

CITY OF NORTH OLMSTED  
ORDINANCE NO. 2008 - 131

BY: Council Member Orlowski

*AN ORDINANCE PROVIDING FOR THE AMENDMENT OF SECTION 1127.04 OF THE ZONING CODE OF THE CITY OF NORTH OLMSTED TO PROVIDE FOR VOTER APPROVAL BY MAJORITY OF ELECTORS WITHIN THE WARD OF ANY ZONING OR REZONING FROM SINGLE FAMILY TO RESIDENTIAL CLUSTER DISTRICT.*

*WHEREAS*, pursuant to Article IV, Sections 1, 11, and 14, of the Charter of the City of North Olmsted, this Council retains all legislative authority and may therefore provide by ordinance for the procedure for the passage of and amendment to any zoning ordinance, and thereby may adopt by ordinance procedure for amendment thereof; and

*WHEREAS*, both the Constitution of the State of Ohio (Article II, Section 1(f)) and the Charter of the City of North Olmsted, Ohio (Article X), respect and reserve the power of the electors, by Initiative and/or Referendum petition, to exercise and/or veto any legislative action that may be undertaken by Council; and

*WHEREAS*, the electors of the City of North Olmsted have, by the adoption of Charter provisions in Article VII, Section 2(e) (Mandatory Referral to Electors) and in Article X, particularly Section 5 (Required Ward Approval), exercised home-rule authority and reserved to the majority of electors in each ward the authority to determine certain zoning issues; and

*WHEREAS*, this Council, upon review of the Director of Law, finds that the amendment of Section 1127.04 to be authorized by the legislative authority vested in Council by Charter, that such amendment is consistent with the reservation of legislative authority by the Initiative and Referendum provisions of Charter, and that said amendment is neither required by nor in conflict with the Mandatory Referral and Ward Approval Sections of the Charter cited above; and

*WHEREAS*, Planning Commission on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by formal motion, recommended that this Ordinance, proposing to amend Section 1127.04 of the Zoning Code of the City of North Olmsted by providing a procedure for ward approval by vote of electors for rezoning of land from Single Residence to Residential Cluster District, be (approved)(disapproved); and

*WHEREAS*, following publication of newspaper notice and notice to the record title holders of real property located within one thousand (1,000) feet of the property proposed to be rezoned, a public hearing was held, in conformance with the provisions of Section 14 of Article IV of the Charter and Section 1127.03 of the Zoning Code, on the \_\_\_\_ day of \_\_\_\_\_, 2008.

*NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH OLMSTED, CUYAHOGA COUNTY, AND STATE OF OHIO:*

*SECTION 1:* That Section 1127.04 (Council Action) of Chapter 1127 (Amendments) of the City of North Olmsted Zoning Code, which presently reads as follows:

1127.04 COUNCIL ACTION.

At any time after the conclusion of the public hearing required by this chapter, Council may adopt the proposed ordinance by the affirmative vote of at least a majority of the members of Council eligible to vote, provided the proposed ordinance was initiated by the Planning and Design Commission or had received the prior approval of the Commission. If the proposed ordinance or any part thereof has been disapproved by the Commission, it shall be adopted only if it receives the affirmative vote of two-thirds of all members of Council eligible to vote.

(Ord. 90-125. Passed 5-21-91.)

**BE AMENDED, AND, AS AMENDED, READ HEREAFTER IN ITS ENTIRETY AS FOLLOWS:**

1127.04 COUNCIL ACTION; WARD APPROVAL.

(a) Council Action. Subject to subsection (b), At any time after the conclusion of the public hearing required by this chapter, Council may adopt the proposed ordinance by the affirmative vote of at least a majority of the members of Council eligible to vote, provided the proposed ordinance was initiated by the Planning and Design Commission or had received the prior approval of the Commission. If the proposed ordinance or any part thereof has been disapproved by the Commission, it shall be adopted only if it receives the affirmative vote of two-thirds of all members of Council eligible to vote.

(b) Ward Approval. Any proposal to zone or rezone property by amendment of the Zone Map from Single Family Residential District to Residential Cluster District shall be, prior to legislative adoption by Council, subject to approval by a majority vote of the electors in the ward or wards in which any part of the parcel or parcels is located.

Any such Residential Cluster District shall be submitted to the electorate at the next general election occurring more than 90 days after the application date of the proposal or at a special election as provided herein. A proponent, other than a

municipality, may request a special election to be held within ninety (90) days and Council shall so submit the legislative proposal to the electorate, but only after the applicant agrees to assume all costs of the special election including advertising, and further deposits said costs with the Director of Finance of the City of North Olmsted.

Notice of the election for the requested land use change shall be published in at least two (2) newspapers of general circulation three (3) separate times prior to the election. The first notice shall appear not less than five (5) weeks prior to said election and the last at least ten (10) days prior to said election. Approval by a majority of the electors voting thereon is mandatory for the zoning or rezoning to be passed and for adoption legislation by Council accordingly.

*SECTION 2:* That the Clerk of Council be and she is hereby directed to cause notice of a Public Hearing hereon to be given pursuant to the provisions of Section 14 of Article IV of the Charter of the City of North Olmsted and Section 1127.03 of the North Olmsted Zoning Code.

*SECTION 3:* That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

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

First Reading: 10/7/08

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

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

Committee: BZS

ATTEST:

\_\_\_\_\_  
BARBARA L. SEMAN  
Clerk of Council

\_\_\_\_\_  
KEVIN M. KENNEDY  
President of Council

APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
MAYOR THOMAS E. O'GRADY

s/James M. Dubelko  
JAMES M. DUBELKO  
Director of Law