

# CITY OF CLAYTON, OHIO

## RESOLUTIONS AND ORDINANCES

November 17, 2016

### OLD BUSINESS

### ORDINANCES (SECOND OF TWO READINGS AND ENACTMENT)

#### ORDINANCE NO. O – 09 – 16 – 20

#### AN ORDINANCE AMENDING CLAYTON CODIFIED ORDINANCE SECTION 1124.03 ENTITLED, “AGRICULTURE” AND CLAYTON CODIFIED ORDINANCE SECTION 1187.17 ENTITLED, “AGRICULTURAL USES IN RESIDENTIAL DISTRICTS”

**WHEREAS**, City staff has reviewed Clayton Codified Ordinance Sections 1124.03 and 1187.17 relative to agricultural uses in residential areas within the City and has recommended amendment thereto in order to better preserve and protect the public health, safety, and welfare; and

**WHEREAS**, the Clayton Planning Commission held public meetings on the present Ordinance on September 26, 2016 and October 27, 2016 and ultimately recommended approval of same; and

**WHEREAS**, Clayton City Council held a public hearing on the present Ordinance on November 17, 2016.

#### **NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That Sections 1124.03 and 1187.17 of the Clayton Codified Ordinances are hereby amended to read as follows (additions are in **bold** and deletions are in ~~strikethrough~~):

#### 1124.03 AGRICULTURE

(a) ~~—Agriculture is the use of land for agriculture purposes, including farming of crops, ranching, raising, breeding and caring for farm animals, horticulture, floriculture, viticulture, and the necessary accessory uses for packing, treating, or storing the produce; however, the operation of any such accessory uses shall be secondary to the that of normal agricultural activities.~~

- (a) **“Agriculture Uses” includes farming; ranching; algaculture meaning the farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits,**

vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

(1) **Farm Animal (Large):** Any domestic species of cattle, sheep, swine, goats, llamas or horses, which are normally and have historically, been kept and raised on farms in the United States, and used or intended for use as food or fiber, for improving the quality of food or fiber, or for transportation.

(2) **Farm Animal (Small):** Any domestic species of poultry, rabbits, mink or chinchilla which are normally and have historically, been kept and raised on farms in the United States, and used or intended for use as food or fiber, for improving the quality of food or fiber, or for transportation.

(b) “Industrial Agricultural” (also referred to as “Factory Farming”) means the use of land for the confined or concentrated raising, breeding and caring for farm animals in excess of 250 animals and/or placement on land of animal waste holding lagoons.

#### 1187.17 AGRICULTURAL USES IN RESIDENTIAL DISTRICTS.

~~(a) — Agricultural uses in Residential Districts on lots of 2 acres or more require Board of Zoning Appeals approval as a Conditional Use. In making its decision the BZA will consider the following:~~

- ~~\_\_\_\_\_ (1) — The number and type of animal(s) proposed for the lot and fencing.~~
- ~~\_\_\_\_\_ (2) — The proximity of the barn or stable to other residential structures in the area.~~
- ~~\_\_\_\_\_ (3) — The impact of the agricultural use on future development in the area.~~
- ~~\_\_\_\_\_ (4) — The number of residential lots less than 5 acres in size that abut the \_\_\_\_\_ property.~~
- ~~\_\_\_\_\_ (5) — Existing agricultural uses in the immediate area (within 500 feet) of the \_\_\_\_\_ property requesting the agricultural use.~~
- ~~\_\_\_\_\_ (6) — The Board may also take into consideration and proscribe such items such as:  
\_\_\_\_\_ A. Size of the structures;  
\_\_\_\_\_ B. Location of the structures on the property;  
\_\_\_\_\_ C. Location of feeding areas and barnyard pens;  
\_\_\_\_\_ D. Written governmental documentation of any potential \_\_\_\_\_ contamination problems.~~

~~(b) — Agricultural uses are not permitted on lots containing less than two (2) acres in \_\_\_\_\_ size. Gardens are considered an accessory use in residential districts in the appropriate location on the property, typically not in the required front yard.~~

**(a) Agricultural uses, Farm Animal (Large), shall be permitted on lots of 5 acres or more.**

**(b) Agricultural uses, Farm Animal (Small), shall be permitted on lots of 2 acres or more.**

**(c) Agricultural uses in Residential Districts (R-1, R-2, R-3, UR-1, UR-2) on lots less than 2 acres shall be required to obtain a Zoning Certificate issued by the Development Department prior to acquiring Farm Animal (Small).**

**(1) If the Zoning Certificate is issued, the applicant has 30 days from the date of issuance of the Zoning Certificate to complete the following:**

**A. Farm Animal (Small) shall be on property and all pens constructed and in place;**

**B. Staff shall inspect property and issue a Certificate of Completion if all standards specified herein are met. A Certificate of Completion shall be valid for a period of one year from date of issuance and is subject to annual renewal requirements herein.**

**(2) The property will be inspected on an annual basis for continued compliance and if in compliance, a Renewal Certificate of Completion will be issued. If the property is not in compliance, then it must be brought into compliance within the time frame specified by the Code Enforcement Officer in order to obtain a Renewal Certificate of Completion.**

**(d) In making its decision on issuance of a Zoning Certificate, Certificate of Completion, or Renewal Certificate of Completion, the Development Department will consider the following:**

**(1) No more than one Farm Animal (Small) shall be kept on a parcel of land for each 100 square feet of enclosed pen/yard; maximum six Farm Animal (Small) total; with the exception of babies, which may be kept for up to 90 days;**

**(2) Farm Animal (Small) shall be kept in a coop, enclosed exterior pen/yard or other similar enclosure situated no closer than 15 feet from side and rear property line. Owner shall be responsible for providing proof of location of property line and 15 foot distance and a survey may be required.**

**(3) All coops, exterior pens/yards, stored feed and manure shall be placed in rear yard only;**

- (4) Farm Animal (Small) shall be confined to coop, enclosed exterior pen/yard or similar enclosure at all times; animals shall not be allowed to freely pasture on the property;**
  - (5) Farm Animal (Small) shall be provided with enclosed house or coop, properly ventilated; minimum two square feet per animal;**
  - (6) Wings shall be clipped;**
  - (7) Coops and enclosed exterior pens/yards shall be kept clean, dry, free of odor, and free of accumulated manure;**
  - (8) Stored feed and manure shall be kept in an air-tight container with sealable lid and situated no closer than 15 feet from side or rear property line;**
  - (9) Farm Animal (Small) shall not be butchered or processed within public or neighboring view;**
  - (10) No person shall own, keep, or harbor a rooster;**
  - (11) No person shall sell products produced by said Farm Animal (Small) from residential property;**
  - (12) Accessory structures shall be no larger than 200 square feet and comply with 1187.15 Accessory Use Standards;**
  - (13) Fencing shall be a minimum of five (5) feet in height and shall comply with 1187.04 Fences, Walls and Hedges;**
  - (14) Coop, exterior pen/yard and fencing shall be maintained in compliance with Chapter 1313 Residential Exterior Property Maintenance Standards; and**
  - (15) Farm Animal (Small) shall be kept in compliance with all applicable provisions of Clayton Codified Ordinance Section 505.**
- (e) Gardens are considered an accessory use in residential districts in the appropriate location on the property, not in the required front yard.**
- (f) Agricultural uses are not permitted in O-R, O-S, GB, HS or O-I zoning districts.**
- 
-

2. That pursuant to Charter Section 4.07 (B), this Ordinance is hereby referred to the Planning Commission and within fifteen days after completion of any public hearing as may be required by ordinance, the Planning Commission shall return to the Clerk of Council the written recommendations of a majority of the members of the Commission.
3. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
4. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on September 1, 2016 and November 17, 2016.
5. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON NOVEMBER 17, 2016

---

## **NEW BUSINESS**

### **RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)**

#### **RESOLUTION NO. R – 11 – 16 – 93**

##### **A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL POLICE MUTUAL AID AGREEMENT**

**WHEREAS**, the City of Clayton has the ability to enter into a Police Mutual Aid Agreement, copy appended hereto, whereby the participating political subdivisions agree to provide mutual aid to other participating police departments pursuant to the terms of the attached Mutual Aid Agreement; and

**WHEREAS**, the City of Clayton Police Department desires to participate in the Mutual Aid Agreement appended hereto.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the Council hereby authorizes the City Manager to enter into the Police Mutual Aid Agreement attached hereto.

ADOPTED BY COUNCIL ON NOVEMBER 17, 2016

---

**RESOLUTION NO. R – 11 – 16 – 94**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE JOHN R. JURGENSEN COMPANY FOR MILL AND FILL PAVING OF A THREE MILE PORTION OF WESTBROOK ROAD FROM UNION ROAD TO DIAMOND MILL ROAD AND AT A TOTAL PROJECT COST NOT TO EXCEED \$382,292.00 AND AT A TOTAL COST TO THE CITY OF CLAYTON NOT TO EXCEED \$65,515.00**

**WHEREAS**, via enactment of Clayton Resolution No. R-10-15-69, on October 1, 2015, Council authorized the City Manager to submit a joint application with the City of Trotwood, Ohio to the MVRPC for possible funding assistance for an STP grant to be used to repave a specified three mile section of Westbrook Road for state fiscal year 2017; and

**WHEREAS**, the STP grant referenced above was awarded for the above identified project and the City of Clayton, via enactment of Clayton Resolution No. R-10-15-69 pledged \$83,000.00 for necessary matching grant funds for said project and the City of Trotwood, via enactment of Trotwood Resolution No. R15-86 on November 2, 2015 pledged \$60,000.00 for necessary matching grant funds for said project; and

**WHEREAS**, in accordance with the provisions of Charter Section 8.02, bids were solicited for the mill and fill paving of a specified three mile section of Westbrook Road from Union Road to Diamond Mill Road ( “Westbrook Road Resurfacing Project”); and

**WHEREAS**, said bids have been received and reviewed and the City Manager and City staff have recommended for acceptance the bid received from John R. Jurgensen Company as being the lowest and best bid submitted by a responsible bidder; and therefore City staff recommends accepting said bid in accordance with the terms of the request for bids.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:**

1. That the City Manager is hereby authorized to enter into an agreement with John R. Jurgensen Company to complete the mill and fill paving of a specified three mile section of Westbrook Road from Union Road to Diamond Mill Road ( “Westbrook Road Resurfacing Project”), with the total cost of said repaving not to exceed \$382,292.00 and with a total cost to the City of Clayton for its portion of the paving project not to exceed \$65,515.00.

**THE FOLLOWING RESOLUTION WAS TABLED:**

**RESOLUTION NO. R – 11 – 16 – 95**

**A RESOLUTION TO AUTHORIZE AND APPROVE THE 2017 BUDGET AND  
PERMANENT APPROPRIATIONS**

**WHEREAS**, during the operation of the City of Clayton certain expenditures are required to provide required governmental services; and

**WHEREAS**, the expenditures must be in accordance with requirements provided by applicable state law and be applied against certain designated City funds; and

**WHEREAS**, certain transfers of moneys within and between specified City funds may be required to comply with accounting requirements established by the office of the State Auditor of Ohio; and

**WHEREAS**, certain appropriations are necessary to authorize payment from certain funds; and

**WHEREAS**, the City Manager and Finance Director have prepared and presented the 2017 Budget and Permanent Appropriations for the City of Clayton.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
CLAYTON, STATE OF OHIO:**

1. That the 2017 Budget appended hereto and made a part hereof is hereby authorized and approved.
2. The following appropriations by fund and appended hereto and made a part hereof are hereby authorized and approved for 2017: **TO BE SUPPLEMENTED**
3. That the Finance Director is hereby authorized, empowered and directed to take all action necessary to effect such appropriations and evidence same on the books and financial record of the City.

ADOPTED BY COUNCIL ON NOVEMBER 17, 2016

---