

CITY OF CLAYTON, OHIO

ORDINANCE NO. O – 07 –22 - 20

AN ORDINANCE DIRECTING THE BOARD OF ELECTIONS OF MONTGOMERY COUNTY, OHIO TO PLACE ON THE BALLOT AT THE ELECTION TO BE HELD ON NOVEMBER 8, 2022 THE QUESTION OF WHETHER THE CITY OF CLAYTON, OHIO SHOULD EFFECT A GOVERNMENTAL ELECTRICITY AGGREGATION PROGRAM WITH OPT-OUT PROVISIONS PURSUANT TO SECTION 4928.20 OF THE OHIO REVISED CODE AND DECLARING AN EMERGENCY

WHEREAS, the Ohio Legislature has enacted electric deregulation legislation which authorizes the legislative authorities of municipal corporations, townships, and counties to aggregate the retail electrical loads located within the respective jurisdictions and to enter into service agreements to facilitate for those loads the purchase and sale of electricity (“Governmental Aggregation”); and

WHEREAS, Governmental Aggregation pursuant to ORC Section 4928.20 provides an opportunity for certain consumers to participate collectively in the potential benefits of lower electricity rates which would not otherwise be available to those electricity consumers individually; and

WHEREAS, in the public interest, the City of Clayton, Ohio desires to submit to the electors of the City of Clayton, Ohio the question of whether the City of Clayton, Ohio should create an Electric Aggregation Program to facilitate competitive retail electric service to promote electric savings, lower cost electric supplies, and other benefits in accordance with ORC Section 4928.20.

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

SECTION 1: This Council finds and determines that to facilitate competitive retail electric service to promote electric savings, lower cost electricity supplies, and other benefits, it is in the best interest of the City of Clayton, Ohio and certain electricity consumers within the jurisdiction of the City of Clayton, Ohio to establish an Electric Aggregation Program in the City of Clayton, Ohio pursuant to ORC Section 4928.20. Provided that this Ordinance and Electric Aggregation Program is approved by the electors of the City of Clayton, Ohio in accordance with this Ordinance, the City of Clayton, Ohio is hereby authorized to take all actions necessary to affect an Electric Aggregation Program pursuant to ORC Section 4928.20. The City of Clayton, Ohio may exercise this authority jointly with other entities to the full extent permitted by law. Further, for such purposes, the City Manager of the City of Clayton, Ohio is hereby authorized to execute and deliver an agreement with a to-be-named agent (“Agent”) to assist the City of Clayton, Ohio as its consultant and Agent to affect the Electric Aggregation Program including determining and entering into service agreement(s) with

suppliers to facilitate the sale and purchase of all electricity, competitive retail services, and retail electric generation to serve the enrolled consumers.

SECTION 2: The City of Clayton, Ohio shall be authorized by the electors to be the only entity authorized to act for and on behalf of the enrolled electric consumers to determine and select the provider(s) to supply the commodity and all other services for the Electric Aggregation Program and the enrolled consumers.

SECTION 3: The Electric Aggregation Program shall not apply to persons that are not eligible pursuant to Rules and/or Orders of the Public Utilities Commission of Ohio (“Commission”) or not eligible pursuant to the adopted plan of operations and governance (“Plan”) for the Electric Aggregation Program.

SECTION 4: The Board of Elections of Montgomery County, Ohio is hereby directed to submit the following question to the electors of the City of Clayton, Ohio at the election on November 8, 2022:

Shall the City of Clayton, Ohio have the authority to aggregate the retail electric loads located in the City of Clayton, Ohio, and for that purpose, enter into service agreements to facilitate for those loads the sale and purchase of electricity, such aggregation to occur automatically except where any person elects to opt out?

YES

NO

SECTION 5: *The Clerk of Council is instructed to file a certified copy of this Ordinance and the proposed form of the ballot question with the Montgomery County, Ohio Board of Elections not later than August 10, 2022, which is ninety (90) days prior to the November 8, 2022 election.*

SECTION 6: The Electric Aggregation Program shall not take effect unless approved by a majority of the electors voting upon the proposed ballot question at the election held in accordance with this Ordinance and ORC Section 4928.20. Upon approval, the Electric Aggregation shall take effect at the earliest permissible point in time and continue thereafter in accordance with ORC Section 4928.20, and other requirements of ORC Chapter 4928.

SECTION 7: Upon approval by a majority of the electors voting at the election provided for in this Ordinance, the City of Clayton, Ohio shall develop and adopt a Plan of operations and governance for the Electric Aggregation Program. Before adopting such Plan, at least two (2) public hearings on the Plan shall be held. Before the first hearing, notice of the first hearing shall be published once a week for two consecutive weeks in a newspaper of general circulation in the City of Clayton, Ohio. The notice shall summarize the Plan and state the date, time, and location of

each hearing. Consumers enrolled in the Electric Aggregation Program shall be supplied their electrical requirements and other services in accordance with the supply agreements(s) determined and arranged by the City of Clayton, Ohio as opportunities become available to provide benefits to consumers. The City of Clayton, Ohio shall be authorized by the electors to be the only entity authorized to act for and on behalf of the consumers that have enrolled in the Electric Aggregation Program to determine and select the supplier(s) to provide the electricity and all other services for the Electric Aggregation Program.

SECTION 8: The adopted Plan shall not aggregate any retail electrical load within the City of Clayton, Ohio unless the person whose electrical load is to be so aggregated is notified in advance that the person will be enrolled automatically in the Electric Aggregation Program and shall remain so enrolled, unless the person affirmatively elects not to be so enrolled by a stated procedure. The disclosure shall state the rates, charges, and other terms and conditions of the enrollment. Once enrolled, the consumer may only opt-out of the Electric Aggregation Program every three (3) years without paying a switching fee. Any such person that opts-out of the Electric Aggregation Program shall default to the standard offer service of the person's electric distribution utility, until the person chooses an alternative supplier.

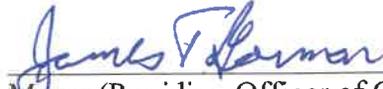
SECTION 9: The Montgomery County, Ohio Board of Elections shall cause appropriate notice(s) to be duly given of the election to be held on November 8, 2022, on the foregoing proposal and otherwise to provide for such election in the manner provided by the laws of the State of Ohio.

SECTION 10: This Council finds and determines that all formal actions of this Council and that all deliberations of this Council that resulted in those formal actions were in compliance with the law.

SECTION 11: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare in order to allow this issue to be placed on the November 8, 2022 ballot to allow the citizens of Clayton, Ohio an opportunity to affect an Electric Aggregation Program. Because the cost of electrical service is a significant cost to many of the citizens of Clayton, adoption of this Ordinance as an emergency measure will benefit the public health, safety, and welfare by potentially reducing the economic burden placed on many of the citizens of Clayton. 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. This Ordinance shall take effect immediately upon its adoption.

ADOPTED BY COUNCIL ON JULY 21, 2022.

AUTHENTICATION:


Mayor (Presiding Officer of Council)


Clerk of Council

APPROVED AS TO FORM:


Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper Date of publication
Brookville Star July 27, 2022


CLERK

CERTIFICATE OF RECORDING OFFICER

I the undersigned, hereby certify that the foregoing is a true and correct copy of Ordinance No. O-07-22-20, adopted by the City of Clayton, Ohio Council at a regular scheduled meeting held on the 21st day of July, 2022, and that I am duly authorized to execute this certificate. Signed this 21st day of July, 2022.


Barbara Seim, Clayton Clerk of Council