CRA Ordinance No. 27-2019 shall be terminated and abolished.
 - c. the Law Director shall provide to Council his legal opinion of the legal authority of the Housing Officer/Mayor to grant approval to CRA tax abatement PRIOR to the establishments of the “Community Reinvestment Area Council” and the “Tax Incentive Review Council” and WITHOUT the annual reviews and inspections and recommendations to Council.
- 2) Within 90 days from the passage of this ordinance and AFTER the joint Council, Planning & Zoning Commission and Shade Tree Commission meeting,
 - a. Council, the Planning & Zoning Commission, and the Shade Tree Commission shall make in writing any such concerns or suggestions they have in reference the tracking and enforcement methods which were presented to and given to them.
 - b. Council, the Planning & Zoning Commission, and the Shade Tree Commission shall make in writing any such concerns or suggestions

- they have in reference to management protocols in contradiction with code.
- c. IF the required overseeing boards of the CRA have been established, bylaws shall be written and submitted to Council for approval.
 - d. the Building/Service Director and City Engineer shall present to Council the results from all stormwater and sanitary testing shall be presented.
- 3) Within 120 days from the passage of this ordinance,
- a. the Service/Building Director and City Engineer shall present to Council a phased Water Management Action Plan based on the results of the stormwater and sanitary testing results.
- 4) With 150 days from the passage of this ordinance,
- a. IF the “Community Reinvestment Area Housing Council” has been established, it shall make their report of annual inspections of the properties within the City for which an exemption has been granted to Council.
 - b. IF the “Tax Incentive Review Council” has been established, it shall make written recommendations to the Council as to continuing, modifying, or terminating said agreement as declared in Ordinance No. 27-2019.
 - c. the Service/Building Director and City Engineer shall present to Council the written policies and procedures for the tracking and enforcement for building code and tree preservation for approval.
 - d. the Shade Tree Commission shall be registered for or completed training as recommended by the Cuyahoga County Planning Commission and or the Ohio Department of Natural Resources.
 - e. the Planning & Zoning Commission shall be registered for or completed training as recommended by the Cuyahoga County Planning Commission and or the Ohio Department of Development.

SECTION 11. (1) One month before the end of the (6) six month moratorium Council shall decide if the City Administration and Commissions have fulfilled the necessary obligations to effectively and compliantly administer and enforce all issues pertaining to new construction in the City of Olmsted Falls and shall hold a Special Meeting to hear any public comment or concern regarding the expiration or extension of this moratorium.

SECTION 12. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance 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 13. This Ordinance 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. 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.

PASSED: _____
Paul Stibich, Council President

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: _____

	Yea	Nay
Stibich	_____	_____
Jones	_____	_____
Jansen	_____	_____
McFadden	_____	_____
Munteanu	_____	_____
Buchholz	_____	_____
Chitester	_____	_____