

CITY OF CLAYTON, OHIO

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RESOLUTIONS AND ORDINANCES

April 20, 2017

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OLD BUSINESS

ORDINANCES (SECOND OF TWO READINGS)

ORDINANCE NO. O – 03 – 17 – 05

AN ORDINANCE ADDING A NEW SECTION 931.04 ENTITLED, “INDIGENT BURIALS” TO THE CLAYTON CODIFIED ORDINANCES ADOPTING AN INDIGENT BURIAL POLICY

WHEREAS, City staff has reviewed the Clayton Codified Ordinances and recommended an addition thereto in the form of a new Section 931.04 entitled, “*Indigent Burials*” in order to address the issue of burial of indigent Clayton residents and to enact an indigent burial policy consistent with Ohio Revised Code Section 9.15; and

WHEREAS, Council desires to add a new Section 931.04 entitled, “*Indigent Burials*” to the Codified Ordinances of the City as recommended by staff to better protect the health, safety, and welfare of the citizens of Clayton.

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

1. That the Clayton Codified Ordinances are hereby amended to add a new Section 931.04 entitled, “*Indigent Burials*” (additions are in **bold**):

931.04 INDIGENT BURIALS.

(a) **Purpose.** This Indigent Burial Policy is enacted to comply with the provisions of Ohio Revised Code 9.15 for reasons of public health, safety, and welfare and sensibilities pertaining to: (i) the burial of indigent persons found within the City who are not claimed by any person for private interment or cremation at the person’s own expense, or (ii) cremation and inurnment when the body of an indigent person is claimed by an indigent person.

(b) **Application.**

(1) **Unclaimed:** When the body of a dead person is found within the City and such person was not an inmate of a correctional, benevolent, or charitable institution of this State, and the body is not claimed by any person for private interment or cremation at the person’s own expense or delivered for the purpose of medical or

surgical study or dissection in accordance with Ohio Revised Code 1713.34, then the City shall be liable for the cremation and interment expenses, in the amounts set forth herein, if:

- a. The deceased is determined to be an indigent person; and
- b. The person was a legal resident of the City of Clayton at the time of death.

(2) **Claimed**: When the body of a dead person is claimed by an indigent person simply as that of a loved one, without undertaking to arrange and pay for private interment, the City shall be liable for the cremation and interment expenses, in the amounts set forth herein, if:

- a. The deceased is determined to be an indigent person; and
- b. The person was a legal resident of the City of Clayton at the time of death; and
- c. The claimant is determined to be an indigent person.

(c) **Administration**. The City Manager or his or her designee is appointed as the proper officer of the City, in accordance with Ohio Revised Code 9.15, to be responsible for the administration of this indigent burial policy. If the next-of-kin of the deceased are not available or are unknown, the City Manager or his or her designee, shall have the authority to sign all documents necessary for cremation and interment or interment expenses.

(d) **Determining Indigence**. Prior to the cremation authorization, the City Manager or his or her designee, shall make reasonable attempt to determine whether the deceased person is in fact indigent, and, where the deceased person is claimed by an indigent person, whether the claimant is in fact indigent.

(1) **Definitions**: Ohio Revised Code 9.15 defines an “indigent person” as someone whose income does not exceed 150% of the federal poverty line as revised annually by the United States Department of Health and Human Services in accordance with Section 673(2) of the “Omnibus Budget Reconciliation Act of 1981”, as amended for a family size equal to the size of the person’s family.

- a. “Indigent decedent”: A deceased person whose body is found in the City and who was a legal resident of the City at the time of death, and the person was not an inmate of a correctional, benevolent, or charitable institution of this State, and the body is not claimed by any person for private interment or cremation at the person’s own expense or delivered for the purpose of medical or surgical study or dissection in accordance with Section 1713.34 of the Ohio Revised Code, and the person is determined to be indigent as described herein. The criteria used to evaluate indigency status shall include, but is not limited to, the income components as defined by the most recent version of the United States Census Bureau and any other relevant

considerations concerning the financial condition of the individual, including but not limited to, fundraising revenue and/or insurance intended for funeral, cremation, and/or burial expenses. Once the income information described herein has been verified, then the most recent version of the United States Department of Health and Human Services Poverty Guideline Publication will be used to determine whether the person's income does or does not exceed 150% of the federal poverty line. In determining indigency, the wages or salary income earned by dependent minors under 18 years of age shall not be considered.

- b. **“Indigent claimant”**: A person who claims the body of an indigent decedent and also claims he or she is indigent. The criteria used to evaluate indigency status shall include, but is not limited to, the income components as defined by the most recent version of the United States Census Bureau and any other relevant considerations concerning the financial condition of the individual, including but not limited to, fundraising revenue and/or insurance intended for funeral, cremation, and/or burial expenses. Once the income information described herein has been verified, then the most recent version of the United States Department of Health and Human Services Poverty Guideline Publication will be used to determine whether the person's income does or does not exceed 150% of the federal poverty line. In determining indigency, the wages or salary income earned by dependent minors under 18 years of age shall not be considered.

- (e) **Determining Legal Residency**. Prior to the authorization of cremation, the City Manager or his or her authorized designee, shall make reasonable attempt to determine whether the deceased person was a legal resident of the City. As used herein, “legal residency” means a physical presence in a particular location, coupled with the choice to make that place home, or the place with which a person is most intimately connected.

- (f) **Policy**. Upon finding that the deceased was a legal resident of the City and after verifying indigency of the decedent and the claimant of the decedent's body, if any, as described herein, the City Manager or his or her designee, shall authorize the funeral director to cremate the decedent. The City shall dispose of the remains of indigent persons by cremation only. The City will choose the funeral home to conduct the cremation and will enter into an agreement with said funeral home for a specific price for the cremation and inurnment or interment of the remains of the deceased. The cremated remains of the deceased may be released to the decedent's family or loved ones.

An indigent person claiming the body of an indigent decedent may not make independent funeral arrangements and have the bill submitted to the City. Should this occur, the City is not liable for costs under these circumstances.

The City shall set aside a section of the Municipal cemeteries where unclaimed indigent persons may be buried. If the cremated remains are not claimed, the City shall cause the cremains to be buried. The City shall also provide at the grave of the person's cremated remains, if such remains are buried, a metal, stone, or concrete marker on which the person's name and age, if known, and date of death shall be inscribed.

CROSS REFERENCE: Burial or Cremation of Body at Subdivision's Expense – ORC 9.15

2. 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.
3. 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 March 16, 2017 and April 20, 2017.
4. 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 APRIL 20, 2017

NEW BUSINESS

ORDINANCES (FIRST OF TWO READINGS)

ORDINANCE NO. O – 04 – 17 – 06

**AN ORDINANCE ADOPTING A NEW CLAYTON CODIFIED ORDINANCE
CHAPTER 1172 ENTITLED “MAIN STREET OVERLAY DISTRICT”**

WHEREAS, City staff has reviewed the recommendations of consultants and concurs that Clayton's existing zoning ordinance needs modification to properly address and protect the rights and interests of Clayton residents and to fairly evaluate further development and therefore recommends adoption of the proposed Clayton Codified Ordinance Chapter 1172 - *Main Street Overlay District* - for the betterment of the public health, safety and general welfare, said District being consistent with and in advancement of the City's Land Use plan in order to, *inter alia*, promote compatible land use relationships with a healthy mix of diverse uses which serve to meet the social, economic and environmental needs of the City and the public and to provide an enjoyable place for citizens to live, work and play; and

WHEREAS, Section 4.07(B) of the Clayton Charter required this zoning measure to be referred to the Planning Commission for recommendation; and

WHEREAS, on March 20, 2017, the Clayton Planning Commission held a public hearing on this zoning measure at which hearing all persons were given the opportunity to be heard thereon and the Planning Commission thereafter voted to recommend approval of the *Main Street Overlay District* to Clayton City Council; and

WHEREAS, on April 20, 2017 the Clayton City Council held a public hearing on this zoning measure at which hearing all persons were given the opportunity to be heard thereon; and

WHEREAS, Clayton City Council desires to enact a comprehensive regulatory process for the evaluation and determination of applications for development within said *Main Street Overlay District* and enact such zoning regulations applicable to said District in order to better serve the public health, safety and general welfare; and

WHEREAS, the City desires to maintain a high character of community development, to protect and preserve property, to promote the stability of property values, and to protect real estate from impairment or destruction of value for the general public welfare by regulating development within said *Main Street Overlay District*.

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

1. That a new Chapter 1172 entitled, “*Main Street Overlay District*” is enacted to read as follows:

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Chapter 1172 Main Street Overlay District (MSD-O)

1172.01 Purpose

- (a) It is the purpose of the Main Street Overlay District (MSD-O), to provide flexibility in zoning in order to create a context sensitive design with the following emphasis:
- (1) To provide a unique main street atmosphere where people can live, work, shop, dine and play;
 - (2) To provide a compact, walkable streetscape with a main street appearance;
 - (3) To provide a vibrant vegetated environment which fosters the protection and preservation of the Community and improves the appearance, character, health, safety, and welfare of the Community;
 - (4) To provide adequate parking within either dedicated, shared or public locations;
 - (5) To provide a balance of safety and aesthetics while minimizing potentially adverse impacts on surrounding development and the night sky; and
 - (6) To encourage the effective use of signage as a means of communication while also enhancing the environment.

1172.02 Administration

(a) How to use this Chapter

(1) This Chapter is form-based, which means the design of the structure and the relation of the structure to the street and the pedestrian environment is as important as the use contained within the structure. The buildable area of a site is defined by the Zone Regulations. All projects will be reviewed for compliance with this Chapter by the City of Clayton.

(b) Applicability

(1) All regulations in this Chapter shall supersede the underlying zoning districts. The provisions of the Main Street Overlay District shall govern all parcels located within said District.

(c) Boundaries

(1) The Main Street Overlay District shall apply to any parcel of land located partially or wholly within the 275 feet of Main Street right-of-way or the next parallel right-of-way whichever comes first. Nodes are defined at significant intersections.

(d) Development Process

(1) Pre-File Meeting

A. Schedule a meeting with Clayton's Development Staff to discuss the scope, location, and overall intent of the project. The more details of the project that are available at this meeting, the more Staff will be able to provide input and guidance.

(2) Design

A. Design the project according to the regulations of the Main Street Overlay District and the submittal requirements of the Development Department.

- Section 1172.03, Zone Regulations: Establishes bulk standards and setbacks regulations.
- Section 1172.04, Architecture Regulations: Establishes exterior building design regulations.
- Section 1172.05, Landscape Regulations: Establishes site and streetscape design regulations.
- Section 1172.06, Parking Regulations: Establishes parking ratios and regulations for site and shared parking.
- Section 1172.07, Lighting Regulations: Establishes regulations for site lighting levels.
- Section 1172.08, Signage Regulations: Establishes the number and type of signs permitted.
- Section 1172.09, Nonconformance, Waiver Intent, Required Site Improvements, Prohibited Uses, and Mobile Vendor Regulations.

(3) Zoning Certificate

A. Submit the project to the Development Department for review once a complete plan set is available. The Development, Engineer and Fire Departments will review the plan set.

B. Submittal Requirements: Architectural elevations of all facades shall be submitted with the zoning certificate application. These elevations shall depict accessory structures, trash enclosures, mechanical areas, and all structures to be constructed under the zoning certificate.

(4) Construction

A. Following submittal of revised plans and application materials to address any comments from Development Department, City Engineer and Fire Department; the zoning certificate will be released and an application can be made to Montgomery County Building Regulations to obtain building permits.

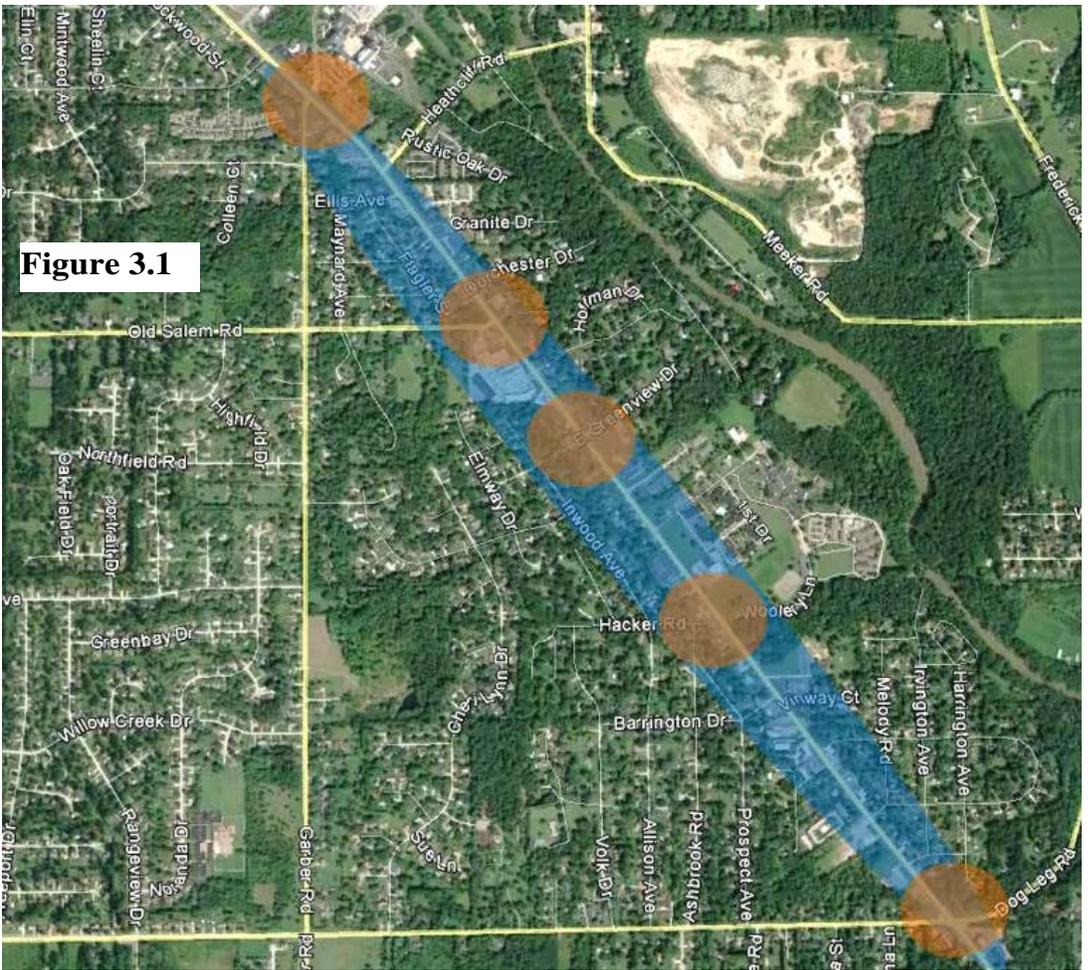
1172.03 Zoning Regulations

(a) Purpose

The Main Street Overlay District goal is to provide flexibility to create context sensitive design.

(b) Zone Description

(1) The Main Street Overlay District is where people can live, work, shop, dine and play. It



is a destination for residents and visitors alike due to its mixture of uses that provide a vibrant, unique atmosphere. The District provides small-town ‘Main Street’ offices, retail shops and restaurants. In addition, multifamily residential offers the Main Street living experience within vertically mixed buildings. The Main Street Overlay District will contain several building types supporting a diversity of scale and use throughout the corridor. This diversity sets the framework for a character of offices, small shops, restaurants and tree shaded sidewalks.

Table 3.1: Development Standards		
	Corridor	Nodes
Setbacks:		
Front (Min./Max.)	10 feet/25 feet; <i>except when parking is located in front of building. See Section 1172.06: Parking Regulations.</i>	5 feet/15 feet
Side (Min./Max.)	5 feet / 15 feet	0 feet / 10 feet
Rear (Min.)	25 feet	15 feet
Building Separation (Min.)	10 feet	0 feet
Structure Height:		
Primary (Min.)	2 stories	3 stories
Accessory (Max.)	20 feet	Not Permitted
Lot Coverage (Max.)	90%	90%
Structure Proportion:		
Residential Unit Area (Min./Max.)	0% / 75%	0% / 50%
Commercial Ground Floor Area (Min./Max.)	50% / 100%	75% / 100%
Supplement Regulations:		
Drive Up Window	Permitted, rear only	Not permitted
Communication Facilities	Accessory only	Not permitted
Outdoor Dining	Permitted in front/side yard only	Permitted
Kiosk or Vending Machine	Not permitted	Permitted
Parking as Primary Use	Not permitted	Not permitted

(c) Subdivision

(1) Purpose: To promote walkable, mixed use development.

Table 3.2: Subdivision Standards		
	Corridor	Nodes
Lot Area (Min.)	8,000 SF	4,000 SF
Open Space (Min.)	15%	8%
Block Length (Min./Max.)	200/400 ft.	150/250 ft.

Street Frontage (Min.)/per side	75 ft.	50 ft.
Landscaping Buffer	Required for different adjacent uses	

(2) General Requirements:

- A. Internal connectivity is required where parking lots abut a neighboring property line.
- B. Cul-de-sacs shall not be permitted.
- C. Private roads shall not be permitted.

1172.04 Architectural Regulations

(a) Purpose

The Architectural Regulations of the Main Street Overlay District are designed to create a compact, walkable streetscape with a main street appearance. Structures shall be designed using durable materials with clearly defined entrances. Services shall be located out of view from the street (excluding alleys) and structures should be serviced from the rear yard whenever possible. Parking is to be located to the back or side.

(b) General Requirements

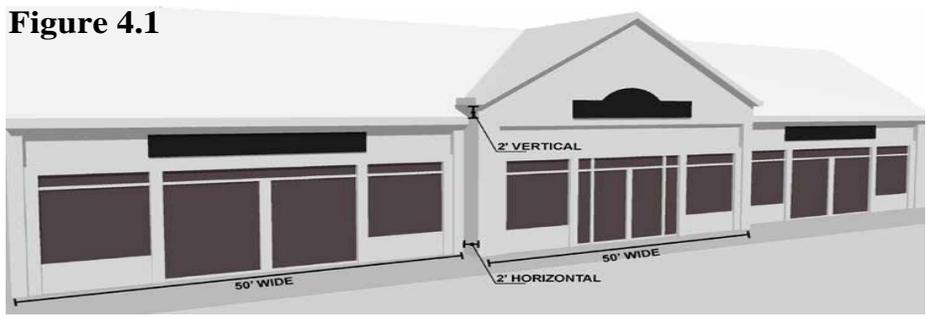
- (1) Every structure shall be reviewed according to the process identified in Section 1172.02: Administration.
- (2) The following shall not be permitted: panelized wall materials, window air conditioning units on a front facade and exterior fluorescent lights with visible bulbs.
- (3) Structures, including two or more structures sharing a common wall thus creating a single facade, wider than 225 feet shall require a pedestrian passage through the longest side of the structure.
- (4) Residential structures shall have a finished floor line elevation of a minimum of three (3) standard steps above sidewalk.

(c) Materials

- (1) Masonry products permitted are brick and stone. This includes the synthetic versions of these products.
- (2) Other permitted exterior materials shall be fiber cement (or other simulated wood synthetic excluding vinyl siding) and stucco.
- (3) EFIS (Synthetic Stucco) is permitted for the top floor of multi-story structures and accent areas only. EFIS shall not cover more than 15 percent of the exterior of the structure, excluding window and door openings.
- (4) Roofing materials permitted for residential and commercial development shall be architectural shingles, flat roof, or standing seam metal.
- (5) Awning shall be consistent with the structure’s architectural style and be constructed of canvas.

(d) Facade

- (1) Any structure façade facing a public right-of-way (except for alleys) shall be treated as a front facade.
- (2) A finished elevation (four-sided architecture) is required on every side of the structure. There shall be no blank facades and each side of a structure shall be architecturally similar to the other sides.
- (3) Zero lotline structures: When using zero lot line construction, the adjoining wall shall be constructed of maintenance-free masonry and the adjoining facade is exempt from the four-sided architecture requirement provided:
 - A. A public art installation is permitted in lieu of the four-sided architecture requirement on one of the facades. This can include, but is not limited to, murals and sculptures.
 - B. If intended to be located on the zero lot line wall, art installations shall be designed to be removed and/or relocated at such time as the adjacent property is developed.
- (4) Facades facing alleys: Rear facades that face alleys shall be constructed of masonry but are exempt from the requirement for four-sided architecture provided public art installation is provided.
- (5) Structures shall have a defined base, middle, and top section that is broken along horizontal lines. The heavier (i.e. masonry) materials shall be used at the base.
- (6) All structures shall be at least 75 percent masonry on frontages facing public rights-of-way, excluding window and door openings. Other sides shall be at least 50 percent masonry. Single family homes may substitute fiber cement or wood siding in lieu of the masonry requirement.
- (7) Permitted projections from the structure’s façade shall be balconies, awnings, signs, flags, and cornice elements.
- (8) Projections from the front of the structure shall be self-supporting and require no street level poles or supports.
- (9) Balconies shall be a minimum of three (3) feet deep.
- (10) Structures shall articulate horizontally and vertically a minimum of two (2) feet for every 50 feet of width. See Figure 4.1.



- (11) Front facade windows shall have decorative headers of stone or other masonry.
- (12) The structure itself may not project into the public right-of-way.
- (13) The ground floor of structures requiring first floor commercial shall be transparent storefronts consisting of a minimum of 60 percent glass on front facades and 20 percent on other facades.
- (14) Structure facades wider than 90 feet shall change architectural styles along the off set to create the appearance of multiple structures rather than one large structure of the same style.
- (15) All structures utilizing a flat roof shall have a cornice or other finished treatment to complete the top of all structure walls.
- (16) Colors shall be muted tones which are compatible with surrounding structures. No fluorescent, neon, or other high intensity colors shall be used as a primary structure color. Accent colors of brighter hues are permitted.
- (17) Whenever a parcel is directly located on Main Street the front facade and entrance of the building shall be oriented toward Main Street.

(e) Entrances

- (1) All structures (excluding single-family) with frontages on two public streets shall be required to create a corner feature that addresses the corner as a focal point. This corner shall feature at least two of the following options:
 - A. Glass canopy extending at least three (3) feet from the facade.
 - B. Angled structure entry that addresses both streets.
 - C. Blade sign on a 45 degree angle at the corner of the structure.
 - D. Decorative masonry on structure facade that highlights the corner uniquely.

(f) Windows, Doors, & Massing

- (1) Windows and doors may be recessed into a structure to create definition or a usable patio/balcony.
- (2) Any facades facing a public right-of-way shall have a minimum of 25 percent transparent glass.
- (3) All facades, except on adjoining walls, shall have a minimum of 10 percent transparent glass.

(g) Roofing

- (1) Pitched roofs shall be at least a 5/12 slope.
- (2) Flat roofs are permitted.
- (3) Green roofs are permitted.
- (4) Standing seam metal roofing are permitted.

(h) Mechanical Equipment

- (1) All mechanical equipment shall be screened from view from the street centerline with architecture matching the primary structure and landscaping, where applicable.
- (2) Mechanical equipment shall not be located in any front yard.
- (3) Mechanical equipment may be located on the roof of the structure or in an integral location within the structure.
- (4) Mechanical equipment may be located in a rear or side yard when surrounded by a masonry wall of similar architecture to the primary structure.

(i) Accessory Structures, Outdoor Seating and Display

- (1) When possible, trash enclosures should be integral to the structure.
- (2) Trash enclosures shall not be placed in any front yard.
- (3) Free standing trash enclosures shall be masonry to match the primary structure.
- (4) Outdoor storage is prohibited.
- (5) Sidewalk displays are permitted during business hours and shall not cover more than eight (8) square feet. The display shall leave at least four (4) feet of clear space on the sidewalk for pedestrians.
- (6) Outdoor seating areas shall maintain at least five (5) feet of clear space on the sidewalk for pedestrians in all directions.

1172.05 Landscape Regulations

(a) Purpose

The Landscape Regulations are intended to improve the aesthetic character of the Main Street Overlay District through an improved vegetated environment and to foster development that will protect and preserve the appearance, character, health, safety and welfare of the community. Additionally, the standards are intended to foster aesthetically pleasing development that encourages native species and ecosystems. Trees, vegetation, irrigation systems, fences, walls, and other landscape elements are essential components of a project. These components act to enhance the visual quality of developments, screen land uses, and better integrate the built and natural environments.

	Corridor	Nodes
Trees		
Lots > 15,000 < 30,000 square feet (Min.)	2- trees	1-tree
Lots > 30,000 < 45,000 square feet (Min.)	4-trees	2-trees

Lots > 45,000 square feet (Min.)	6-trees, plus 1-tree per every 15,000 square feet over 45,000 square feet. Min. 1/3 shall be canopy trees.	3-trees, plus 1-tree per every 15,000 square feet over 45,000 square feet. Min. 1/3 shall be canopy trees.
Any areas of a site not covered by a structure, parking lot, or required buffer yard shall be planted (Min.)	1 tree/ 500 square feet	1 tree/ 500 square feet
All trees shall be canopy trees.		
Substitution	Open areas less than 10 feet wide may substitute ornamental trees for required canopy trees.	
Shrubs		
Any areas of a site not covered by a structure, parking lot, or required buffer yard shall be planted (Min.)	6 shrubs/ 500 square feet	6 shrubs/ 500 square feet
A minimum of 50 percent of the required shrubs shall be evergreen.		
Substitution	One (1) ornamental tree may be substituted for every three (3) shrubs and ornamental grasses may be substituted; however, substitution shall not exceed fifty percent (50%) of the required shrubs.	
Spacing	Shrubs and ornamental trees along foundation walls of structures shall be planted no closer than two (2) feet and no further than eight (8) feet respectively from the foundation wall.	

Table 5.2: Foundation Planting
Foundation plantings shall be located within 10 feet of the foundation wall.
Foundation plantings shall be 60 percent evergreen.
Foundation shrubs shall be continuous along all street frontages, excluding building access points.
As least two (2) shrubs or one (1) ornamental tree shall be planted for every 12 feet of building circumference exclusive of building street frontage, doors and loading dock openings.

Table 5.3: Street Furnishings	
The following standards are to be applied to streets, open space and any other right-of-way.	
Permitted Street Furnishing	Street furnishings are exterior amenities, including but not limited to, tables, chairs, umbrellas, landscape pots, wait stations, valet stations, bicycle racks, planters, benches, bus shelters, waste receptacles and similar items that help to define pedestrian use areas.
Prohibited Street Furnishing	Vending Machines
	Photo Booths
	Automated machines such as, but not limited to, penny crunching machines, blood pressure machines, fortune-telling machines, video games, animated characters and other such machines that are internally illuminated, or have moving parts, or make noise, or have flashing lights.
	Inanimate figures such as animals, mannequins or any such cartoon or human figure.
Street Furnishing Materials	Street furnishings shall be made of wood, metal, or solid surfacing material.
	Plastic resin furnishings are prohibited.
	No advertising shall be allowed on street furnishings.
	Street furnishings such as tables and chairs may not be stored in such a way as to be visible from the street.

Table 5.4: Fencing	
Privacy Fencing	Privacy fences may only be located in the rear yard of a structure. Where a corner lot is present, the fence shall be set back at least four feet from an adjacent sidewalk or property line.
	Fences may not be taller than six (6) feet in rear and 42 inches in front and shall be constructed of a durable material that is aesthetically pleasing and compliments the site's architecture. Fences located in the front shall be at least 50 percent opaque.
Outdoor Seating Areas	Outdoor seating areas may use fencing to designate seating area. Fencing shall be wood, brick, stone, or black coated metal with a maximum height of 42 inches. Chain link fence is not permitted.

Table 5.5: Buffering	
Buffer Yard Requirements: A Buffer Yard shall be provided along the side and rear property lines of any property as specified in the Table 5.7. New landscaping that is required to meet these Buffer Yard Requirements shall not count toward other site or parking landscaping requirements. Table 5.6 shall be used to determine the type of buffer yard to be installed on the subject property. The following requirements shall apply to all buffer yards:	
Responsibility	The developer or owner of the property being developed is responsible for installing the buffer yard at the time of that development. The adjacent property owner shall not be required to participate in the installation of the buffer yard.
Location	All required buffer yard areas shall be provided entirely on the subject property and shall be in addition to setbacks required by this Chapter. The required buffer yards shall be installed despite the presence of streets, alleys, streams or other features that may separate the two properties.
Plant Material	Plants well-suited to their site need less irrigation and fertilizer and are more resistant to pest infestation. The City encourages the selection of the right plant for the right place helping to create a healthy, attractive landscape that works with the natural ecosystem rather than against it. Match plants with site conditions based on USDA zone, water and light requirements, soil conditions, salt and wind tolerance, and other factors. The Director of Development or designee shall have final approval of plant selection.
Groundcover	All portions of a buffer yard not planted with trees, shrubs, or other required landscape materials shall be covered with grass or similar ground-covering vegetation. Landscaping stone or other non-vegetative materials may not be substituted for ground-covering vegetation. Decorative mulch or stone beds may be used around trees, provided that such planting beds are no greater than six (6) feet in diameter.

Table 5.6: Required Buffer Yard					
A landscape buffer type is listed in the chart below. A buffer is required when...					
The subject property is...	When the adjoining property is...				
	Corridor	Nodes	Non-Conforming Office/ Commercial	Multi-Family Residential	Single-Family Residential

Table 5.7: Buffer Yard Types

Buffer Yard Type 1	A minimum setback of 10 feet shall be provided in conjunction with the setback otherwise required by this Chapter.
	One (1) deciduous canopy tree shall be planted in the buffer yard for every 30 feet of boundary between the subject and adjoining properties.
Buffer Yard Type 2	A minimum setback of 15 feet shall be provided in conjunction with setback otherwise required by this Chapter.
	One (1) deciduous canopy tree and two (2) evergreen trees shall be planted in the buffer yard for every 25 feet of boundary between the subject and adjoining properties.

Corridor	n/a	1	2	2	3
Nodes	1	n/a	2	3	3

Buffer Yard Type 3	A minimum setback of 15 feet shall be provided in conjunction with the setback otherwise required by this Chapter.
	A row of deciduous canopy trees shall be planted parallel to the property line within the buffer yard with one (1) tree placed every 20 feet along the boundary between the subject and adjoining properties.
	One (1) of the following shall also be provided: A six (6) foot tall privacy fence made of wood or vinyl or brick/stone wall; A five (5) foot tall undulating berm planted with shrubs; or a row of evergreen trees, comprised of one (1) tree placed every 10 feet along the property boundary.

(b) Parking Lot Plantings

(1) See Section 1127.06 Parking Regulations

1172.06 Parking Regulations

(a) Purpose

The intent of these Parking Regulations is to assure that each developed or utilized lot has adequate parking spaces within either dedicated, shared or public locations. Lots should be located within the back of the property whenever possible. The use of shared parking is preferred.

Table 6.1: Parking Lot Standards

Surface	All permanent parking areas shall utilize a paved surface of concrete, asphalt, brick pavers, or the like. Parking of motor vehicles is not permitted on lawns or other pervious surfaced areas on a lot.	
Space Dimens	Min. Width	Each parking space shall be a minimum of nine (9) feet wide.
	Min. Length	Each parking space shall be a minimum of 18 feet long. Adjacent to Landscape Areas: The minimum length of a parking space may be reduced to 16 feet if the parking space extends into a landscape area such that a car's front end may project into the landscape area. Landscape areas shall be a minimum of five (5) feet wide.

		<p>Adjacent to Sidewalks: The minimum length of a parking space may be reduced to 16 feet if the parking space extends into a sidewalk such that a car's front end may project over the sidewalk. In the event that a car projects over a sidewalk, the sidewalk shall be two (2) feet wider than the required width. Under no circumstance shall a sidewalk have less than five (5) feet of clear area for pedestrians to pass when a vehicle's front end is projecting over part of the sidewalk; however, under no circumstance shall an off-street parking space overhang into an public or private street right-of-way.</p>
	<p>Compact Parking Spaces</p>	<p>Compact Parking Spaces may be used to address unique site constraints, which shall be approved by the Director of Development.</p> <p>Compact spaces may be provided at a maximum of 10 percent of the total number of required parking spaces.</p> <p>Compact parking spaces shall be a minimum of eight (8) feet in width and 16 feet in length.</p> <p>All compact parking spaces shall be clearly identified through signage and pavement markings.</p>
	<p>Off-Street Parking</p>	<p>Off-street parking spaces shall not be fully or partially in a public or private right-of-way or access easement.</p>
	<p>Parking Lot Location</p>	<p>Parking lots shall be located in the back of the property.</p> <p>Parking located in the front may be permitted by the Director of Development when determined to be necessary.</p> <p>Parking located in the front shall be a maximum of one (1) parking lane and one (1) driving lane. In addition, a minimum five (5) feet landscaping buffer shall be installed between the parking lot and the right-of way.</p>

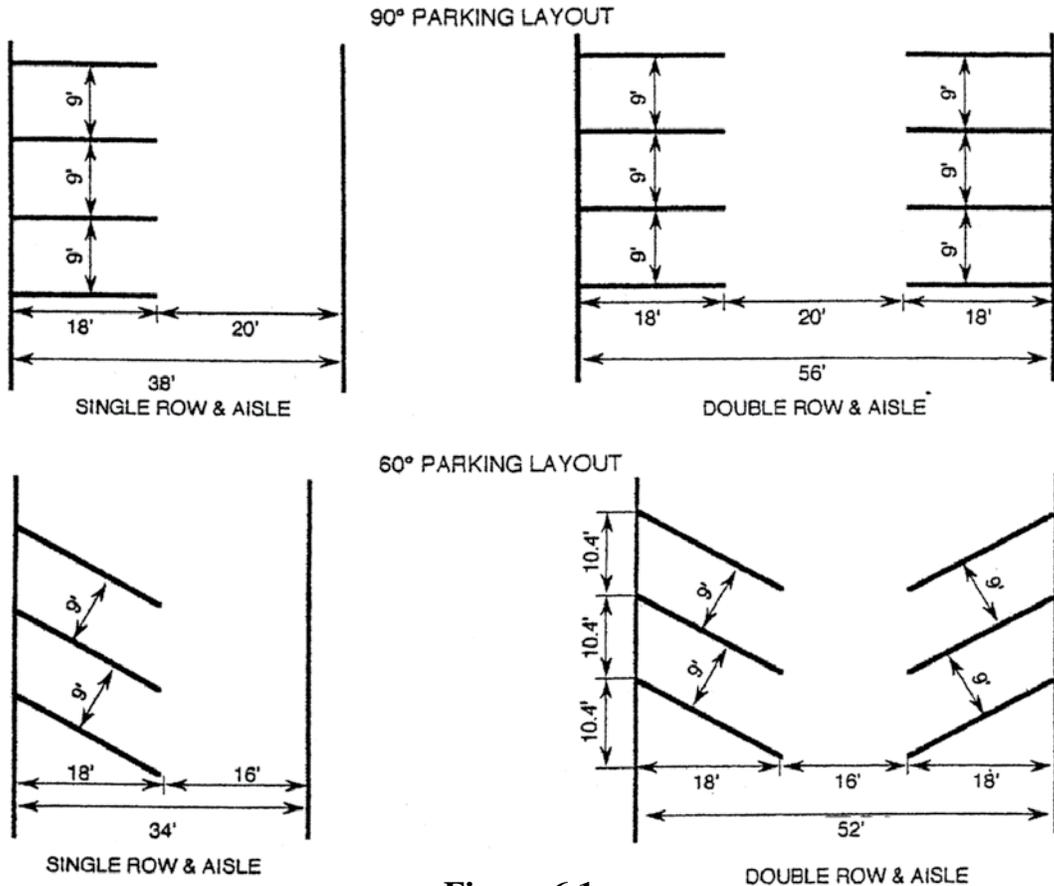


Figure 6.1

Driving Lanes	<p>Drivinglanes in parking lots that provide access to parking aisles shall be clearly striped.</p> <p>For required driving lanes width see Figure 6.1.</p>
Parking Lot Layout	<p>Parking lot layout shall be designed to ensure that vehicular circulation to and within the parking lot is managed in a logical manner thereby confirming:</p> <ul style="list-style-type: none"> • That the design and location of proposed street access points minimize safety hazards and congestion; • That the access points, streets, and internal traffic circulation facilities are compatible with existing and planned streets and adjacent developments; • Wheel stops are required for spaces facing a designated walkway without a curb. <p>Where a surface parking lot is within 10 feet of a property line, a vehicular connection shall be provided to any adjacent property. This requirement may be waived by the Director of Development should the adjacent property already be developed.</p>

	Surface parking lots may encroach into the setback, but shall be at least five (5) feet away from a property line.
Parking Lot Striping	Parking spaces in parking lots shall be striped so as to clearly show each parking space. These stripes shall be maintained in clearly visible condition.
Display and Storage	Parking spaces shall not be used for display or storage of merchandise or similar.
Number of Spaces Required	The number of spaces required shall be determined by Table 6.3. Use Determination: If a use is not clearly noted in Table 6.3, the Director of Development shall determine into which use(s) the proposed development best fits, therefore determining the minimum parking spaces required.
Accessible Parking Spaces	The requirements for accessible parking shall be regulated according to Americans with Disabilities Act guidelines.
Shared Parking	Two or more adjacent properties may establish a shared parking area and is calculated in Table 6.4. The required parking is divided by the parking factor for each use in the area to be shared.
Loading Areas	Loading areas, if necessary, shall be located integral to parking areas. If not feasible to locate loading within the site, loading may be along the adjacent roadway with the lowest functional classification.
Fire Department	Hydrants. See City of Clayton Codified Ordinances 1520, 351.03 and 1520.02. Hydrant Location and Distribution. See Ohio Fire Code Appendix C. Fire Apparatus Access Roads. See City Clayton Codified Ordinances 351.03 and Ohio Fire Code Appendix D.

Table 6.2: Access	
Single-family or Duplex Residential Properties	Driveway approaches shall be at least 16 feet in width at all points and not greater than 22 feet in width except within the apron.
	The flare shall be at least five (5) feet, but shall not exceed 10 feet.
Commercial Properties	Driveway approaches shall be at least 16 feet in width for one-way or 25 feet for two-way traffic and shall not exceed 20 feet for one-way or 30 feet for two-way traffic, except the width within the apron, and in no case shall the total width of driveway aprons exceed 50 percent of the property frontage on that street.
	The flare shall not exceed ten feet, except for shopping centers covering at least two acres and providing ample off-street parking, in which case the flare shall not exceed 50 feet.

Number and Separation of Driveway Approaches	No more than one (1) driveway approach shall be permitted every 50 feet along any single private property line on the same street. Where two (2) driveway approaches on a street front serve the same parcel of land, the space between driveway approaches as measured between the nearest curb return points of tangency shall be at least 75 feet in length. The Director of Development or designee will have final approval of number and separation of driveway approaches.
Distance from Adjacent Property	The curb return point of tangency shall be at least five (5) feet from the adjacent property line.

Table 6.3: Required Parking Ratios

	Corridor	Nodes
Residential		
Minimum	2.0/dwelling	1.5/dwelling
Maximum	6.0/dwelling	2.0/dwelling
Lodging		
Minimum	1.5/room	1.0/room
Maximum	2.0/room	1.5/room
Office		
Minimum	3.0/1,000 sq. ft.	2.0/1,000 sq. ft.
Maximum	3.5/1,000 sq. ft.	3.2/1,000 sq. ft.
Retail/Service		
Minimum	3.75/1,000 sq. ft.	2.5/1,000 sq. ft.
Maximum	5.0/1,000 sq. ft.	4.0/1,000 sq. ft.
Restaurant		
Minimum	1 / 4 seats	
Maximum	1 / 2 seats	
Civic - To be determined by Director of Development		
Other - To be determined by Director of Development		
The Director of Development may require use of the highest or lowest ratio.		
Square footage measurements are based on gross floor area.		

Table 6.4: Shared Parking Factor

USE	Residential	Lodging	Office	Retail/Service	Restaurant
Residential	1.0	1.1	1.4	1.2	1.1
Lodging	1.1	1.0	1.7	1.3	1.3
Office	1.4	1.7	1.0	1.2	1.2
Retail/Service	1.2	1.3	1.2	1.0	1.1
Restaurant	1.1	1.3	1.2	1.1	1.0

*Example Calculation of two uses with shared parking: Office (10,000 sf.) and Residential (20 dwellings) within the Node.

Office parking required: $3.2 * 10 = 32$ spaces / 1.2 (parking factor) = 27 Effective parking required.

Residential parking required: $1.5 * 20 = 30$ spaces / 1.2 (parking factor) = 25 Effective parking required.

Effective residential parking + effective office parking = 52 Total required spaces.

Table 6.5: Parking Lot Plantings

Parking lot plantings are required for all surface lots.		
Trees	Number	One (1) tree shall be planted per six (6) parking spaces.
	Type	Required trees shall be canopy or ornamental trees.
	Location	Trees shall be planted within ten (10) feet of the parking lot edge.
Shrubs	Number	Three (3) shrubs shall be planted per one (1) parking space.
	Type	A minimum of fifty percent (50%) of the shrubs shall be evergreen.
	Location	Shrubs shall be planted within five (5) feet of the parking lot edge.
	Height	Shrubs planted in parking lot perimeter areas shall be selected from species that grow to a minimum height of four (4) feet.
Bumpout/Islands	Parking Lots with twenty (20) or more parking spaces are required to have the following interior planting:	One (1) landscape island or peninsula shall be provided per 20 parking spaces and the islands shall be distributed equally throughout the parking lot.
		Each island or peninsula shall be at least 144 square feet in size and a minimum of nine (9) feet in width.
		Each island or peninsula shall contain at least one (1) canopy tree per 144 square feet.
		Each landscape island or peninsula shall be designed such that any tree is not within three and one-half (3.5) feet of a curbed or paved edge.
		Parking lot landscape areas shall not be filled with gravel or impervious surface. They shall be free of litter and be maintained with plant materials and mulch.

Screening		Parking lots shall be screened from adjacent uses and the street. Screening shall consist of a fence, masonry wall, evergreen or deciduous plant material or a combination of such elements.
	Surface parking lots with (6) or more parking spaces shall have the following plantings:	When plant material is utilized, shrubs shall be planted at a minimum ratio of one (1) shrub per four (4) lineal feet around the perimeter and be maintained at a height of at least 36 inches tall at maturity in order to minimize headlights projecting into adjacent properties. Minimum size at planting shall be 24 inches in height. A minimum of 60 percent of shrubs shall be evergreen.
		When a fence or wall is used, there shall be a minimum of two and one-half (2.5) feet and a maximum three (3) feet in height when adjacent to a street or public sidewalk. Walls and fences shall be a minimum of four feet in height between adjacent properties when no sidewalk or street is present.
		The visual screen may be broken into segments to allow for pedestrian movement.

1172.07 Lighting Regulations

(a) Purpose

The intent of Lighting Regulations is to establish outdoor lighting standards that balance safety and aesthetics while minimizing potentially adverse impacts on surrounding developments and the night sky. Lighting should be complimentary to pedestrian-scale development and designed to maximize energy efficiency. Lighting requirements are intended to promote nighttime security while minimizing negative impacts.

Table 7.1: Lighting Standards

Lighting to be provided by the petitioner in the public right-of-way shall be in accordance with the requirements of the Clayton's Service Department.	
Uniformity	All lighting fixtures and poles within a single development shall be complementary in style and color, and shall be compatible with the architecture of the building.
Cutoff	All light fixtures shall include full cutoffs, including those attached to the exterior of a building or pole mounted lighting. This standard shall also apply to structural canopies.
Natural Light	Lighting elements shall provide a natural spectrum of light such as LED, metal halide and halogen.
Glare	All exterior building lighting shall be fully shielded with opaque material to minimize glare. No outdoor lighting shall be so intense or brilliant as to impair the vision of drivers, pedestrians or employees or disturb the daily activities of adjoining or neighboring residents.

Architectural Accent Lighting	All ground lighting used to cast light onto building facades, building features, or signs shall have shields to ensure that light does not project beyond the building or sign, and shall utilize the minimum amount of light necessary to light the façade, building feature or sign. The light fixture and bulb shall be shielded from any street, sidewalk or parking lot.
Object Lighting	Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light focused on the object with minimal light extending beyond the illuminated object.
Pole Mounted Lighting	Pole mounted lighting shall not exceed 12 feet in height.
Building Mounted Lighting	Building mounted lighting shall not emit light directly onto any single family residential property. Where lighting is adjacent to single family residential property, the maximum light at the property line shall not exceed five (5) lumens.
Light Level	5.0 lumens (max) per square foot of hardscape.
Prohibitions	Mercury vapor and metal halide light sources, searchlights, and strobe lights.
	Low pressure sodium lights.
	Fluorescent lights (except compact fluorescent bulbs that screw into standard sockets) on building exteriors.
	Blinking, flashing or flickering lights, or any lighting used to depict action or create a special effect or scene, except for decorative seasonal lighting.
	Visible bands of lighting at the cornice and/or around building elements. However, the glow from a light ribbon is permitted.
Light Measurement	Measurements of light readings shall be taken along any portion of a property line of the subject property at a height of five feet with a light meter laid on the property line and facing the center of the property.
Egress Lighting	See Ohio Fire Code 1006.

1172.08 Signage Regulations

(a) Purpose

The intent of Signage Regulations is to encourage the effective use of signage as a means of communication while also enhancing the environment. The standards aim to ensure the compatibility of signs with a streetscape, to encourage the use of signs appropriate to residential and commercial activities, to ensure the safety of vehicular and pedestrian traffic, and to support the economic development within the City of Clayton.

(b) Compliance

(1) The only signs permitted are those stated within this section; all other signs are prohibited unless otherwise stated.

(c) Permit Required

(1) All signs are required to have a permit to erect, alter, or relocate except as otherwise provided herein.

A. When a sign permit has been issued, it shall be unlawful to change, modify, alter or otherwise deviate from the terms and conditions of said permit without prior approval of the Development Department. A written record of such approval shall be entered upon the original permit application and maintained in the files of the Development Department.

B. A permanent sign permit shall not be issued before a change of use or change of occupancy zoning certificate application has been filed.

(d) Permit Not Required

(1) Activity Signs: For single-family residential use only, school activities and the like are permitted with a maximum sign area of eight (8) square feet.

(2) Construction Area Signs: Construction signs such as construction entrance only, concrete washout, hard hat area, caution area, low wires, and the like are permitted with a maximum sign area of eight square (8) feet per sign.

(3) Corner Stones: Names of buildings, dates of erection, monumental citations, or commemorative tablets not to exceed nine (9) square feet, and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.

(4) Credit/Debit Signage: Each ATM may include identification signs and a list of accepted cards. These signs shall be limited to 20 percent of the ATM machine.

(5) Cultural Elements: Artwork, murals, sculpted elements, and the like that do not refer to a commercial activity shall be reviewed by the Director of Development or designee.

(6) Delivery Entrance: Decorative name plates which shall not exceed two (2) square feet in area per building or tenant space in order to identify a specific delivery entrance.

(7) Flags: One (1) corporate flag, provided it is flown in conjunction with a United States of America flag, is permitted per site.

(8) Holiday Decorations and Special Events: Decorations which directly relate to an individual achievement, specifically noncommercial in nature, such as, birthday, anniversary, birth announcement, recognized holidays, or civic events.

(9) Public Signs: Signs of a noncommercial nature and in the public interest, erected by or on the order of an official of the City, County, State, or Federal government acting in the performance of their duty, such as safety signs, danger signs, trespassing signs, traffic signs and memorial plaques.

(10) Residential Nameplate: A nameplate which shall not exceed (1) square foot in area is permitted for each dwelling unit of a single-family or row structure; such nameplate shall indicate nothing other than name and/or address of the occupant.

(11) Replacing Copy: Making a change to the sign copy in a manner that will not alter or relocate the sign structure in any manner is permitted.

(12) Sign Maintenance: Painting, repainting, cleaning and other normal maintenance and repair of a sign or a sign structure shall not require a permit unless a structural change or change in lighting is made.

(13) Special Event: Signage which has been approved by the Director of Development or its designee for the purpose of displaying a sign on City's property.

(14) Sandwich Board Signs: Sandwich Board Signs do not require a sign permit; however the sign shall not be placed within public right-of-way and shall comply with standard of this Chapter.

(15) All wayfinding signage within the right-of-way shall be approved by the Director of Development or designee.

(e) Prohibited Signs

(1) No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal or device. No rotating beam, beacon, or flashing illumination resembling emergency lights shall be used in connection with a sign display, nor shall a sign make use of the words "Stop," "Look," "Danger," or any other word phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic. No sign shall emit any form of sound or sounds.

(2) No permanent or temporary sign shall contain fluorescent paint or the like, including mirrors, which has the effect of intensifying reflected light.

(3) No permanent or temporary sign shall be affixed to any fence, tree, or any utility structure.

(4) Ribbon, pennants, balloons, streamers, strings of light bulbs, spinners, or the like are not permitted.

(5) No sign shall obstruct a window, door, fire escape, stairway, or any opening intended to provide air, egress, or ingress for a building or structure.

(6) No sign shall be placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. This does not apply to signs or lettering on buses, taxis or vehicles operating during the normal course of business.

(7) Billboard: Not permitted.

(f) General Standards

(1) All signs shall complement the materials of the building which identify, be architecturally compatible with the related structure, and shall be constructed of durable materials.

(2) No sign or signage illumination shall be so designed, located, unshielded, or directed to cast glare or direct light from artificial illumination upon adjacent publicly dedicated streets and surrounding property.

(3) Signage shall not project above the finished height of any facade.

(4) Signage which includes an electronic message board component shall not exceed 50 percent of the total area of the sign face. The sign shall not utilize message, graphic, display or part thereof be visible for less than 10 seconds. During such interval, the entire message, graphic or display shall not be moving, flashing, scintillating, animating nor changing in color or light intensity or visibly changing in any other manner. Maximum brightness levels for variable message signs shall not exceed 12 foot-candles, measured

from the nearest point of any highway or public road. All such signs shall be equipped with a dimmer control and a photo shall be equipped with a dimmer control and a photo cell which shall constantly monitor ambient light conditions and adjust brightness accordingly. The display change interval, which is defined as the time period between when one message, graphic or display becomes illegible and the next message graphic or display first reaches legibility, shall be 0.3 seconds or less.

(5) Illumination of signs shall only occur on facades facing a public right-of-way except as otherwise provided herein.

(6) Vision clearance shall be maintained for motorists at all times.

(7) Design: Individually mounted, backlit, channel letters constructed of an opaque material such as wood or metal may be used in conjunction with an architecturally enhanced background which shall define the sign area. The source of such backlighting shall be internal to each letter (e.g. reverse channel neon) and shall illuminate the wall to which they are attached. All signs shall maintain a minimum of eight (8) feet of vertical clearance from the sidewalk.

Table 8.1: Types of Signs

Projecting Sign	Projecting signs are only permitted on buildings of two (2) stories or higher.
	A maximum of one (1) projecting sign is permitted per tenant per street frontage. A maximum of two (2) projecting signs may be used per frontage. Building identification signs may be used as projecting signs.
	Maximum area allowed is one (1) square foot per lineal foot of tenant street frontage, with a maximum of 72 square feet per side per tenant frontage.
	Maximum height permitted is 12 feet for a two (2) story structure and 18 feet for three (3) story structure or taller. Maximum width is two (2) feet for a two (2) story structure and four (4) feet for a three (3) story structure or taller.
	No projecting sign may protrude more than 36 inches from the wall or face of the building. Support structures between the building and the sign only shall be counted toward this allowance.
	Changeable copy and electronic signs are not permitted on Projecting Signs.
	Any property that utilizes a freestanding sign shall be prohibited from utilizing a projecting sign.
	The applicant for a projecting sign shall provide information verifying that the building facade containing the projecting sign can tolerate wind loading.

Canopy / Awning / Ribbon Sign	Lettering and logos shall not exceed 12 inches in height and shall not occupy more than 60 percent of the awning or canopy's leading edge.
	No illumination is permitted except for Ribbon Signs which may have external illumination.
	Changeable copy and electronic signs are not permitted on Canopy/Awning/Ribbon Signs.
Pedestrian Blade Sign	There shall not be more than one (1) pedestrian blade sign for each tenant per street frontage.
	Pedestrian Blade Signs shall not exceed two (2) square feet per side per tenant frontage. Maximum height not to exceed one (1) foot and maximum width not to exceed two (2) feet.
	A pedestrian blade sign may be located on the outermost wall of any primary building but shall not project more than four feet from the wall to which the sign is affixed. The sign shall not project into the right-of-way.
	External illumination shall be the only permitted lighting.
	Changeable copy and electronic signs are not permitted on Pedestrian Blade Signs.
Ground Sign	No more than one (1) ground sign shall be permitted per street frontage per lot.
	No ground sign shall be permitted on lots where the primary structure on a lot is set back less than 15 feet from the dedicated public right-of-way.
	Ground signs shall be of masonry or metal construction.
	The maximum height of the sign structure to which the sign is affixed shall not exceed three (3) feet as measured from the grade of the adjacent street at street edge.
	Landscaping and/or masonry shall be required around the foundation of ground signs. Planting area shall be twice the square footage of the sign area.
	Maximum sign area shall not exceed 20 square feet per face.
	Ground signs may be located up to the property line but shall not be located within the vision clearance triangle.
	Ground signs shall be externally lit. Ground mounted light fixtures shall be concealed from public view.
	Existing ground signs may remain on the property. Such signs may be replaced with a sign that is in keeping with this Chapter. Ground signs on existing properties shall only be permitted if the footprint of the existing use on the property does not change.
	Changeable copy and electronic signs are permitted on Ground Signs.

Figure 8.1



	Sandwich board signs shall not exceed six (6) square feet in area per face.
	Sandwich board signs shall not exceed 42 inches in height.
	Sandwich board signs shall be constructed of wood or material that is equally durable and is comparable aesthetically to wall signage.
	Only tenants with entrances from the sidewalk shall be permitted sandwich board signs.
Sandwich Board Sign	One (1) sandwich board sign is permitted per tenant.
	Sandwich board signs shall not be illuminated.
	Five (5) feet of clear space shall be maintained on the sidewalk.
	Sandwich board signs may only be used during business hours.
	Sandwich board signs shall be located within eight (8) feet of the main entry of the tenant.

	Electronic signs are not permitted on Sandwich Board Signs
Integrated Center Sign	Integrated center signs shall not exceed eight (8) feet in height.
	The maximum area for the sign copy shall be 40 square feet.
	One (1) sign is permitted per frontage.
	Changeable copy panels are permitted. A tenant may not have more than one (1) panel per the original sign permit.
	The maximum height of the on structure to which the sign is affixed shall not exceed three (3) feet as measured from the grade of the adjacent street at street edge.
	Changeable copy and electronic signs are permitted on Integrated Center Signs.
Window Sign	Window signs may not occupy more than 30 percent of the glass to which they are affixed.
	Shall only be permitted on ground floor windows.
	Signs that are illuminated shall not cover more than ten percent of the window area and shall not flash.
	Changeable copy and electronic signs are not permitted on Window Signs.

Figure



Figure 8.2



1172.09 Nonconformance, Waiver Intent, Required Site Improvements, Prohibited Uses, and Mobile Vendor Regulations

(a) Nonconforming Lots, Sites, Structures, and Uses

(1) Purpose: Upon Adoption of the Main Street Overlay District, some previously lawful lots, sites, structures, and land uses may no longer conform to the regulations of the Chapter. For this reason Nonconforming Lots, Sites, Structures, and Uses specifies the rules, polices, and regulations that apply to these lots, sites, structures, and land uses referred to as lawfully nonconforming within the Main Street Overlay District. The purpose of this section is to allow nonconforming lots, structures, and uses to continue to the extent consistent with health, safety, and public welfare purposes of the District, and provide for the following:

- A. Continuing maintenance of nonconforming uses, buildings, structures and site elements, uses which do not conform to the provisions of the District but which complied with applicable laws when established;
- B. Provide for the gradual replacement of nonconforming uses with uses that conform to the provisions of the District; and
- C. Provide standards for continuance of nonconforming uses of land.

(2) Establishing Legal Nonconformity

A. Any lot, site, structure or land use which does not conform with one or more provisions of the Main Street Overlay District, but which lawfully existed upon the effective date of the provisions of this Chapter with which the lot, structure or use does not conform, shall be a lawful nonconforming lot, site, use or structure within the meaning of this section.

B. In order to protect the lawful nonconforming status of a nonconforming use, a person who owns or operates a nonconforming use may request a Certificate of Nonconforming Use from the Director of Development or appointed designee. The applicant shall demonstrate that the use is a lawful nonconforming use prior to the issuance of the certificate. The applicant shall provide sufficient proof that the use or structure was established prior to the adoption of the Chapter and that there was continuous operation of the nonconforming use. Such proof may be deemed necessary by the Director of Development.

(3) Nonconforming Use of a Building, Structure or Land

A. Any continuous, lawful nonconforming use of structures, land, or structures and land in combination established prior to the effective date of the Chapter that is no longer a permitted use in the District where it is located shall be deemed a legal nonconforming use. A legal nonconforming use may continue provided that it remains otherwise lawful, subject to the provisions within this chapter.

B. Discontinuance of Abandoned Nonconforming Use:

- If a legal nonconforming use is discontinued or abandoned for six (6) consecutive months, except when government action impedes access to the premises or the building or structures in which such legal nonconforming use is conducted are damaged or destroyed by fire, flood, wind, or other calamity or act of nature, any subsequent use of such land, structure or land and structure shall conform to the provisions of this Chapter.
- When a legal nonconforming use is superseded by a permitted use, it shall thereafter conform to regulations of the Chapter, and the legal nonconforming use shall not thereafter be resumed.

C. Accessory Buildings: The requirements for nonconforming uses of nonconforming buildings or structures shall apply to all accessory buildings, structures, or buildings located on the same lot.

(4) Use of Nonconforming Lots of Record

A. Erection of new single-family dwellings on nonconforming lots of record shall be permitted if such proposed structure meets all of the requirements of the District in which it is sought to be located except for lot area.

B. Erection of new structures or buildings shall be permitted on nonconforming lots of record if such proposed structure meets all of the requirements of the district in which it is sought to be located except for lot area.

(5) Nonconforming Building or Structure

A. Any continuously occupied, lawfully established structure or building, excluding telecommunication towers and signs, prior to the effective date of the Chapter, or its subsequent amendments, that no longer meets the development standards due to the reasons listed below shall be deemed a legal nonconforming building or structure.

B. A legal nonconforming building or structure may continue provided that it remains the same:

- Any legal nonconforming building or structure shall not be enlarged or altered in a manner that the enlargement or alteration increases its nonconformity, but the building or structure, or portion thereof, may be altered to maintain or decrease its nonconformity.
- Any legal nonconforming building or structure, which is not part of a multifamily residential development, and is damaged or destroyed by more than 50 percent of the fair market value, shall thereafter conform to the regulations of the District in which it is located.
- If a building or structure is moved for any reason, for any distance, it shall thereafter conform to the provisions of the Chapter.

(6) Nonconforming Sites and Structures; Limited Compliance, Nonresidential Uses: A lawful nonconforming site or structure, where any use is nonresidential, shall be brought into compliance with the Chapter to the extent required by this Chapter whenever the following occurs upon the site: any change in use, expansion, enlargement, or relocation of any use; reestablishment of a prior conforming use that has been discontinued for a period of six (6) months or longer.

A. Structure Setback/Height: Existing structures shall not be subject to current setback or height standards and shall remain lawful nonconforming unless expanded, enlarged, relocated or completely demolished and replaced.

B. Parking Setback/Impervious Surface Coverage: If a site can be brought closer to compliance with required setbacks or impervious surface coverage standards through the removal of excess parking above the maximum number of permitted spaces, then such setbacks or impervious surface coverage standards shall be met with the removal of paved and gravel covered areas and the addition of vegetation. If all setbacks cannot be achieved through the removal of such paved and gravel covered areas, priority shall be given to the front setback.

C. Paving: Any parking surfaces shall be brought into compliance with Parking Regulations of this Chapter and applicable parking standards.

D. Striping: All parking areas shall be striped in accordance with Parking Standards.

E. Landscaping: If full compliance with Section 1172.05, Landscaping cannot be achieved due to lack of adequate planting area, all yard areas shall be landscaped to the maximum practicable density with a priority given to shade tree installation.

F. Pedestrian Facilities: Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per the Chapter. If pedestrian facilities exist, new facilities shall not be required if existing facilities meet all ordinances and regulations.

G. ADA Ramps: Any existing sidewalks that do not have adequate ADA ramps shall install required ramps per applicable standards.

H. Signage: All signage shall be brought into compliance with Section 1172.08, Signage to the extent practicable, although freestanding signs may utilize existing setbacks where the sign is not located within a restricted vision clearance area.

I. Dumpster Enclosures: All outdoor waste collection facilities shall be brought into compliance with the Chapter.

J. Lighting: All lighting shall be brought into compliance with the Chapter.

K. Entrances and Drives: All entrances and drives shall be brought into compliance with the Chapter.

(7) Nonconforming Sites and Structures; Limited Compliance, Multifamily Uses: A lawful nonconforming site or structure, where the principal use is multifamily residential, shall be brought into compliance with current development standards to the extent required by this subsection whenever the following occurs upon the site, other than for limited and small expansions: any addition to an existing building, any change of use, or any expansion, enlargement, or relocation of any use, which shall include but not be limited to addition of bedrooms or units:

A. Structure Setback/Height: Existing structures shall not be subject to current setback standards and shall remain lawful nonconforming unless completely demolished and replaced.

B. Parking Setback/Impervious Surface Coverage: If a site can be brought closer to compliance with required setbacks or impervious surface coverage standards through the removal of excess parking above the maximum number of permitted spaces, then such setbacks or impervious surface coverage standards shall be met with the removal of paved and gravel covered areas and the addition of vegetation. If all setbacks cannot be achieved through the removal of such paved and gravel covered areas, priority shall be given to the front setback.

C. Parking: The degree of nonconformity regarding the required number of parking spaces shall not be increased.

D. Paving: Any substandard parking surfaces shall be brought into compliance with Parking Standards.

E. Striping: All parking areas shall be striped in accordance with Parking Standards.

F. Landscaping: If full compliance with Section 1172.05, Landscaping, cannot be achieved due to lack of adequate planting area, all yard areas shall be landscaped to the maximum practicable density with a priority given to shade tree installation.

G. Pedestrian Facilities: Any street frontage without existing pedestrian facilities shall be required to install pedestrian facilities per the requirements of the Chapter. If substandard pedestrian facilities exist, new facilities shall not be required if existing facilities are in the functional condition.

H. ADA Ramps: Any existing sidewalks that do not have adequate ramps shall install required ramps per applicable standards.

- I. Signage: All signage shall be brought into compliance with Section 1172.08, Signage to the extent practicable, although freestanding signs may utilize existing setbacks where the sign is not located within a restricted vision clearance area.
- J. Dumpster Enclosures: All outdoor waste collection facilities shall be brought into compliance with the Chapter.
- K. Lighting: All lighting shall be brought into compliance with the Chapter.
- L. Accessory Structures: Construction of an accessory structure of less than 200 square feet shall be permitted within compliance with this section, provided that the accessory structure does not increase the degree of nonconformity regarding required maximum impervious surface coverage or required number of parking spaces.
- M. Entrances and Drives: All entrances and drives shall be brought into compliance with the Chapter.
- N. Any building, structure, or land which is part of a multifamily residential development having more than four buildings or structures may be converted, superseded or developed in conformity with the Chapter, and the remaining buildings, structures and land of such multifamily residential development shall continue to be deemed a legal nonconforming use and legal nonconforming buildings and structures and shall not be required to be brought into conformity with the Chapter so long as such remaining development consists of at least two buildings.

(8) Nonconforming Sites and Structures: Limited Compliance, Single-family Uses: A lawful nonconforming site or structure for a single-family use shall be brought into compliance with current development standards at such time as an addition or modification occurs, except that the addition or modification may not increase the degree of nonconformity regarding parking requirements. Enlargement or modification of an existing driveway shall be subject to applicable standards.

A. Restoration: If a nonconforming building or structure is damaged or partially destroyed 50% of the fair market value or more by fire, flood, wind, or other calamity or act of nature, structural alteration or other repairs for the purpose of reconstruction may be carried out so long as they are repaired or replaced no more than their original size (i.e. no additional floor area shall be added).

(9) Repair: Repair of nonconforming building or other structure repairs required for restoration of damaged or partially destroyed buildings, may be carried out.

(b) Administrative Waiver Intent

(1) The waiver review process provides a mechanism by which the regulations of the Main Street Overlay District may be modified if the development proposal modification is determined to be necessary and meets the intended purposes of the Chapter. Each waiver shall be considered on a case by case basis, and a waiver shall not apply to a project other than the project for which it was sought. If a project is not completed for which a waiver was granted, the waiver(s) becomes null and void. Any costs incurred as a result of a granted waiver are the sole responsibility of the applicant.

(2) Waivers Eligibility: Waivers are modest changes to design standards that is vital to the proposed development and is determined to meet the goals and intent of the Main Street

Overlay District and achieve substantial, though not complete, compliance with the Chapter. Waivers shall not compromise the project's ability to meet the goals and intent of the District as stated in the Main Street Overlay District Ordinance. Waivers shall be approved administratively by the Director of Development or their designee.

(3) Waiver Request Requirements: A waiver request shall be submitted in writing to the Director of Development or their designee. This should include how the request meets the goals and intent of the district as stated in the Main Street Overlay District Ordinance. The Director of Development or their designee will provide in writing approval or denial to the applicant.

(c) Required Site Improvements

(1) The installation of curbs, gutters, sidewalks and improvements of streets as approved by the City in accordance with its ordinances and specifications, shall be required on any existing or proposed street adjoining a lot on which 50% of the lot is being improved and requires a zoning certificate. Such curbs, gutters, sidewalks and street improvements shall be required as a condition of obtaining a zoning certificate. The City may require a property owner to make an equivalent payment for the labor and material necessary to install curbs, gutters, sidewalks and improvements as calculated by the City engineer, in lieu of requiring the property owner to install the requisite improvements. Any required dedication of property for such improvements shall be conveyed to the City by quit claim deed for immediate installation or for such future time as it becomes prudent for the City to install the said improvements.

(d) Prohibited Uses

(1) The following uses shall be prohibited in the Main Street Overlay District:

- A. Agriculture
- B. Alternative Financial Services
- C. Auto Sales
- D. Boarding Houses
- E. Food Processing
- F. Gas Station/Convenience Store
- G. Heavy Industry
- H. Massage Parlor
- I. Machine Shop/Manufacturing
- J. Outdoor sales area over 60 square feet
- K. Outdoor Storage
- L. Sexually-oriented Businesses
- M. Storage as primary use
- N. Hooka Lounge

(e) Mobile Vendors

(1) The purpose of this section is to facilitate the ability of mobile vendors to operate on private property while ensuring such use is compatible with nearby properties, fosters an aesthetically appealing streetscape and does not create a dangerous traffic condition.

(2) Definition

A. Outdoor Mobile Vendor is a commercially manufactured, self-contained motorized vehicle currently licensed by the Ohio Department of Motor Vehicles.

(3) An outdoor mobile vendor shall not set-up within the City of Clayton without first obtaining a zoning certificate from the Development Department. A zoning certificate shall be granted if the following standards are met:

A. The mobile vendor business shall not match or duplicate the primary food or retail offerings sold by a permanent business located upon property.

B. The mobile vendor shall be located for maximum of three consecutive days for every 30-days.

C. Mobile vendors shall not occupy more than 10 percent of the required parking for the permitted permanent use of the property.

D. The mobile vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. Mobile vendors are not permitted to dispose of their trash in public trash receptacles.

E. The zoning certificate shall be conspicuously displayed at all times during the operation of the mobile vending business.

F. Connection to a source of electricity, water or sewer is prohibited. The mobile vendor may supply their own sources.

G. Mobile vendors shall have all applicable federal, state, and local licenses and approvals.

H. No mobile vendor shall operate at any location other than that established on the plan submitted with the application.

I. A mobile vendor shall not operate between 11:00 pm and 8:00 am.

J. A mobile vendor shall not operate within 1,000 feet of a structure that is primary used for residential.

K. The mobile vendor shall submit written proof of permission from the property owner with the zoning certificate application.

L. Mobile vendors shall include with application any temporary shelters such as tents that may be utilized. Review and approval by Clayton Fire Department and Montgomery County Building Regulations may be required.

M. Mobile vendors shall park on improved surfaces and shall not obstruct traffic movement or impair visibility or safety to the site. Mobile vendors shall also observe setback restrictions.

N. The zoning certificate shall only apply to the location specified on certificate. Each different location shall require a separate zoning certificate.

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2. 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.

3. 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 April 20, 2017 and May 4, 2017.

4. 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 MAY 4, 2017

ORDINANCE NO. O – 04 – 17 – 07

AN ORDINANCE ADOPTING AN AMENDMENT TO THE CLAYTON LAND USE PLAN OF 1999 TO INCLUDE THE MAIN STREET OVERLAY MAP

WHEREAS, by Ordinance No. O-04-17-06, enacted May 4, 2017 Clayton adopted the Clayton Codified Ordinance Chapter 1172 entitled, “*Main Street Overlay District*” and Council desires to include the Main Street Land Overlay map contained within Clayton Codified Ordinance Chapter 1172 as part of the Clayton Land Use Plan of 1999.

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

1. That the Clayton Land Use Plan of 1999 is hereby amended to include the Main Street Land Overlay map contained within Clayton Codified Ordinance Chapter 1172 and referenced herein.

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Clayton Main Street Overlay District Land Map (MSD-O)

The Main Street Overlay District shall apply to any parcel of land located partially or wholly within the 275 feet of Main Street right-of-way or the next parallel right-of-way, whichever comes first. Nodes are defined at significant intersections.

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 04 – 17 – 14

A RESOLUTION TO AUTHORIZE ENGAGEMENT OF THE LAW FIRM OF ICE MILLER, LLP TO PROVIDE LEGAL SERVICES AND REPRESENT THE CITY OF CLAYTON, OHIO IN A LAWSUIT AGAINST THE STATE OF OHIO TO DECLARE SUBSTITUTE SENATE BILL 331 UNCONSTITUTIONAL AND OTHERWISE IN VIOLATION OF OHIO LAW AND IN AN AMOUNT TO ICE MILLER, LLP NOT TO EXCEED \$5,000.00

WHEREAS, the City of Clayton, Ohio recognizes that its citizens need advanced wireless communications services and that its citizens desire enhanced access to these services; and

WHEREAS, the City of Clayton, Ohio recognizes that small cell facilities will need to be situated within the corporate limits of the City in order to expand wireless communications services; and

WHEREAS, the City of Clayton, Ohio desires to work with wireless communications companies regarding the placement of these facilities in order to preserve the aesthetics of the community and protect the health, safety, and welfare of its citizens; and

WHEREAS, the State of Ohio has enacted Substitute Senate Bill 331, which purports to remove the City’s authority to regulate and control placement of these facilities in City right-of-way and requires cities to make available at nominal cost, access to city-owned poles and other structures in the right-of-way; and

WHEREAS, the City of Clayton, Ohio desires to assert its home rule authority to control the use of local right-of-way in the best interests of its citizens; and

WHEREAS, Substitute Senate Bill 331 violates the home rule provisions of the Ohio Constitution.

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

1. That the City Manager is authorized to enter into an agreement with the law firm of Ice Miller, LLP to bring a lawsuit on behalf of the City of Clayton, Ohio declaring Substitute Senate Bill 331 as unconstitutional and otherwise in violation of Ohio law. The amounts paid to Ice Miller, LLP for services related to said lawsuit by the City of Clayton, Ohio shall not exceed \$5,000.00.

ADOPTED BY COUNCIL ON APRIL 20, 2017

RESOLUTION NO. R – 04 – 17 – 15

A RESOLUTION TO APPROVE THE PROPOSED REVISED BYLAWS OF THE FIRST SUBURBS CONSORTIUM OF DAYTON, OHIO

WHEREAS, the City of Clayton, Ohio is a member of the First Suburbs Consortium of Dayton, Ohio (“First Suburbs Consortium” or “Consortium”) and Councilmembers Tim Gorman and Greg Merkle are the duly appointed Clayton representatives to said Consortium; and

WHEREAS, said Consortium was established in 2005 and member communities have been asked to approve the attached proposed revisions to the originally adopted 2005 Bylaws of the First Suburbs Consortium.

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

1. That the proposed revised Bylaws of the First Suburbs Consortium of Dayton, Ohio appended hereto are hereby approved.

ADOPTED BY COUNCIL ON APRIL 20, 2017

RESOLUTION NO. R – 04 – 17 – 16

A RESOLUTION TO DECLARE SURPLUS EQUIPMENT (LADDER TRUCK 85) AVAILABLE FOR DISPOSAL THROUGH SALE OR AUCTION

WHEREAS, R.C. 721.01 permits a municipal corporation to sell or lease property no longer needed for municipal purposes; and

WHEREAS, the City Manager and Fire Chief have advised that Ladder Truck 85 is no longer needed for municipal purposes.

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

1. That the specific property referenced herein is hereby declared to be surplus and available for disposition by the City Manager through sale or auction including: (a) internet auction including but not limited to Municibid and/or GovDeals; (b) public auction; and (c) pricing of said property and advertising for direct sale through trade publications.

ADOPTED BY COUNCIL ON APRIL 20, 2017
