

# CITY OF CLAYTON, OHIO

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## RESOLUTIONS AND ORDINANCES September 21, 2023

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### OLD BUSINESS

### ORDINANCES (SECOND OF TWO READINGS)

#### ORDINANCE NO. O - 09 – 23 – 21

**AN ORDINANCE AFFIRMING ORDINANCE NO. O-05-23-08 AND FURTHER AUTHORIZING AND DIRECTING THE MONTGOMERY COUNTY, OHIO BOARD OF ELECTIONS TO CONDUCT AN ELECTION OF THE ELECTORS OF THE CITY OF CLAYTON, OHIO AT THE PRIMARY ELECTION TO BE HELD ON MARCH 19, 2024 ON THE QUESTION: SHALL ORDINANCE NO. O-05-23-08 WHICH ADOPTED THE PLANNING COMMISSION’S RECOMMENDATION TO APPROVE, WITH SPECIFIED CONDITIONS, THE APPLICATION OF CLAYTON PROPERTIES GROUP, INC. DBA ARBOR HOMES, FOR A CHANGE IN ZONING FROM RURAL CONSERVATION DISTRICT- 2 (RCD-2) TO PLANNED DEVELOPMENT DISTRICT (PDD) AND TO FURTHER APPROVE THE PRELIMINARY DEVELOPMENT PLAN FOR 42.99 ACRES OF PROPERTY LOCATED ALONG PHILLIPSBURG-UNION ROAD AND HABER ROAD AND BEARING PARCEL I.D. NO. M60 03006 0009 (TO BE CALLED “SALEM SPRINGS”) WITHIN THE CITY OF CLAYTON, OHIO BE APPROVED?**

**WHEREAS**, on or about March 6, 2023, an application was filed by Clayton Properties Group, Inc. dba Arbor Homes, with consent of the property owner, for property located along Phillipsburg-Union Road and Haber Road consisting of Parcel I.D. Number M60 03006 0009 and containing 42.99 acres within the City of Clayton, Ohio (“Subject Property”)(to be called “Salem Springs”) and requesting a zoning change for same from Rural Conservation District-2 (RCD-2) to Planned Development District (PDD) 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 March 27, 2023 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 meeting, *voted to approve as submitted the re-zoning and Preliminary Development Plan request with the following conditions: “(1)That the proposed development has a minimum lot width of 60’; and (2) That the applicant addresses the comments provided in the plan review letter from Planning Staff sent to the applicant on Mach 24, 2023”*; and

**WHEREAS**, the Clayton City Council held a public hearing on May 4, 2023, 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; and

**WHEREAS**, on July 20, 2023, Council adopted Ordinance No. O-05-23-08 (*Exhibit A*) adopting the Planning Commission’s *recommendation of approval of the re-zoning and Preliminary*

***Development Plan request for the Subject Property with the following conditions: “(1) That the proposed development has a minimum lot width of 60’; and (2) That the applicant addresses the comments provided in the plan review letter from Planning Staff sent to the applicant on March 24, 2023.”***

**WHEREAS**, a Petitioner’s Committee was formed per Clayton Charter Section 10.02 seeking the referendum of Ordinance No. O-05-23-08 and on August 25, 2023, the Montgomery County Board of Elections provided the attached Certification Form (***Exhibit B***) certifying the referendum petition contained a sufficient number of valid signatures to be placed on the ballot; and

**WHEREAS**, in accordance with Clayton Charter Section 10.04(A), Council hereby determines the aforementioned referendum petition meets all other requirements of Ohio law and the Charter and acknowledges the substantive validity of said referendum petition.

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

1. That City Council hereby affirms Ordinance No. O-05-23-08 and, in accordance with Clayton Charter Section 10.04(A), City Council hereby determines the aforementioned referendum petition meets all other requirements of Ohio law and the Charter of Clayton and acknowledges the substantive validity of said referendum petition.
  
2. It is the legislative determination and order of this Council that an election shall be held within the City of Clayton, Ohio on March 19, 2024, at which election the Board of Elections of Montgomery County, Ohio, is directed and ordered to conduct an election within the City of Clayton, Ohio on the question set forth in Section 2 of this Ordinance. The election shall be conducted by the Board of Elections during the regular hours of voting on such date as prescribed by the laws of Ohio. The purpose of such election shall be to submit to the electors of the City of Clayton, Ohio for their approval or rejection, the question of whether Ordinance No. O-05-23-08 proposing the approval, with specified conditions, of the application of Clayton Properties Group, Inc. dba Arbor Homes, for a change in zoning from Rural Conservation District-2 (RCD-2) to Planned Development District (PDD) and to further approve the Preliminary Development Plan for 42.99 acres of property located along Phillipsburg-Union Road and Haber Road and bearing Parcel I.D. No. M60 03006 0009 (to be called “Salem Springs”) within the City of Clayton, Ohio, be approved?
  
3. The ballot shall be in the following form:

**“Shall Ordinance No. O-05-23-08 proposing the approval, with specified conditions, of the application of Clayton Properties Group, Inc. dba Arbor Homes, for a change in zoning from Rural Conservation District-2 (RCD-2) to Planned Development District (PDD) and to further approve the Preliminary Development Plan for 42.99 acres of property located along Phillipsburg-Union Road and Haber Road and bearing Parcel I.D. No. M60 03006 0009 (to be called “Salem Springs”) within the City of Clayton, Ohio, be approved?”**

**A majority affirmative vote is necessary for passage.**

\_\_\_\_\_ YES  
\_\_\_\_\_ NO

4. The Board of Elections of Montgomery County, Ohio, the Clerk of Council, the City Manager and the Law Director are hereby directed and authorized to take all actions necessary to submit the above question to the electors of the City of Clayton, Ohio at the primary election required by this Ordinance to be held on March 19, 2024.
5. *Upon adoption by Council after second reading, the Clerk of Council is hereby directed forthwith to certify a true copy of this Ordinance to the Board of Elections of Montgomery County, Ohio, immediately upon its passage.*
6. 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 7, 2023 and September 21, 2023.
7. 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 21, 2023

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## **NEW BUSINESS**

### **ORDINANCES (FIRST OF TWO READINGS)**

#### **ORDINANCE NO. O-09-23-22**

#### **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 2023 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.

## Traffic Code

303.081	Impounding Vehicles on Private Residential or Agricultural Property. (Amended)
303.082	Private Tow-Away Zones. (Amended)
303.083	Impounding Vehicles on Public Property. (Amended)
303.09	Leaving Junk and Other Vehicles on Private or Public Property Without Permission or Notification. (Amended)
303.10	Leaving Junk Vehicles on Private Property With Permission of Owner. (Amended)
303.991	Committing an Offense While Distracted Penalty. (Amended)
331.35	Occupying Travel Trailer, Fifth Wheel Vehicle or Manufactured or Mobile Home While in Motion. (Amended)
333.01	OVI; Willful Misconduct; Speed. (Amended)
333.03	Maximum Speed Limits; Assured Clear Distance Ahead. (Amended)
333.11	Electronic Wireless Communication Device Use Prohibited While Driving. (Amended)
335.07	Driving Under Suspension or License Restriction. (Amended)
335.071	Driving Under OVI Suspension. (Amended)
335.072	Driving Under Financial Responsibility Law Suspension or Cancellation; Driving Under a Nonpayment of Judgment Suspension. (Amended)
335.073	Driving Without Complying With License Reinstatement Requirements. (Amended)
335.074	Driving Under License Forfeiture or Child Support Suspension. (Amended)
337.10	Lights, Emblems, and Reflectors on Slow-Moving Vehicles, Farm Machinery, Agricultural Tractors, and Animal-Drawn Vehicles. (Amended)
337.16	Number of Lights; Limitations on Flashing, Oscillating or Rotating Lights. (Amended)
337.22	Windshield and Windshield Wiper; Sign or Poster Thereon. (Amended)
341.01	Commercial Drivers Definitions. (Amended)
351.04	Parking Near Curb; Handicapped Locations on Public and Private Lots and Garages. (Amended)

## General Offenses Code

501.01	General Provisions and Penalty Definitions. (Amended)
501.99	Penalties for Misdemeanors. (Amended)
505.15	Cruelty to Companion Animals. (Amended)
509.04	Disturbing a Lawful Meeting. (Amended)
509.10	Impeding Public Passage of an Emergency Service Responder. (Added)
513.01	Drug Abuse Control Definitions. (Amended)
513.03	Drug Abuse; Controlled Substance Possession or Use. (Amended)
513.04	Possessing Drug Abuse Instruments. (Amended)
513.12	Drug Paraphernalia. (Amended)
513.121	Marihuana Drug Paraphernalia. (Amended)
517.08	Raffles. (Amended)
521.10	Nonsmoking Areas in Places of Public Assembly. (Amended)
521.13	Spreading Contagion. (Added)
525.05	Failure to Report a Crime, Injury or Knowledge of Death. (Amended)
525.15	Assaulting Police Dog or Horse or an Assistance Dog. (Amended)
529.07	Open Container Prohibited. (Amended)
533.01	Obscenity and Sex Offenses Definitions. (Amended)
533.06	Voyeurism. (Amended)
533.08	Procuring; Engagement in Sexual Activity for Hire. (Amended)
537.03	Assault. (Amended)
537.06	Menacing. (Amended)

537.07	Endangering Children. (Amended)
537.15	Temporary Protection Order. (Amended)
545.05	Petty Theft. (Amended)
549.02	Carrying Concealed Weapons. (Amended)
549.04	Improperly Handling Firearms in a Motor Vehicle. (Amended)
549.12	Possessing Replica Firearm in School. (Amended)
549.13	Concealed Handgun Licenses; Possession of Revoked or Suspended License; Additional Restrictions; Posting Signs Prohibiting Possession. (Added)

#### Fire Prevention Code

1519.01	Fireworks Definitions. (Amended)
1519.04	Possession, Sale or Discharge Prohibited; Exceptions. (Amended)
1519.05	Application. (Amended)
1519.06	Safety Requirements for Fireworks Showroom Structures. (Added)
1519.07	Manufacturing or Wholesale Sale Without a License; Prohibitions. (Added)
1519.08	Purchase to Comply with Law; Unauthorized Purchases. (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 September 21, 2023 and October 5, 2023

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 OCTOBER 5, 2023

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#### **NEW BUSINESS**

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

#### **RESOLUTION NO. R – 09 – 23 - 57**

**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, 2023 – OCTOBER 31, 2024 WITH AN ANNUAL PREMIUM NOT TO EXCEED \$128,600.50**

**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, 2023 through October 31, 2024 at an annual premium cost not in excess of \$128,600.50.
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 21, 2023

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**RESOLUTION NO. R - 09 - 23 - 58**

**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**

Council Member James T. Gorman moved the adoption of the following Resolution.

**WHEREAS**, the Council of the City of Clayton, Montgomery County, Ohio met in Regular session on the 21st day of September, 2023, 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, James T. Gorman, and Greg Merkle; and

**WHEREAS**, The Budget Commission of Montgomery County, Ohio has certified its action thereon to this Board, 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;

**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 Tina Kelly 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	Yes
Council Member Tina Kelly	Yes
Council Member Brendan Bachman	Yes
Council Member Greg Merkle	Yes

ADOPTED BY COUNCIL ON SEPTEMBER 21, 2023

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**RESOLUTION NO. R – 09 – 23 – 59**

**A RESOLUTION SUPPORTING NORTHMONT CITY  
SCHOOL DISTRICT LEVY**

**WHEREAS**, Northmont City Schools is committed to providing quality education to the students of our community; and

**WHEREAS**, as community stakeholders, we have a vested interest in maintaining quality Schools.

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

1. That the City of Clayton Council hereby pledges its support to the Northmont City School District Levy on the November 7, 2023 ballot and urges voters to do the same.

ADOPTED BY COUNCIL ON SEPTEMBER 21, 2023

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