

Greenspace overlay FAQs

What is Issue 31?

Issue 31 is an effort by a petitioner to block property owners from exercising their legal rights to use their property in the way that the City's Building Code allows. More specifically, it is an effort to limit one family's desire to build their home on land they have owned for almost a decade.

Issue 31 disingenuously suggests it is "saving the greenspace", but that is simply not true:

- First, the parcel this owner wishes to build on has never been within the greenspace.
- Second, the proposed ordinance actually repeals the existing greenspace.
- And third, this proposed ordinance exposes the city to costly lawsuits, and all residents would end up bearing that cost.

Issue 31 is not about lot splits or the size of someone's house. Issue 31 simply deprives a taxpaying homeowner from doing what the city's Planning Commission, Board of Zoning Appeals, and Building Department have all stated the owner is authorized by city Code to do.

What is the Goodale greenspace overlay?

In 1989, the city increased the front-yard setbacks for certain properties along Goodale to preserve a green swath on both sides of the road. A setback just means the minimum distance that a building or structure must be set back from a street or road. The only way to get an adjustment from that minimum requirement is to petition the Board of Zoning Appeals for a variance, which would only be granted if certain criteria are met.

In creating this overlay district, Council defined this area as "all lots fronting on the north side of Goodale Boulevard between the center line of Broadview Avenue on the east and the center line of Wyandotte Road on the west and all lots on the south side of Goodale Boulevard from Grandview Avenue on the east and the City limits on the west". *All the affected properties were privately owned.* Council increased the front-yard setback requirement to 100 feet, but anticipated that affected owners could request up to a 25-foot variance, meaning that someone could have legally built as close as 75 feet from Goodale if the maximum variance had been requested and granted.

At that time, the overlay was supported by several, but not all, affected property owners. One owner sued the city because the overlay significantly restricted his buildable area. He alleged this new law deprived him of the right to use his land without due process (the right to be heard) or just compensation. Short of a verdict against the city, Council agreed to pay him almost three times what he paid for the parcel. That land, which runs 132 feet north of Goodale, is the only publicly owned parcel on the *north* side of Goodale.

In 1998, Council amended the overlay ordinance to remove the suggested maximum variance and the balance of the ordinance remains in effect ([Codified Ordinance 1151.04](#)), still maintaining the green swath on both sides of Goodale.

The property of the family on Elmwood hill that has been granted the right to build on their newly split lot has never been within the greenspace overlay. The plans approved by the Board of Zoning Appeals require them to build 147 feet from Goodale, 47 feet *beyond* the greenspace requirement. They have not requested – nor do they need -- any variance.

What's wrong with wanting to preserve greenspace?

The city will not lose green space if this measure fails. The Goodale greenspace overlay is not in jeopardy. At no time has the city discussed reducing or repealing the Goodale greenspace overlay. And no owner on Goodale has indicated to the city any desire to sell or to subdivide their land. The owners take pride in maintaining the natural beauty of the hillside. By contrast, the proposed ordinance would

repeal the existing 100-foot front-yard setback, to replace it with a 200-foot no-build zone. Setbacks and no-build prohibitions are not the same thing!!!

If passed, this proposed ordinance would restrict the use of private property without owner consent.

One-third of the owners in the overlay oppose the no-build zone being proposed for the land they have owned and paid taxes on for years.

Grandview isn't *that* place where neighbors "take" property from neighbors by circulating a petition. We have democratic processes that ensure the opportunity to be heard, and to have respectful dialog. We have public meetings where people who object to laws can come in and try to get them changed. The homeowners did not get a chance to be heard in opposition to this proposed ordinance. Nor has petitioner offered to purchase the land her proposed ordinance would deprive them of using.

Will the city lose green space if Issue 31 passes?

Yes. Ironically, Issue 31 would **reduce** the current greenspace by removing all property south of Goodale and several lots between Broadview and Urlin. In addition, the petitioner proposes to carve out exceptions for 1050 Lincoln Road and for the Stonegate subdivision, reducing the 200-foot no-build zone for those properties to 55 feet and 150 feet, respectively; however, the petitioner is unwilling to allow the family on Elmwood hill to build 147 feet from Goodale.

This map shows the existing greenspace in green, and the Issue 31 no-build-zone proposal in red.



What is a "taking", and why is this my problem?

Depriving a homeowner of the legal right to use his or her land in the way the Building code allows, without an opportunity to be heard at a public hearing and without just compensation, is called a taking. The city could be sued by any affected homeowner, exposing it to legal and financial risk. The money spent on litigation, verdicts, or even settlements is money that would otherwise be available to the city for important needs that can serve all residents.

If passed, this initiative petition would restrict the use of private property without owner consent.

But I thought residents were allowed to initiate laws through a petition.

The Ohio Constitution and the City's Charter grant citizens the right to initiate legislative actions that Council would be authorized to enact. However, this proposed measure goes **beyond** what the Constitution and Charter allow Council to do. Specifically, Ohio law and the City's Codified Ordinances expressly require all zoning or rezoning changes to first be referred to and considered by the Planning Commission in a public hearing, and to then have the Planning Commission's recommendations be acted upon by Council in another public hearing. This proposed ordinance bypasses several steps, and deprives residents and affected homeowners of the legal requirement to obtain input from the Planning Commission and the public. In other words, the proposed ordinance does something that Council is **not** authorized by law to do.

Petitioner claims the city has wasted money fighting this proposed ordinance.

The city must interpret its laws fairly and be a good steward of the public's trust. The city had a legal obligation not to place an unlawful measure before voters. Indeed, the petitioner's unlawful efforts and countless public records requests have cost the city thousands of dollars, needlessly.

Voting YES on Issue 31 is a vote to repeal the existing greenspace overlay north and south of Goodale and to replace it with a 200-foot no-build zone, thus violating the legal rights of affected property owners.

Voting NO defeats the proposed ordinance, preserves the city's Goodale greenspace overlay, and ensures that property owners will be treated fairly when their applications to build conform to city laws.