

NEWTON FALLS CITY COUNCIL

CAUCUS/SPECIAL AGENDA

MONDAY, NOVEMBER 15, 2021

5:00 P.M.

612 West Broad Street

CITY COUNCIL MEMBERS

Adam Zimmermann, Ward 1

John Baryak, Ward 2

Tesa Spletzer, Ward 3

Christopher Granchie, Ward 4

, At-Large

MAYOR

Kenneth A. Kline

CITY MANAGER

Interim Pamela Priddy

LAW DIRECTOR

Interim Alfred Schrader

CITY CLERK

Kathleen M. King

1. Call to Order

2. Roll Call

3. Unfinished Business

4. New Business

1. Sidewalk Program

2. Contractor Registration

5. Adjourn

SPONSOR: Baryak

ORDINANCE 2021- 23

**AN ORDINANCE ESTABLISHING SIDEWALK DISTRICTS AND ASSESSMENT
PROCEDURE WITHIN THE CITY OF NEWTON FALLS.**

WHEREAS, City Council desires sidewalks within the entire City for public use; and

WHEREAS, City Council acknowledges that safe sidewalks provide for the health, safety and welfare of the entire community; and

WHEREAS, City Council wants to provide an opportunity to decrease the expense of sidewalk costs to property owners by creating sidewalk districts and seeking lower costs through one or more construction provider; and

WHEREAS, City Council wants to create an assessment method to assure property owner payment of cost of sidewalk creation or repairs.

THE COUNCIL OF THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY
ORDAINS:

SECTION I: Newton Falls City Council hereby adopts the following requirements to create Sidewalk District(s) and Assessments methods within the City of Newton Falls as attached as "Exhibit A."

SECTION II: Any ordinance or parts of ordinances in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2021.

Mayor Kenneth Kline

ATTEST: _____
Clerk of Council/City Clerk

EXHIBIT A
Ordinance 2021-23

907.01 DISTRICTS ESTABLISHED; COST ASSESSMENT.

When, in the opinion of City Council, the repair or replacement of sidewalks on any streets, lanes or public roadways, or parts thereof, will be of general benefit within the City, Council may, by resolution, declare such street, lane or public roadway, or the territory including such street, lane or public roadway, or part thereof, or intersecting or connecting streets, lanes or public roadways, or parts thereof, or all such streets, lanes or public roadways within the City, a district or districts within which sidewalk abutting on such streets, lanes or public roadways or part thereof shall be repaired or replaced within a period named in the resolution not to exceed one year. Such portion of the cost thereof as is deemed just by City Council shall be assessed by the abutting foot on the property abutting the street, lanes or public roadways so improved in such district and the remainder of such cost shall be paid by the City.

907.02 PROPERTY OWNERS' PETITION.

Upon written petition signed by the owners of a majority of the abutting feet of property on a street, lane or public roadway, or part thereof, or of connecting or intersecting streets, lanes or public roadways, or parts thereof, presented to Council praying that sidewalks be repaired or replaced on the streets, lanes or public roadways within the territory described, and for the assessment of the whole or any designated portion of the cost thereof on the property abutting such streets, lanes or public roadways, City Council may, by resolution, declare such territory a district within which sidewalk shall be repaired or replaced abutting on such streets, lanes or public roadways within the period named in the petition, not to exceed one year, and the cost thereof shall be assessed by the abutting foot upon the property abutting the streets, lanes or public roadways so improved.

907.03 NOTICE OF ASSESSMENT OF PROPERTY.

When a portion of the cost of the repair or replacement of sidewalks abutting on streets, lanes or public roadways under Section 907.01 or Section 907.02 is to be assessed against private property, notice to the owners thereof shall be given by publishing, once each week for two weeks in a newspaper published and of general circulation in the Village, the resolution establishing a sidewalk repair or replacement district and setting forth the portion of the cost to be assessed.

907.04 APPEALS.

If an owner objects to an assessment, he shall file his objections in writing with the Clerk of Council within ten days after the last publication of the resolution as provided in Section

907.03. Thereupon, City Council shall consider such objections and if they are found to be well taken, may remit such portion of the assessment against the property of the objecting owner as deemed just or may determine by resolution that a portion or portions of the work described in the resolution adopted pursuant to Section 907.01 or 907.02 shall not be done. Any deficiency arising from such remitter may be made up from any fund of the City available for the public improvement of streets or by contributions from the owners desiring that the work be done.

907.05 PROCEEDING WITH REPAIR OR REPLACEMENT.

After the expiration of the time within which objections may be filed under Section 907.04 and the disposition of objections, the City may proceed with the work described in Sections 907.01 or 907.02, or if proceeding by contract, the legislative authority shall authorize the City Clerk to advertise and take bids for the awarding of the necessary contracts, subject to any determination by City Council that a portion of such work shall not be done pursuant to Section 907.04.

907.06 COLLECTION OF ASSESSMENTS.

When any portion of the cost of work done under this chapter is to be assessed, City Council shall, after the completion of such work, adopt an ordinance levying an assessment by the abutting foot on the property abutting the streets, lanes and public roadways so improved in the district to pay such portion of the cost as was determined in the resolution of necessity. The assessment for the cost thereof may be payable in full within thirty days from the levy thereof in the office of the Director of Finance. All assessments remaining unpaid at the expiration of such thirty days shall be certified by the Director of Finance to the County Fiscal Officer, to be placed upon the tax duplicate and collected in the number of annual installments established by City Council in the assessment ordinance, not exceeding ten.

907.07 CERTIFICATION OF RESOLUTION.

A copy of the resolution shall be certified to the County Auditor by the Clerk of Council within twenty days of its passage.

907.08 PUBLIC SIDEWALK REPAIR, REPLACEMENT AND CONSTRUCTION.

(a) Upon the enactment of this section, periodically thereafter, or when conditions warrant immediate action, the City may require the owner of any property to repair and/or replace existing public sidewalks which meet or qualify under the following, and City Council from time to time may provide for a program of assessment in accord with the following:

- (1) Any block which has multiple cracks; or any block which has any single crack which is irregular, has raveled edges or is wider than ½ inch (indicating movement), or has opened up so that part of the block has settled.
- (2) Adjoining sections of block, or portion thereof, whose edges differ vertically by 5/8 inch or more.
- (3) Blocks having depressions that impound water to a depth of ½ inch or more.

- (4) Any block with disintegrated, deteriorated, shattered or severely spalled areas or missing pieces or missing particles of aggregate.
- (5) Blocks pushed up due to tree roots that cause an abrupt change in the longitudinal grade of the sidewalk.
- (6) Any foreign material such as asphalt concrete covering that changes the contour of the existing sidewalk to be in need of replacement or repair as deemed necessary by the Code Enforcement Officer.
- (7) Trees, bushes or shrubs that overhang the sidewalk. Tree limbs should be trimmed to at least ten feet above the sidewalk. Bushes or shrubs should be trimmed so as not to overhang the sidewalk even after a rain.
- (8) Any block which the Code Enforcement Officer determines to be in need of replacement or repair regardless of whether it has any of the characteristics set forth in subparagraphs (1) through (7).
- (9) The above specifications are determined to be that point from which public sidewalks should remain in sufficiently good repair over a period of years, before the next repair or replacement is initiated, given usual deterioration over time. Such specifications are not an expression of standards for the determination of a public nuisance, and are not an expression of any assumed duty by the City of Newton Falls.

(b) The following specifications shall apply to both existing sidewalks under subsection (a) above and new construction:

- (1) All sidewalks within the City shall be laid on a grade rising $\frac{1}{2}$ inch to the foot from the established curb grade line to the street line, unless an exception is granted by the Code Enforcement Officer.
- (2) The minimum width of all sidewalks constructed within the City shall be four feet. The Code Enforcement Officer may increase the minimum width of sidewalk construction at his discretion.
- (3) All sidewalks shall be constructed or repaired with Portland cement concrete, unless an exception is granted by the Code Enforcement Officer.
- (4) The above specifications are determined to be that point from which public sidewalks should remain in sufficiently good repair over a period of years, before the next repair or replacement is initiated, given usual deterioration over time. Such specifications are not an expression of standards for the determination of a public nuisance, and are not an expression of any assumed duty by the City of Newton Falls.

(c) In the event any owner fails, within a reasonable time, to repair or replace the sidewalk as ordered by the Code Enforcement Officer, then the City may undertake the repair or replacement of the sidewalk and subsequently file a lien against the property for the cost thereof with the County Recorder.

907.09 SIDEWALK REMOVAL.

(a) The owner of a premises upon which a public sidewalk is situated may petition the City Council for removal of such sidewalk. City Council may approve such removal based upon the following:

- (1) The existing sidewalk is not contiguous to any other existing sidewalk.

- (2) The existing sidewalk is not on a through street.
- (3) The existing sidewalk is not incorporated in a City plan for the location of present and future sidewalks adopted by City Council.

(b) If approved by Council, all costs associated with removal and restoration shall be the responsibility of the owner of the premises. Such owner shall obtain a right-of-way permit from the Code Enforcement Officer before such work commences.

SPONSOR: Mayor Kline

ORDINANCE 2021- 22

**AN ORDINANCE REQUIRING THE REGISTRATION OF CONTRACTORS
OPERATING WITHIN THE CITY OF NEWTON FALLS.**

WHEREAS, Numerous persons and groups of persons provide services, labor, services and material and/or labor and materials as contractors within the City of Newton Falls; and

WHEREAS, City Council desires to regulate such contractors for the protection of the residents of the City, and both public and private property within the City.

THE COUNCIL OF THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY
ORDAINS:

SECTION 1: Newton Falls City Council hereby adopts the following requirements for contractors working within the City of Newton Falls as attached as "Exhibit A."

SECTION II: Any ordinance or parts of ordinances in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2021.

Mayor Kenneth Kline

ATTEST: _____
Clerk of Council/City Clerk

EXHIBIT A
Ordinance 2021-22

CONTRACTOR REGISTRATION

DEFINITIONS.

For the purposes of this chapter, certain words are defined as follows:

- (a) "Contractor" means any person, firm, or corporation contracting to supply and perform work or labor for another person, firm or corporation for a stipulated sum of money.
- (b) "Sub-contractor" means any person, firm, or corporation assuming by secondary contract some or all of the obligations of an original contractor.
- (c) "City" means the City of Newton Falls, Ohio.
- (d) "Building Inspector" means the Zoning Compliance Officer of the City.

LICENSE REQUIRED.

No person, firm or corporation, either as contractor or sub-contractor, shall construct, alter, remove, demolish, or commence the construction, alteration, removal or demolition of any building or structure or shall install any equipment for the operation of a building or structure without first filing with the Building Inspector, an application in writing and obtaining a formal license in conformity with this chapter. An exception to this license requirement shall be a homeowner and/or a landlord performing their own labor on property owned and/or occupied by said owner. **Handyman type sole proprietor, having zero employees.**

EXCEPTIONS

Exceptions from registration shall be as follows:

- (a) Home Owners. No provision of this chapter shall be construed to require that a fee simple owner of a parcel(s) of real estate be registered, who personally will perform work or assist in the performance of work upon the real estate. Real estate owners shall be required to obtain all necessary permits. Such work shall be performed in accordance with the Building Code and according to plans and specifications filed with the application for a permit.

(b) Government Agencies, Public Utilities, Private Organizations. Provisions of registration shall not apply to Federal, State, County or Municipal governmental agencies, public utilities furnishing services to the City under Municipal-utility franchise agreements or to industrial, commercial or institutional organizations. A maintenance department, doing work within the provisions of the Building Code, is provided for except that should work covered by the Building Code be contracted to outside concerns, then such contractors shall be registered with the City as provided herein.

(c) Minors. No provision of this chapter shall be construed to require a minor to be registered.

(d) ~~Handyman type sole proprietor, having zero employees.~~

REGISTRATION PERIOD.

(a) Term. All registration certificates shall expire one year from the date on which the certificate was issued.

(b) Initial Application. Initial application for registration may be made at any time during regular business hours by applying with the City Building Official and providing such information as required by Section _____.

APPLICATION AND ISSUANCE; FEE; CERTIFICATION.

No person, firm or corporation, either as a contractor or sub-contractor shall perform any of the services set forth in Section 2 above without first obtaining a license from the Building Inspector to perform such work within the City.

No license shall be issued by the Building Inspector until the contractor or sub-contractor has first submitted the following requirements:

(a) Payment of a fee in the amount of one hundred dollars (\$100.00) the first year, which year shall commence on the day the license is issued, then renewed upon payment of fee in the amount of fifty dollars (\$50.00) for subsequent years

(b) Certification from the City Income Tax Department that such person, firm or corporation, either as contractor or sub-contractor, is registered with such department, including its partners, employees, agents or servants of such contractor or subcontractor performing work or labor within the City;

(c) Proof of liability insurance by certificate of insurance in an amount not less than one hundred thousand and no/100 dollars (\$100,000) per occurrence. In the event the insurance policy expires prior to the expiration date of the license, the contractor or sub-contractor, must guarantee and acknowledge in writing that he

will maintain said liability insurance coverage for the full term of the license (i.e. one year). Any lapse in liability insurance coverage will result in an automatic revocation of license.

(d) Upon the request of the issuance of a license, it is required that proof of Worker's Compensation for the applicant's employees be provided before the issuance of the license

SUSPENSION OF REVOCATION OF REGISTRATION.

(a) Registration may be suspended by the Building Inspector or his designee(s) for any of the following reasons:

- (1) Violation of any provision of this chapter or any part of the Building Code;
- (2) Misrepresentation of material fact in order to become registered, or in the removal of registration;
- (3) Failure to secure permits, inspections and approvals required by the Building Code;
- (4) Use of registration to obtain a permit for another;
- (5) Failure or refusal to correct a violation of the Building Code within a prescribed period of time or to correct incompetent work as ordered by the City Building Inspector or their designee(s);
- (6) For any other reason that is determined to be adverse to the health, safety and welfare of the residents of the City;
- (7) Repeated and continued violations of the Building Code; or
- (8) Failure to maintain coverage under the Ohio Worker's Compensation Laws.
- (9) Failure to comply with the City of Newton Falls Income Tax Laws.
- (10) Failure to maintain the Liability Insurance as herein required.

(b) Notice of suspension shall be by written notice to the contractor and shall state the grounds upon which the findings are based. The notice shall specify a reasonable period of time within which to remedy the findings. If the contractor fails to remedy the findings, the Building Inspector or their designee(s) shall proceed with a stop work order and revocation of the Registration subject to the appeal procedure set forth by the Board of Zoning Appeals in §1159.04 of the City of Newton Falls, Ohio Zoning Regulations, as upon an Administrative Appeal.

PENALTY.

(a) Failure to Register. Failure to register with the City Building Official as set forth in this chapter shall result in termination of all work on the project or projects under violation and/or an assessment amounting to double the cost of the registration fee for each offense. A separate offense shall be deemed committed on

each day during or on which a violation occurs or continues until such registration is completed.

(b) Failure to Maintain Minimum Requirements. Failure to maintain the minimum registration requirements of this chapter shall result in termination of all work on the project or projects under violation and/or a fine of ~~fifty dollars (\$50.00)~~ **Two Hundred Fifty Dollars (\$25.00)** for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues until proof of such requirements are presented.