

# CITY OF CLAYTON, OHIO

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## RESOLUTIONS AND ORDINANCES

November 16, 2023

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### OLD BUSINESS

### ORDINANCES (SECOND OF TWO READINGS AND ENACTMENT)

#### ORDINANCE NO. O – 11 – 23 – 24

#### AN ORDINANCE APPROVING AMENDMENT OF THE CLAYTON CODIFIED ORDINANCES IN ORDER TO ADD A NEW CHAPTER 185 ENTITLED, “HOTEL LODGING EXCISE TAX”

**WHEREAS**, Ohio Revised Code §5739.08 states, in relevant part, “The levy of an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests pursuant to §5739.02 and §5739.01(B) does not prevent a municipal corporation from levying an excise tax for any lawful purpose not to exceed three percent (3%) on transactions by which lodging by a hotel is or is to be furnished to transient guests in addition to the tax levied under §5739.02.”; and

**WHEREAS**, Council desires to amend the Clayton Codified Ordinances in order to add a new Chapter 185 thereto entitled, “Hotel Lodging Excise Tax”, as delineated in the attached **Exhibit A**.

**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 Chapter 185 thereto entitled, “Hotel Lodging Excise Tax”, as delineated in the attached **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 November 2, 2023 and November 16, 2023.
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 NOVEMBER 16, 2023

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**ORDINANCE NO. O – 11 – 23 – 25**

**AN ORDINANCE AMENDING THE CITY INCOME TAX CODE AT CHAPTER 183 OF THE CLAYTON CODIFIED ORDINANCES TO ADOPT REVISIONS MANDATED BY OHIO HOUSE BILL 33**

**WHEREAS**, in House Bill (H.B.) 33 of the 135th General Assembly, the said General Assembly has included therein revisions to Ohio Revised Code Chapter 718 requiring municipalities adopt certain municipal income tax amendments that are also adopted within H.B. 33; and

**WHEREAS**, the City has determined the necessity to revise its municipal income tax ordinance located at Chapter 183 of the Clayton Codified Ordinances in order to comply with the revisions authorized and found in H.B. 33 and codified at Ohio Revised Code Chapter 718.

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

1. That Sections 183.062, 183.091, 183.094, 183.10, and 183.34 of Chapter 183 of the Codified Ordinances of the City shall hereby be amended to read as set forth in **Exhibit A** (additions in **bold** and deletions in ~~strike through~~) of this Ordinance, attached hereto and incorporated by reference herein.
2. That those provisions of Chapter 183 not amended herein as delineated in the attached **Exhibit A** 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 November 2, 2023 and November 16, 2023.
5. That this Ordinance shall take effect and be in force on and after January 1, 2024.

ADOPTED BY COUNCIL ON NOVEMBER 16, 2023

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**OLD BUSINESS**

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

**RESOLUTION NO. R – 10 – 23 – 60**

**A RESOLUTION APPOINTING MALIA JIMENEZ 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**, Naoimi Thomas was previously appointed to said Commission via adoption of Resolution No. R-01-20-03 and her term has expired, leaving a vacant seat.

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

1. That Malia Jimenez is hereby appointed to the Parks Advisory Commission for a three (3) year term commencing November 16, 2023.

ADOPTED BY COUNCIL ON NOVEMBER 16, 2023

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## **NEW BUSINESS**

**ORDINANCES (SINGLE READING AND IMMEDIATE ENACTMENT VIA EMERGENCY)**

### **ORDINANCE NO. O – 11 – 23 – 26**

**AN ORDINANCE APPROVING AMENDMENTS TO CHAPTER 183, INCOME TAX SECTIONS 183.012, 183.013, AND 183.081 OF THE ADMINISTRATIVE CODE OF THE CITY OF CLAYTON, OHIO TO PROVIDE FOR IMPOSITION OF ANNUAL INCOME TAX RATE OF TWO AND ONE HALF PERCENT (2.50%) PER YEAR ON INCOME AND RESTORING A ONE HUNDRED PERCENT (100%) CREDIT FOR TAXES PAID BY RESIDENTS TO OTHER MUNICIPALITIES ON SUCH INCOME ON OR AFTER JANUARY 1, 2025, WHEN THE CITY’S INCOME TAX RATE IS INCREASED TO TWO AND ONE HALF PERCENT (2.50%) FOR THE PURPOSES SPECIFIED HEREIN AND DECLARING AN EMERGENCY**

**WHEREAS**, Council of the City of Clayton, Ohio has conducted an on-going review of its rate of income taxation, and has determined it to be in the best interests of the City and its residents to modify the City’s rate of income taxation to two and one half percent (2.50%) per year on income on or after January 1, 2025 in order to effectively address the continuing needs of the City and its residents; and

**WHEREAS**, Council of the City of Clayton, Ohio has further determined it to be in the best interests of the City and its residents to restore the one hundred percent (100%) nonrefundable tax credit for tax paid to other municipalities on or after January 1, 2025, when the City’s income tax rate is increased to two and one half percent (2.50%); and

**WHEREAS**, the electors of the City of Clayton, Ohio shall vote on this rate of income taxation and income tax credit at the primary election to be held on March 19, 2024.

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

1. That Clayton Codified Ordinance Chapter 183, Income Tax, Sections 183.012,183.013, and 183.081 as set forth in the attached **Exhibit A**, incorporated herein by reference as if fully set forth herein, are hereby so amended.
2. That all other existing sections of Chapter 183 of the Administrative Code of the Codified Ordinances of the City of Clayton, Ohio shall remain in full force and effect.
3. That those remaining provisions of Chapter 183 which require modification as a result of the amendments adopted herein, shall be so modified.
4. 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.
5. That Council hereby finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in open meetings of Council open to the public in compliance with all legal requirements.
6. That in accordance with Clayton 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.
7. That unless this Ordinance is immediately enacted the public peace, health, safety and welfare will be detrimentally affected because unless the City income tax is increased as delineated herein, City services will need to be cut and additional cost-saving measures taken and, in order to timely forward this Ordinance to the Montgomery County Board of Elections before the deadline for same to appear on the March 19, 2024 ballot, it is necessary that this legislation become immediately effective. Accordingly, pursuant to 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.
8. ***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.***

**NEW BUSINESS**

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

**RESOLUTION NO. R – 11 – 23 – 63**

**A RESOLUTION AUTHORIZING THE CITY OF CLAYTON TO ENTER INTO A CONTRACT WITH THE MONTGOMERY COUNTY PUBLIC DEFENDER OFFICE AND MONTGOMERY COUNTY PUBLIC DEFENDER COMMISSION**

**WHEREAS**, R.C. 120.14(E) permits the City to enter into an annual contractual arrangement with the Montgomery County Public Defender to provide legal representation for indigent persons charged with a violation of a municipal ordinance.

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

1. That the City is hereby authorized to enter into a contract for 2024 with the Montgomery County Public Defender Office and Montgomery County Public Defender Commission upon such terms and conditions as are substantially similar to those appended hereto as *Exhibit A* and made a part hereof.

ADOPTED BY COUNCIL ON NOVEMBER 16, 2023

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**RESOLUTION NO. R – 11 – 23 – 64**

**A RESOLUTION AUTHORIZING AND DIRECTING THE BOARD OF ELECTIONS OF MONTGOMERY COUNTY, OHIO, TO CONDUCT AN ELECTON OF THE ELECTORS IN THE CITY OF CLAYTON, OHIO AT THE PRIMARY ELECTON TO BE HELD ON MARCH 19, 2024 ON THE QUESTION: SHALL ORDINANCE NO. O-11-23-26 ADOPTED BY THE COUNCIL OF THE CITY OF CLAYTON, OHIO PROVIDING ON JANUARY 1, 2025, FOR AN ADDITIONAL ONE PERCENT (1%) LEVY ON INCOME TO A TOTAL RATE OF TWO AND ONE HALF PERCENT (2.50%) WITH FUNDS GENERATED BY THE 2.50% INCOME TAX TO BE APPROPRIATED SOLELY FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS AND FUNCTIONS AND PROVIDING FOR THE RESTORATION OF THE ONE HUNDRED PERCENT (100%) INCOME TAX CREDIT BE PASSED?**

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

1. 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 Resolution. 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 an additional municipal income tax rate of one percent (1%) income

tax be levied for municipal purposes and whether the one hundred percent (100%) income tax credit should be restored. Council declares that the amount of taxes being currently raised are insufficient to provide an adequate amount for the necessary requirements of the City for current operating expenses and other expenses payable from the general fund and capital improvements and that it is necessary to levy taxes in excess of the state limit.

2. The ballot shall, pursuant to Section 718.01, et seq., of the Ohio Revised Code be in the following form:

“SHALL THE ORDINANCE PROVIDING FOR THE CONTINUATION OF AN EXISTING 1.5 PERCENT LEVY ON INCOME AND A 1 PERCENT LEVY INCREASE ON INCOME FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS AND FUNCTIONS, AND PROVIDING FOR THE RESTORATION OF THE ONE HUNDRED PERCENT (100%) INCOME TAX CREDIT, BEGINNING JANUARY 1, 2025, BE PASSED?

A MAJORITY VOTE REQUIRED FOR PASSAGE.

\_\_\_\_\_ FOR THE INCOME TAX AND CREDIT RESTORATION

\_\_\_\_\_ AGAINST THE INCOME TAX AND CREDIT RESTORATION”

3. There is no limit on the number of years this proposed income tax shall be effective.
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 Resolution to be held on March 19, 2024.
5. *The Clerk of Council is hereby directed forthwith to certify a true copy of this Resolution to the Board of Elections of Montgomery County, Ohio, immediately upon its passage.*
6. This Resolution shall take effect and be in force from and after the date of its passage.

ADOPTED BY COUNCIL ON NOVEMBER 16, 2023

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### **RESOLUTION NO. R – 11 – 23 – 65**

#### **A RESOLUTION AUTHORIZING THE FINANCE DIRECTOR TO REQUEST THE COUNTY AUDITOR TO MAKE ADVANCE PAYMENTS INTO THE CLAYTON ACCOUNT**

**WHEREAS**, O.R.C. Section 321.34 provides for advance payments by the county auditor to municipal corporations whose funds are derived from taxes or other sources payable by law to the county treasury, any money that may be in the county treasury to the account of the municipality, respectively and lawfully applicable to the purpose of the current fiscal year in which the request is made; and

**WHEREAS**, consistent with O.R.C. Section 321.34(A)(2)(b) it is the intent of the Clayton City Council to use the money for the purposes of the fiscal year in which the request is made.

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

1. That on and after the first business day in January 2024, the Finance Director is hereby authorized to request the Montgomery County Auditor to make an advance payment of any moneys that may be in the Montgomery County Treasury to the account of Clayton, respectively and lawfully applicable to the purpose of the current fiscal year in which the request is made.

2. That, consistent with O.R.C. Section 321.34(A)(2)(b) it is the intent of the Clayton City Council to use the money for the purposes of the fiscal year in which the request is made.

ADOPTED BY COUNCIL ON NOVEMBER 16, 2023

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**RESOLUTION NO. R – 11 – 23 – 66**

**A RESOLUTION APPOINTING SHELBY SPAIN 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**, Christina Miller was previously appointed to said Commission via adoption of Resolution No. R-04-23-34; and

**WHEREAS**, Christina Miller has advised of her resignation from the Parks Advisory Commission and Council desires to make an appointment to fill said vacant seat.

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

1. That Shelby Spain is hereby appointed to the Parks Advisory Commission to fill the vacant seat of Christina Miller and complete said unexpired term, which term will expire on April 20, 2026.

ADOPTED BY COUNCIL ON NOVEMBER 16, 2023

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