

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

June 16, 2022

OLD BUSINESS

ORDINANCES - SECOND OF TWO READINGS

ORDINANCE NO. O – 05 – 22 – 11

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE CLAYTON CODIFIED ORDINANCES.

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council;

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

1. That the ordinances of the City of Clayton, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2022 Replacement Pages to the Codified Ordinances, are hereby approved and adopted.

2. That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Administrative Code

101.03 Rules of Construction. (Amended)

Traffic Code

303.082 Private Tow-Away Zones. (Amended)

303.083 Impounding Vehicles on Public Property. (Added)

331.211 Report of Vehicle Failing to Yield Right of Way to Public Safety Vehicle. (Amended)

333.03 Maximum Speed Limits. (Amended)

335.02 Permitting Operation Without Valid License; One License Permitted. (Amended)

335.021 Ohio Driver's License Required for In State Residents. (Amended)

335.09 Display of License Plates or Validation Stickers; Temporary License Placard. (Amended)

371.13 Operation of Personal Delivery Device on Sidewalks and Crosswalks. (Added)

General Offenses Code

513.14	Sale of Dextromethorphan. (Added)
517.01	Gambling Definitions. (Amended)
517.02	Gambling. (Amended)
517.06	Methods of Conducting a Bingo Game; Prohibitions. (Amended)
517.08	Raffles. (Amended)
517.09	Charitable Instant Bingo Organizations. (Amended)
517.11	Bingo or Game of Chance Records. (Amended)
517.13	Bingo Exceptions. (Amended)
517.14	Instant Bingo Conduct by a Veteran's or Fraternal Organization. (Amended)
517.15	Skill-Based Amusement Machines. (Amended)
517.16	Electronic Instant Bingo; Prohibited Conduct. (Added)
525.13	Interfering with Civil Rights. (Amended)
529.01	Liquor Control Definitions. (Amended)
529.07	Open Container Prohibited. (Amended)
537.19	Hazing Prohibited. (Added)
545.03	Property Exceptions as Felony Offense. (Amended)
545.09	Passing Bad Checks. (Amended)

Fire Prevention Code

1519.01	Fireworks Definitions. (Amended)
1519.05	Application. (Amended)
1519.06	Safety Requirements for Fireworks Showroom Structures. (Added)

3. That the complete text of the sections listed above are set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this ordinance as **Exhibit A**. Any summary publication of this ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

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 May 19, 2022 and June 16, 2022.

5. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ORDINANCE NO. O – 05 – 22 – 13

AUTHORIZING THE CREATION OF THE WENGER VILLAGE INCENTIVE DISTRICT WITHIN THE CITY OF CLAYTON, OHIO; DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN SUCH INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE; DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS TO BE MADE TO BENEFIT OR SERVE THE REAL PROPERTY WITHIN SUCH INCENTIVE DISTRICT; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; REQUIRING ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND; AND PROVIDING RELATED AUTHORIZATIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(C), 5709.42, 5709.43, 5709.832 AND 5709.85.

WHEREAS, Division (C) of Ohio Revised Code Section (“**R.C.**”) 5709.40 provides that this Council may, under certain circumstances, (i) create an incentive district for parcels of real property located in the City of Clayton, Montgomery County, Ohio (the “**City**”), (ii) declare as “improvements,” which term is defined in Division (A)(4) of R.C. 5709.40, to such parcels of real property located in such incentive district to be a public purpose, thereby granting to those improvements an exemption from real property taxation, (iii) designate the public infrastructure improvements made, to be made, or in the process of being made that benefit or serve, or, once made, will benefit or serve parcels in such incentive district, and (iv) require annual service payments in lieu of taxes to be used to finance the designated public infrastructure improvements within such incentive district; and,

WHEREAS, pursuant to Division (C)(4) of R.C. 5709.40, such exemption may be for up to ten (10) years and up to seventy-five percent (75%) of the increase in the assessed value of any real property in such incentive district that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under R.C. 5709.40 were it not for the exemption granted by that ordinance (an “**Improvement**”); and,

WHEREAS, the real property described in **EXHIBIT A** attached hereto and incorporated herein by reference (the “**Property**”) is located in the City, with each parcel of the Property referred to herein as a “**Parcel**” (whether as presently appearing on Montgomery County tax duplicates or as subdivided or combined and appearing on future tax duplicates); and,

WHEREAS, Oakes Tree Development, LLC, or its designee, (the “**Developer**”) proposes to develop the Property by constructing approximately 58 single family residential units, together with related site improvements (the “**Development**”), which Development places additional demand on the Public Infrastructure Improvements, defined below; and,

WHEREAS, pursuant to Division (C) of R.C. 5709.40, this Council desires to create an incentive district of the Parcels comprising the Development (the “**Wenger Village Incentive District**”); and,

WHEREAS, as required by Division (A)(5)(f) of R.C. 5709.40, the City Engineer has certified to this Council that (i) the Wenger Village Incentive District is less than 300 acres in size, (ii) the Wenger Village Incentive District is enclosed by a continuous boundary, and (iii) the existing public infrastructure is inadequate to meet the residential, commercial, or industrial development needs of the Wenger Village Incentive District, as evidenced by the City’s written economic development plan, which is on file with the Clerk of the Council; and,

WHEREAS, pursuant to Division (C)(4) of R.C. 5709.40, this Council has determined to grant the TIF Exemption (as defined herein) from real estate taxation for all Improvements to the Property within the Wenger Village Incentive District for seventy-five percent (75%) of such Improvements for ten (10) years; and,

WHEREAS, this Council (i) has determined that it is necessary and appropriate and in the best interests of the City to provide for annual service payments in lieu of real property taxes with respect to the Property pursuant to R.C. 5709.42 and (ii) desires to facilitate the construction of the public infrastructure improvements described in **EXHIBIT B** attached hereto and incorporated herein by reference (the “**Public Infrastructure Improvements**”); and,

WHEREAS, in connection with the construction of the Development, the City and the Developer desire to execute a tax increment financing agreement substantially in the form attached hereto and incorporated herein as **EXHIBIT C** (the “**TIF Agreement**”), which TIF Agreement provides for the construction of the Development and for the financing of the Public Infrastructure Improvements, as defined herein and in the TIF Agreement; and,

WHEREAS, notice of this proposed ordinance has been delivered to the Boards of Education of the Northmont City School District (“**Northmont City Schools**”) and the Miami Valley Career Technology Center (“**Miami Valley Career Tech**,” and together with Northmont City Schools, the “**School Districts**”) pursuant to R.C. 5709.40 and R.C. 5709.83; and,

WHEREAS, this Council acknowledges that this ordinance is being adopted after a duly conducted public hearing, with prior notice, via first class mail, of such public hearing provided not later than thirty (30) days to every real property owner whose property is located in the boundaries of the Wenger Village Incentive District, and said notice included a map of the incentive district, an overlay relating thereto, and information to property owners as to excluding their property from the incentive district, as appropriate, all in accordance with Division (C)(2)(a) of R.C. 5709.40; and,

WHEREAS, this Council acknowledges that it has received an affirmative statement from the owners of all the Parcels (i.e., 100% of the Property) located within the Wenger Village Incentive District (i) otherwise waiving the notice requirement set forth in Division (C)(2)(a) of R.C. 5709.40 with respect to all of the Property, (ii) affirming that the owners thereof have no intention of excluding any of the Property from the Wenger Village Incentive District, and (iii) requesting that this Council proceed with the enactment of this ordinance.

NOW, THEREFORE, be it ordained by the legislative authority of the Municipality of Clayton, Montgomery County, Ohio, that:

Section 1. Creation of Incentive District. Pursuant to Division (C) of R.C. 5709.40, this Council hereby creates the Wenger Village Incentive District, which consists of the Parcels specifically identified and depicted in Exhibit A attached hereto, and further declares that the Improvements to the Property are a public purpose.

Section 2. Authorization of TIF Exemption. Under Division (C) of R.C. 5709.40, this Council hereby exempts from taxation seventy-five percent (75%) of the Improvement as a public purpose for a period of ten (10) years (the “**TIF Exemption**”). The TIF Exemption with respect to all Property in the Wenger Village Incentive District shall commence with the first day of the tax year following the effective date of this ordinance and for which an Improvement on any Parcel in the Wenger Village Incentive District would have first appeared on the tax list and duplicate of real and public utility property were it not for the exemption granted by this ordinance (the “**Commencement Date**”), and in all cases, the Wenger Village Incentive District and the TIF Exemption shall end with respect to all Property in the Wenger Village Incentive District on the date that is the earlier of (a) ten years after the

Commencement Date or (b) the date on which the City can no longer require service payments in lieu of taxes, either by law, or because the costs of all Public Infrastructure Improvements are paid for, all in accordance with the requirements of R.C. 5709.40, R.C. 5709.42, and R.C. 5709.43.

Section 3. Service Payments and Property Tax Rollback Payments. As provided in R.C. 5709.42, this Council hereby directs and requires the owners of Parcels within the Wenger Village Incentive District (the “**Owners**”) to make annual service payments in lieu of taxes with respect to the Improvement allocable to each such Owner’s Parcel to the County Treasurer of Montgomery County, Ohio (the “**County Treasurer**”) on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then-current rate established under R.C. 323.121 and R.C. 5703.47, will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not subject to the TIF Exemption. Such service payments in lieu of taxes, penalties and interest, and any other payments with respect to each Improvement that are received by the County Treasurer in connection with the reduction required by R.C. 319.302, R.C. 321.24, R.C. 323.152 and R.C. 323.156, as the same may be amended from time-to-time, or any successor provisions, as the same may be amended from time-to-time (the “**Property Tax Rollback Payments**,” and together with the annual service payments in lieu of taxes and penalties and interest described above, the “**Service Payments**”), will be allocated and distributed in accordance with Section 5 of this ordinance.

Section 4. Creation of TIF Fund. This Council hereby establishes, pursuant to and in accordance with the provisions of R.C. 5709.43, the Seneca Drive Municipal Public Improvement Tax Increment Equivalent Fund (the “**TIF Fund**”), into which shall be deposited all of the Service Payments distributed to the City with respect to the Improvements to Parcels of the Property by or on behalf of the County Treasurer, as provided in R.C. 5709.42. The City may use amounts deposited into the TIF Fund to pay any costs associated with the Public Infrastructure Improvements approved by the City, including, but not limited to, the “**costs of permanent improvements**” described in Division (B) of R.C. 133.15. The TIF Fund will be maintained in the custody of the City and will exist so long as such Service Payments are collected and used for the purposes described in this Section 5. Then the TIF Fund is to be dissolved and any surplus funds remaining in the TIF Fund will be transferred to the City’s general fund, all as set forth under Division (D) of R.C. Section 5709.43.

Section 6. Distribution of Funds. At the same time and in the same manner as real property tax distributions, the County Treasurer shall distribute the Service Payments to the City to be deposited in the TIF Fund, and the City shall then distribute the Service Payments as follows:

FIRST, unless so distributed by the County Treasurer or the County Auditor of Montgomery County, Ohio (the “**County Auditor**”), to compensate each appropriate taxing authority, in an amount equal to the amount of taxes each such authority would have received had this ordinance not been adopted, as to renewal levies with an increase, replacement levies, or additional levies, as appropriate, all as are described under Division (F) of R.C. 5709.40; and,

SECOND, to be deposited into the TIF Fund and then distributed according to the terms and conditions of the TIF Agreement.

The City shall then distribute Service Payments on deposit in the TIF Fund to pay or reimburse the City or the Developer, respectively, for the costs of Public Infrastructure Improvements constructed by the City or the Developer, respectively, according to the terms and conditions of the TIF Agreement. The Service Payments are hereby directed one hundred percent (100%) to general public infrastructure improvements, as they comprise the Public Infrastructure

Improvements set forth herein. The TIF Fund is to remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund is to be dissolved and any surplus funds remaining therein are to be transferred to the City's General Fund, all in accordance with R.C. 5709.43.

Section 7. TIF Agreement and Further Authorizations. This Council hereby approves the TIF Agreement, with any changes that are not inconsistent with this ordinance and not substantially adverse to the City and which shall be conclusively evidenced by the signing of the TIF Agreement by the Mayor, to which this Council further hereby authorizes execution on behalf of the City. This Board further authorizes and directs the Mayor or other appropriate officers of the City to provide such information and certifications and execute and deliver, or accept delivery of such instruments, as are necessary and appropriate to implement this ordinance and the TIF Agreement.

Section 8. Application for Real Property Tax Exemption and Remission. This Council hereby authorizes the Mayor or other appropriate officers of the City to prepare and sign any applications for real property tax exemption pursuant to R.C. 5709.911, the provisions of which govern the priority status of the exemptions provided under this ordinance.

Section 9. Tax Incentive Review Council. This Council hereby designates the Montgomery County Tax Incentive Review Council (the "TIRC") as the tax incentive review council that shall review annually all exemptions from taxation resulting from this ordinance and any other matters as may properly come before the TIRC, in accordance with R.C. 5709.85.

Section 10. Nondiscriminatory Hiring Practices. In accordance with R.C. 5709.832, this Council hereby determines that no employer located in the Wenger Village Incentive District is to deny any individual employment based on considerations of race, religion, sex, disability, color, national origin, or ancestry.

Section 11. Ohio Department of Development. Pursuant to Division (I) of R.C. 5709.40, the Mayor is hereby directed to deliver a copy of this ordinance to the Director of the Ohio Department of Development ("ODOD") within fifteen (15) days after its passage. On or before March 31 of each year that the TIF Exemption remains in effect, the Mayor or other authorized officer of this City shall prepare and submit, or cause to be prepared and submitted, to the Director of ODOD the status report required under Division (I) of R.C. 5709.40.

Section 12. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any decision-making bodies of the City that resulted in such formal actions were in meetings open to the public and in compliance with Ohio's Sunshine Laws, including R.C. 121.22.

Section 13. Effective Date. This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

NEW BUSINESS

ORDINANCES - FIRST OF TWO READINGS

ORDINANCE NO. O – 06 – 22 – 16

**AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S
RECOMMENDATION, WITH CONDITION, TO APPROVE THE APPLICATION OF
THE KLEINGERS GROUP FOR RIGHT OF WAY AND EASEMENTS PLAT
APPROVAL FOR THE GRAND VILLAS OF CLAYTON WITH RESPECT TO 15.144
ACRES AND BEARING PARCEL ID NUMBER M60 03102 0032 WITHIN THE CITY
OF CLAYTON, OHIO**

WHEREAS, on or about May 2, 2022, The Kleingers Group submitted application for approval of the Right of Way and Easements Plat for the Grand Villas of Clayton located on 15.144 acres and bearing Parcel ID Number M60 03102 0032 within Clayton, Ohio; and

WHEREAS, the Clayton Planning Commission held a public hearing on May 23, 2022, on said plat approval request at which time any and all persons were given an opportunity to be heard thereon, and;

WHEREAS, *the Clayton Planning Commission after public meeting on May 23, 2022, recommended approval of the subject Right of Way and Easements Plat for the Grand Villas of Clayton subject to the following condition: “The Applicant must address the comments resulting from the Staff Review and emailed to the Applicant on May 23, 2022. Those comments must be addressed for the submission of the plat for signatures.”; and*

WHEREAS, the City Council held a public hearing on June 16, 2022 on said request at which time any and all persons were given an opportunity to be heard thereon.

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

1. That the Council hereby **ADOPTS** the *recommendation of approval by the Clayton Planning Commission for the Right of Way and Easements Plat for the Grand Villas of Clayton subject to the following condition: “The Applicant must address the comments resulting from the Staff Review and emailed to the Applicant on May 23, 2022. Those comments must be addressed for the submission of the plat for signatures.” The Staff Review comments email dated May 23, 2022 is appended hereto as Exhibit A.*
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 June 16, 2022 and July 21, 2022.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ORDINANCE NO. O – 06 – 22 – 17

AN ORDINANCE ADOPTING THE PLANNING COMMISSION’S RECOMMENDATION TO APPROVE, WITH CONDITION, THE APPLICATION OF OAKES TREE DEVELOPMENT FOR A CHANGE IN ZONING FROM RESIDENTIAL SINGLE-UNIT DISTRICT (RSD) (FORMERLY R-1 OPEN SPACE RESIDENTIAL) TO PLANNED DEVELOPMENT DISTRICT (PDD) (FORMERLY PD-3 PLANNED DEVELOPMENT- BUSINESS) AND TO FURTHER APPROVE THE PRELIMINARY DEVELOPMENT PLAN FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF NATIONAL ROAD AND HABER ROAD (TO BE CALLED “NORTHWOOD ESTATES”) CONSISTING OF PARCEL I.D. NUMBER M60 03012 0022 AND PARCEL I.D. NUMBER M60 03102 0105 AND CONTAINING 33.69 ACRES WITHIN THE CITY OF CLAYTON, OHIO

WHEREAS, on or about May 5, 2022, an application was filed by Oakes Tree Development, with consent of the property owner, for the property located at the Northwest Corner of National Road and Haber Road consisting of Parcel I.D. Number M60 03012 0022 and Parcel I.D. Number M60 03102 0105, and containing 33.69 acres within the City of Clayton, Ohio (“Subject Property”)(to be called “Northwood Estates”) and requesting a zoning change for same from Residential Single-Unit District (RSD) (formerly R-1 Open Space Residential) to Planned Development District (PDD) (formerly PD-3 Planned Development – Business) and further requesting approval of the proposed Preliminary Development Plan for said subject property; and

WHEREAS, the Clayton Planning Commission held a public hearing on May 23, 2022 on said re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon, and the Clayton Planning Commission, at said May 23, 2022 meeting, *voted to approve as submitted the re-zoning and Preliminary Development Plan request with the following condition: “The Applicant shall address the comments from the Staff Review emailed to the Applicant on May 20, 2022. These comments shall be addressed and/or provided as part of the Final Development Plan submittal.”*; and

WHEREAS, the Clayton City Council held a public hearing on June 16, 2022, on the aforesaid re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon.

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

1. That the Council hereby **ADOPTS** the Planning Commission’s *recommendation of approval of the re-zoning and Preliminary Development Plan request for the Subject Property with the following condition: “The Applicant shall address the comments from the Staff Review emailed to the Applicant on May 20, 2022. These comments shall be addressed and/or provided as part of the Final Development Plan submittal.” A copy of the Staff Review comments email dated May 20, 2022 is appended hereto as Exhibit A.*
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 June 16, 2022 and July 21, 2022.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ORDINANCES (SINGLE READING AND IMMEDIATE ENACTMENT VIA EMERGENCY)

ORDINANCE NO. O – 06 – 22 – 18

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE LEGAL DOCUMENTATION NECESSARY TO PURCHASE REAL PROPERTY LOCATED AT 8027 N. MAIN STREET CLAYTON, OHIO AND BEARING PARCEL I.D. NUMBERS M60 16312 0003, 0004, and 0005 FOR THE PURCHASE AMOUNT OF \$99,000.00 PLUS CLOSING COSTS AND DECLARING AN EMERGENCY

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution permits Clayton to exercise its power of local self-government; and

WHEREAS, Council desires to authorize the City Manager to execute all legal documentation necessary to accomplish purchase of the real property located at 8027 N. Main Street, Clayton, Ohio and bearing Parcel I.D. No.s M60 16312 0003, 0004, and 0005 and containing approximately .8265 acres, for the purchase price of \$99,000.00 plus additional closing costs, if any, as specified by the applicable purchase contract(s) and settlement statements (said additional costs not to exceed \$25,000.00).

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

1. That the City of Clayton, Ohio Council hereby authorizes the City Manager to execute all legal documentation necessary, including but not limited to, any necessary assignment documentation, to accomplish purchase of the real property located at 8027 N. Main Street, Clayton, Ohio and bearing Parcel I.D. No.s M60 16312 0003, 0004, and 0005 for the purchase price of \$99,000.00 plus additional closing costs, if any, as specified by the applicable purchase contract(s) and settlement statements (said additional costs not to exceed \$25,000.00), and take all necessary actions to close on said property and obtain title thereto.
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 Charter Section 4.031(B) the requirement that this ordinance be read on two (2) different days is dispensed with by affirmative vote of at least five (5) of the members of Council.
4. That, immediate approval of the purchase of the real property located at 8027 N. Main Street Clayton, Ohio, Parcel I.D. No.s M60 16312 0003, 0004, and 0005 is necessary and will result in enhancement to the economic health, safety and welfare of the Clayton Community at large. Additionally, in order for the subject property to be submitted to the State demolition project in a timely manner, this Ordinance must be immediately effective. Accordingly, in accordance with Charter Section 4.033(A) this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon affirmative vote of at least five (5) of the members of Council.

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 06 – 22 – 43

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE MONTGOMERY COUNTY SOIL AND WATER CONSERVATION DISTRICT TO COMMENCE APRIL 1, 2022 AND TERMINATE MARCH 31, 2025 AND AT AN ANNUAL COST NOT TO EXCEED \$9,500.00

WHEREAS, via City Charter Section 8.02(C)(1) and enactment of Ordinance No. 01-21-01 on February 18, 2021, the current minimum competitive bid threshold is \$64,498.00; and

WHEREAS, Clayton Charter Section 8.02(C)(3)(b) exempts intergovernmental contracts from competitive bidding; and

WHEREAS, the City of Clayton is required to file an annual report with the Ohio EPA detailing the status of compliance with permit conditions and including an assessment of the appropriateness of the Best Management Practices and progress toward achieving measurable goals; and

WHEREAS, the Montgomery County Soil and Water Conservation District staff has the expertise to provide assistance to the City of Clayton staff to ensure the City's compliance with Ohio EPA requirements and City staff has recommended approval of the Memorandum of Understanding appended hereto as **Exhibit A** and incorporated herein, allowing the City of Clayton and the Montgomery County Soil and Water Conservation District to work together to achieve the goals stated therein.

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 the attached Memorandum of Understanding (**Exhibit A**) in substantially the same form as appended hereto and for a total cost not to exceed \$9,500.00 annually. The appended Memorandum of Understanding is incorporated herein and made a part hereof.

ADOPTED BY COUNCIL ON JUNE 16, 2022

RESOLUTION NO. R – 06 – 22 – 45

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ASPHALT SEALCOATERS OF DAYTON FOR THE INSTALLATION OF FOUR PICKLEBALL COURTS AT MEADOWBROOK AT CLAYTON AT A TOTAL COST NOT TO EXCEED \$56,850.00

WHEREAS, Charter Section 8.02(C)(1) and Ordinance No. O-02-21-01 enacted February 18, 2021, exempt from competitive bidding requirements purchases which are less than \$64,498.00; and

WHEREAS, City Staff has recommended the installation of four pickleball courts at Meadowbrook at Clayton and has requested proposals and received one proposal therefore.

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 Asphalt Sealcoaters of Dayton for the installation of four pickleball courts at Meadowbrook at Clayton at a total cost not to exceed \$56,850.00.

ADOPTED BY COUNCIL ON JUNE 16, 2022

RESOLUTION NO. R – 06 – 22 – 46

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT PROPOSAL OF AND ENTER INTO AN AGREEMENT WITH SUPERIOR DENTAL CARE FOR THE PROVISION OF GROUP DENTAL INSURANCE BENEFITS FOR THE PERIOD SEPTEMBER 1, 2022 TO AUGUST 31, 2023

WHEREAS, Superior Dental Care, via the City's broker, has proposed renewal of the City's plan which would remain in effect through August 31, 2023; and

WHEREAS, City staff has confirmed that the use of a formal competitive bidding/proposal process and the delay associated therewith would result in a gap in coverage for employees; and

WHEREAS, the renewal would keep the current coverage and services as exist for the City; and

WHEREAS, renewal of the current Superior Dental Care policy permits continuation of the contract plan at the best and lowest price, coverage, and services reasonably possible; and

WHEREAS, City Staff and the City Manager recommends for acceptance as most beneficial, favorable to the City, and in the best interest of the City, the proposal submitted by Superior Dental Care for the period September 1, 2022 to August 31, 2023.

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

1. That the renewal proposal with Superior Dental Care for the provision of group dental insurance benefits from September 1, 2022 to August 31, 2023 with monthly premium cost not to exceed \$25.46 per employee plan and \$78.18 per multi-enrollee plan is hereby approved and accepted and the City Manager and Finance Director are hereby authorized to enter into the proposed Insurance Agreement to effect said coverage.

ADOPTED BY COUNCIL ON JUNE 16, 2022

RESOLUTION NO. R. – 06 – 22 – 47

A RESOLUTION APPROVING A FIVE (5) YEAR LEASE PURCHASE AGREEMENT WITH PUBLIC SECTOR CAPITAL FOR THE LEASE AND PURCHASE OF THREE (3) DUMP TRUCKS VIA STATE BID AT THE PURCHASE/LEASE PRICE OF \$787,497.00

WHEREAS, the City of Clayton (the “Municipality”) is a political subdivision of the State of Ohio (the “State”) and is duly organized and existing pursuant to the Constitution and laws of the State; and

WHEREAS, pursuant to applicable law, the City Council as governing body of the Municipality (the “Governing Body”) is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Municipality; and

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Lease-Purchase Agreements (“Leases”) in the principal amount not exceeding the amount stated above for the purpose of acquiring the property (“Equipment”) to be described in the Lease(s) is appropriate and necessary to the functions and operations of the Municipality; and

WHEREAS, Public Sector Capital (“Lessor”) shall act as Lessor under said Lease(s).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON AS GOVERNING BODY OF THE MUNICIPALITY:

Section 1. The City Manager (the “Authorized Representative”) acting on behalf of the Municipality, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the attached **Exhibit A**. The Authorized Representative acting on behalf of the Municipality is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease of three (3) dump trucks at a purchase/lease price of \$787,497.00 as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Lease(s) are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Municipality to execute and deliver agreements and documents relating to the Lease(s) on behalf of the Municipality.

Section 3. The aggregate original principal amount of the Lease(s) shall not exceed the amount stated above and shall bear interest as set forth in the Lease(s) and the Lease(s) shall contain such options to purchase by the Municipality as set forth therein.

Section 4. The Municipality’s obligations under the Lease(s) shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease(s) and the Municipality’s obligations under the Lease(s) shall not constitute general obligations of the Municipality or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the Municipality reserves the right to consider for approval at a future date the issuance of not more than \$10,000,000 of tax-exempt obligations (other than “private activity bonds” which are not “qualified 501(c)(3) bonds”) during the fiscal year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED BY COUNCIL ON JUNE 16, 2022

THE FOLLOWING RESOLUTION DID NOT RECEIVE THE REQUIRED NUMBER OF VOTES FOR PASSAGE AND THEREFORE WAS NOT ENACTED:

RESOLUTION NO. R – 06 – 22 – 44

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PROVIDE WRITTEN NOTICE OF WITHDRAWAL OF THE CITY OF CLAYTON, OHIO FROM THE CENTRAL COLLECTION AGENCY TO THE CITY OF CLEVELAND, OHIO AND THE CENTRAL COLLECTION AGENCY (CCA) IN ORDER TO TERMINATE THE CITY OF CLEVELAND, OHIO'S AND THE CCA'S AUTHORITY TO ADMINISTER AND ENFORCE CLAYTON'S INCOME TAX ORDINANCE(S)

WHEREAS, Charter Section 8.02 provides that the City Manager shall be the contracting officer of the City and shall award and execute all contracts on behalf of the City; and

WHEREAS, on May 6, 2003, a majority of the electors of the City of Clayton voted in favor of Ordinance No. O-02-03-02, levying a one and one half percent (1.5%) Municipal Income Tax for the City of Clayton; and

WHEREAS, Ordinance No. O-02-03-02 provides that the City Manager may designate and contract with an "Administrator" to administer and enforce the provisions of the municipal income tax; and

WHEREAS, via enactment of Resolution No. R-08-15-54 on August 6, 2015, Council authorized the City Manager to enter into an agreement with the City of Cleveland, Ohio to administer and enforce the City of Clayton's Income Tax Ordinance No. O-02-03-02 and any Income Tax Ordinance enacted by the City as required by the General Assembly's enactment of H.B. 5 in December, 2014 and any amendments thereto, beginning January 1, 2016; and

WHEREAS, Council desires to authorize the City Manager, before July 1, 2022, to provide written notice to the City of Cleveland, Ohio and the Central Collection Agency (CCA) of the City of Clayton, Ohio's withdrawal from the CCA in order to terminate the attached agreement (**Exhibit A**) and further terminate the City of Cleveland, Ohio's and the CCA's authority to administer and enforce the City of Clayton's Income Tax Ordinance(s), said withdrawal and termination to be effective on December 31, 2022, per Article VI of the attached **Exhibit A**.

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 withdraw the City of Clayton, Ohio from the CCA and terminate the authority of the City of Cleveland, Ohio and the CCA to administer and enforce the City of Clayton, Ohio's Income Tax Ordinance(s) in accordance with Article VI of the attached **Exhibit A** by giving written notice of said withdrawal and termination prior to July 1, 2022 to the City of Cleveland, Ohio and the CCA, said termination and withdrawal to be effective December 31, 2022, per Article VI of the attached **Exhibit A**.

ADOPTED BY COUNCIL ON JUNE 16, 2022
