

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES September 15, 2022

OLD BUSINESS

ORDINANCES (SECOND OF TWO READINGS AND ENACTMENT)

ORDINANCE NO. O – 09 – 22 – 29

AN ORDINANCE AMENDING SECTION 311.01 OF THE CLAYTON CODIFIED ORDINANCES ENTITLED, “PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN STREET”

WHEREAS, City Staff has reviewed the Clayton Codified Ordinances and recommends amendment of Section 311.01 thereof in order to better protect the health, safety and welfare of the citizens of Clayton by adding language thereto regulating the depositing of snow and ice into the streets and roadways.

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

1. That Section 311.01 of Chapter 311 of the Clayton Codified Ordinances is hereby amended as follows: (Deletions in ~~Strikethrough~~ and Additions in **Bold**)

311.01 PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN STREET.

...

(e) No person, company, contractor, or other entity shall place or cause to be placed snow or ice onto any street, highway, thoroughfare, or public roadway in such a manner which hinders the cleaning of said street, highway, thoroughfare, or public roadway or in such a manner as to obstruct, hinder, or impede the safe and free flow of vehicular traffic. City and State snow plow operations are exempt from this subsection (e).

Whoever violates this subsection (e) is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

~~(e)~~ **(f) No person, with intent to cause physical harm to a person or vehicle, shall place or knowingly drop upon any part of a highway, lane, road, street or alley any tracks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.**

~~(f)~~ (g) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.

(g) (2) Whoever violates subsection ~~(e)~~ (f) of this section is guilty of a misdemeanor of the first degree. (ORC 4511.74)

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2. All other provisions of Section 311.01 not amended hereby shall remain unchanged in full force and effect.
 3. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
 4. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on September 1, 2022 and September 15, 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.

ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.

ORDINANCE NO. O – 09 - 22 - 30

AN ORDINANCE AMENDING SECTION 351.011 OF THE CLAYTON CODIFIED ORDINANCES ENTITLED, “PROHIBITED PARKING ON CITY STREETS WITH SNOW ACCUMULATION OF THREE INCHES OR MORE”

WHEREAS, City Staff has reviewed the Clayton Codified Ordinances and recommends amendment of Section 351.011 thereof in order to better protect the health, safety and welfare of the citizens of Clayton through a more efficient means of snow removal via amendment thereof to provide that parking of vehicles on City streets will be prohibited when there is an accumulation of two (2) inches or more of snow.

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

6. That Section 351.011 of Chapter 351 of the Clayton Codified Ordinances is hereby amended as follows: (Deletions in ~~Strikethrough~~ and Additions in **Bold**)

351.011 ~~PROHIBITED PARKING ON CITY STREETS WITH SNOW ACCUMULATION OF THREE INCHES OR MORE.~~ **PARKING DURING SNOW EMERGENCIES.**

- (a) ~~Parking of any vehicle on city streets shall be prohibited when there is an accumulation of three (3) or more inches of snow on the roadway. The Director of Public Safety will cause all such city streets to be designated with official signs.~~ **No person shall park any vehicle on any City street or roadway during a snow emergency. A snow emergency shall exist when two or more inches of snow have fallen in the City of Clayton or in a section thereof. The snow emergency shall continue until snow plowing operations are complete. The City Manager shall announce the commencement of the snow emergency and the termination of the snow emergency via posting on the official City of Clayton social media site(s). Signs shall be posted throughout the City directing that parking is not permitted on City streets during a snow emergency. However, the owners and operators of vehicles shall have full responsibility to determine existing weather conditions and to comply with the snow emergency parking regulations.**
- (b) ~~Whenever any police officer finds a vehicle parked in violation of this section, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety.~~ **Any police officer may order into storage any vehicle parked in violation of this section.** Registered owners of vehicles parked in violation of this section shall be responsible for all towing and/or storage costs.
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7. 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.
8. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on September 1, 2022 and September 15, 2022.
9. 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 SEPTEMBER 15, 2022.

ORDINANCE NO. O – 09 – 22 - 31

AN ORDINANCE AMENDING CLAYTON CODIFIED ORDINANCE SECTION 531.50 ENTITLED, “TRIMMING AND REMOVAL OF TREES, PLANTS AND SHRUBBERY TO PREVENT OBSTRUCTION AND PROTECT PUBLIC SAFETY”

WHEREAS, City staff has reviewed Clayton Codified Ordinance Section 531.50 of Chapter 531 and has recommended amendment thereto in order to greater protect the health, safety and welfare of the citizens of Clayton and to better protect the public by revising the tree trimming requirement therein to have a clear height of fourteen feet above the streets and roadways in order to provide sufficient clearance for taller trucks and vehicles operating within the City.

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

1. That Section 531.50 of Chapter 531 of the Clayton Codified Ordinances is hereby amended to read as follows (additions are in **bold** and deletions are in ~~striketrough~~):

531.50 TRIMMING AND REMOVAL OF TREES, PLANTS AND SHRUBBERY TO PREVENT OBSTRUCTION AND PROTECT PUBLIC SAFETY.

...

- (c) All trees shall be trimmed so as to have a clear height of ten feet above the surface of sidewalks and ~~twelve~~ **fourteen** feet above the surface of the street or roadway, and the branches of all trees in front of and along lots or lands near which street lights are placed shall be trimmed so as not to obstruct the free passage of light from said street lights to the street and sidewalk.

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2. That all other provisions of Section 531.50 not amended herein shall remain unchanged and in full force and effect.
 3. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
 4. That in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is complied with by readings on September 1, 2022 and September 15, 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.

ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 09 – 22 - 62

A RESOLUTION RE-APPOINTING TRACI BARNES TO THE PARKS ADVISORY COMMISSION

WHEREAS, Clayton Codified Ordinance Chapter 159 created the Parks Advisory Commission; and

WHEREAS, Clayton Codified Ordinance Chapter 159 provides for the appointment of nine (9) members to the Parks Advisory Commission to be appointed by a majority vote of Council for overlapping terms of three years each; and

WHEREAS, via enactment of Resolution No. R-07-19-51 enacted on July 18, 2019, Council reappointed Traci Barnes to a three-year term to the Parks Advisory Commission and said three-year term expired on July 22, 2023 and Traci Barnes desires to be re-appointed to the Parks Advisory Commission for a 3-year term.

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

1. That Traci Barnes is hereby re-appointed to the Parks Advisory Commission for a three (3) year term commencing September 15, 2022.

ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.

RESOLUTION NO. R - 09 - 22 - 63

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE MONTGOMERY COUNTY BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR

WHEREAS, the Council of the City of Clayton, Montgomery County, Ohio met in Regular session on the 15th day of September, 2022, at the office of the City of Clayton with the following Council members present: Mayor Mike Stevens, Council Members Dennis Lieberman, Kenneth Henning, Tina Kelly, Brendan Bachman, and Greg Merkle; Council Member James T. Gorman was absent; and

WHEREAS, pursuant to R.C. 5705.281 and .30 the Budget Commission of Montgomery County has waived the requirement that political subdivisions within the County adopt a Tax Budget for submission to the Budget Commission; and

WHEREAS, pursuant to R.C. 5705.34 and .35 the Budget Commission of Montgomery County, Ohio has completed its work relative to preparation of a Tax Budget for the City of Clayton and certified its action to this Council together with an estimate by the County Auditor of the rate of each tax necessary to be levied by this Council and what part thereof is without, and what part within, the ten-mill tax limitation provided under Ohio statute.

Council Member Tina Kelly moved the adoption of the following Resolution.

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

1. That the amounts and rates, as determined by the Budget Commission in its certification, are hereby accepted.
2. That there be and is hereby levied on the tax duplicate of said City of Clayton the rate of each tax necessary to be levied within and without the ten-mill limitation as set forth on **Schedules A and B** appended hereto and made a part hereof.
3. **That the Clerk of Council be and is hereby directed to certify a copy of this Resolution to the Montgomery County Auditor.**

Council Member Dennis Lieberman seconded the adoption of the following Resolution and the roll being called upon its adoption the vote resulted as follows:

Mayor Mike Stevens	YES
Council Member Dennis Lieberman	YES
Council Member Kenneth Henning	YES
Council Member James T. Gorman	ABSENT
Council Member Tina Kelly	YES
Council Member Brendan Bachman	YES
Council Member Greg Merkle	YES

ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.

RESOLUTION NO. R – 09 – 22 - 64

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A RENEWAL AGREEMENT WITH THE PUBLIC ENTITIES POOL OF OHIO (PEP) AND BURNHAM AND FLOWER INSURANCE GROUP FOR THE PROVISION OF PROPERTY, CASUALTY AND LIABILITY INSURANCE COVERAGE FOR NOVEMBER 1, 2022 – OCTOBER 31, 2023 WITH AN ANNUAL PREMIUM NOT TO EXCEED \$122,198.00

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

WHEREAS, renewal of the current property, casualty and liability insurance policy with PEP permits continuation of the contract plan and coverage at the best and lowest price reasonably possible; and

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 accept the proposal of and enter into a renewal agreement with the Public Entities Pool of Ohio (PEP) and Burnham and Flower Insurance Group for the provision of property, casualty, and liability insurance from November 1, 2022 through October 31, 2023 at an annual premium cost not in excess of \$122,198.00.
2. That this Resolution shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Resolution or which imposes additional requirements for effectiveness or validity.

ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.

RESOLUTION NO. R - 09 -22 - 65

A RESOLUTION PROVIDING CONSENT TO THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) TO UNDERTAKE MUNICIPAL BRIDGE INSPECTION PROGRAM WITHIN THE CITY LIMITS OF THE CITY OF CLAYTON

WHEREAS, The City of Clayton, Ohio (Local Public Agency - “LPA”) has determined the need for the described project:

Bridge Inspection Program Services, including, but not limited to routine inspections, element level inspections, critical findings report, fracture critical member inspections, load rating calculations and reports, weight limits posting sign recommendations, scour assessments, scour plan of actions, development of fracture critical plans, and underwater dive inspection reports if needed.

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

1. Being in the public interest, the City of Clayton, Ohio (Local Public Agency - “LPA”) gives consent to the Director of Transportation to complete the above-described Project.
2. The City (LPA) shall cooperate with the Director of Transportation in the above-described project as follows:

The State shall assume and bear 100% of all the cost for Bridge Inspection Program Services requested by the City and agreed to by the State. Eligible Bridge Inspection Services are described in the Consultant’s Scope of Services Task Order Contract (Exhibit A).

The LPA agrees to pay 100% of the cost of those features which are not included in Exhibit A. Those features may include but not limited to the purchasing and erecting the recommended weight limits postings signs, the implementation of critical findings reports such as partial or total bridge closures, the implementation of the scour plan of actions. When recommendations affect public safety, ODOT expects full implementation by the municipality As of October 2019, FHWA requires installing weight limits posting signs within 30 days from the official date of the approved recommendations. Timely implementation is essential to the success of this program.

3. The City (LPA) agrees that all right-of-way required for the described project will be made available in accordance with current State and Federal regulations.

4. The Project is based on the available funds provided by ODOT aimed at assisting the LPA in reaching compliance with State and Federal laws and policies for bridge inspection. The Project specifics (program duration, PID number, and consultant scope of services (**Exhibit A**)) shall be provided to the designated LPA Contractual Agent via email sent by ODOT Office of Structural Engineering (OSE).

ODOT will seek additional funds to renew the project in future years. If such funds are allocated, ODOT will send an email with the Project specifics to the designated LPA Contractual Agent seeking approval for the new Project. ODOT will not proceed with any Project that does not have written authorization via email from the designated LPA Contractual Agent.

5. The City Manager of said City of Clayton, Ohio is hereby empowered on behalf of the City to enter into contracts with the Director of Transportation necessary to complete the above-described project.

6. This Resolution shall take immediate effect and be in force from and after the date of its passage.

Authorization of Project

Amanda Zimmerlin, City Manager of the City of Clayton, Ohio is hereby empowered on behalf of the City of Clayton, Ohio to provide written authorization via email to the Director of Transportation to complete the above-described project and any renewals.

Passed: _____, 2_____.
(Date)

Attested: _____
(Clerk)

(Contractual Agent of LPA – title)

Attested: _____
(Title)

(President of Council)

ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.

RESOLUTION NO. R - 09 - 22 - 66

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID OF AND ENTER INTO A CONTRACT WITH WAGNER PAVING, INC. FOR PAVING OF THE CLAYTON PARK PARKING LOT AT A COST TO THE CITY OF CLAYTON, OHIO NOT TO EXCEED \$90,630.80

WHEREAS, bids have been solicited pursuant to a request for bids and received for the paving of the Clayton Park parking lot; and

WHEREAS, after reviewing the bids, the City Manager determined the \$90,630.80 bid received from Wagner Paving, Inc., was the lowest and best bid submitted by a responsible bidder and therefore recommended accepting said bid in accordance with the terms of the request for bids.

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

1. That the City Manager is authorized to accept the \$90,630.80 bid of and enter into an agreement with Wagner Paving, Inc. for the paving of the Clayton Park parking lot.
1. That having been duly advised by City staff that the above identified Project satisfies applicable requirements, the City is authorized to use ARPA funds in the amount of \$73,182.22 for the cost of said Project.

ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.

RESOLUTION NO. R- 09 – 22 - 67

A RESOLUTION AUTHORIZING THE SUBMITTAL OF APPLICATION(S) FOR FEDERAL IIJA FUNDS THROUGH THE MIAMI VALLEY REGIONAL PLANNING COMMISSION

WHEREAS, the Miami Valley Regional Planning Commission (MVRPC) has solicited local government entities to submit new transportation projects for funding consideration in the Transportation Improvement Program (TIP); and

WHEREAS, the City of Clayton, Ohio has committed to a timely project development schedule; and

WHEREAS, the City of Clayton, Ohio will commit the necessary resources to support the estimated local cost portion of the projects and the following list of projects will be submitted to MVRPC, shown in order of the City of Clayton, Ohio's priority from number 1 to 1:

1. *Haber Road Intersection Improvements – Estimated Local Share: \$295,891.85*

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

SECTION I. This Resolution shall serve to authorize the transmittal and submittal of applications for the following transportation projects to MVRPC for funding consideration in the Transportation Improvement Program (TIP):

1. Haber Road Intersection Improvements – Estimated Local Share: \$295,891.85

SECTION II. The City Manager is hereby authorized to sign on behalf of the City the application(s) for funds as referred to in Section I of this Resolution.

SECTION III. The City Manager is hereby directed and authorized to take or cause to be taken all other action necessary and proper to secure the funding sought by the applications referred to herein, and provide any additional information sought by reviewing agencies during the time the applications is/are under review. The City Manager is further directed and authorized to cause compliance with all reporting requirements required by the Miami Valley Regional Planning Commission (MVRPC) as required as part of the funding process.

SECTION IV. Upon application approval, the City hereby states its commitment to the local contribution for the project as identified in these applications, including local contribution of costs exceeding the current estimates or subsequent revised estimates as accepted by the MVRPC.

SECTION V. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION VI. This Resolution shall become effective immediately upon its passage.

THIS RESOLUTION ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.

RESOLUTION NO. R – 09 -22 - 68

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID SUBMITTED BY MID OHIO GOLF CART INC. AND ENTER INTO A LEASE AGREEMENT WITH YAMAHA MOTOR FINANCE CORP. USA FOR LEASE OF GOLF CARTS, GPS UNITS, AND A FOOD AND BEVERAGE CART FOR MEADOWBROOK AT CLAYTON AT AN ANNUAL EXPENSE NOT TO EXCEED \$89,634.00

WHEREAS, bids have been solicited pursuant to a request for lease of golf carts, GPS units, and a food and beverage cart for use at Meadowbrook at Clayton; and

WHEREAS, after reviewing the bids, the City Manager determined the bid from Mid Ohio Golf Cart Inc. for a lease with Yamaha Motor Finance Corp. USA was the lowest and best bid submitted by a responsible bidder and therefore recommended accepting said bid in accordance with the terms of the request for bids.

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

1. That the City Manager is authorized, in accordance with the terms of the request for bids, to accept the bid submitted by Mid Ohio Golf Cart Inc. and enter into a five-year lease agreement with Yamaha Motor Finance Corp. USA for 55 golf carts at \$91.00 per golf cart per month, 55 GPS units at \$39.50 per GPS unit per month, and 1 food and beverage cart at \$292.00 per month for use at Meadowbrook at Clayton at a total annual expense not to exceed \$89,634.00.

ADOPTED BY COUNCIL ON SEPTEMBER 15, 2022.
