

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

July 18, 2024

OLD BUSINESS

ORDINANCES (SECOND OF TWO READINGS AND ENACTMENT)

ORDINANCE NO. O – 06 – 24 – 08

AN ORDINANCE AUTHORIZING THE SUBMISSION, ACCEPTANCE, ACQUISITION, AND PURCHASE OF SPECIFIED PARCELS FROM MONTGOMERY COUNTY, OHIO FOR AN AMOUNT NOT TO EXCEED \$15,000.00 AND THE SUBSEQUENT DISPOSITION OF SAME IN CONNECTION WITH THE EXPEDITED TAX FORECLOSURE PROGRAM

WHEREAS, Montgomery County, Ohio has established an Expedited Foreclosure Process for Unoccupied Land in accordance with Sections 323.65 through 323.79 of the Ohio Revised Code to facilitate redevelopment through the tax foreclosure process; and

WHEREAS, the City of Clayton has requested the Montgomery County Treasurer’s Office enter certain real estate into the Expedited Foreclosure Process; and

WHEREAS, in accordance with Section 323.78 of the Ohio Revised Code, the Board of Revision may now transfer this real estate directly to the City of Clayton for the fair market value, which has been determined to be the cost of the County’s foreclosure; and

WHEREAS, this real estate is wanted for desirable redevelopment; and

WHEREAS, it is found to be in the best interest of the City of Clayton to acquire the real estate described in the attached **Exhibit A**, and subsequently transfer the real estate to appropriate individuals or organizations for redevelopment.

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

1. That the City Manager or her designee is hereby authorized to accept Deeds from Montgomery County, Ohio conveying the real estate described on the attached **Exhibit A** to the City of Clayton, Ohio, free and clear of all liens and encumbrances for an amount not to exceed \$15,000.00.
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 20, 2024 and July 18, 2024.
4. That in accordance with Clayton Charter Section 4.031(H), this enactment shall become effective thirty days after its second reading and enactment.

NEW BUSINESS

ORDINANCES: COUNCIL VOTED TO TABLE THE FOLLOWING ORDINANCE:

ORDINANCE NO. O – 07– 24 – 10

AN ORDINANCE TO REPEAL CURRENT CLAYTON CODIFIED ORDINANCE CHAPTER 1519 (“FIREWORKS”) AND REPLACE WITH UPDATED VERSION OF CLAYTON CODIFIED ORDINANCE CHAPTER 1519 (“FIREWORKS”) APPENDED HERETO AS EXHIBIT A

WHEREAS, with the passage of Ohio House Bill 172, as of July 1, 2022, Ohioans can legally discharge 1.4G consumer fireworks in Ohio on specified dates and at specified times unless a political subdivision chooses to ban their use; and

WHEREAS, the Council of the City of Clayton, Ohio has considered the matter and determined it to be in the best interests of the health, safety, and welfare of the citizens of Clayton to ban the use of consumer fireworks as further delineated in the attached **Exhibit A**.

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

1. That current Clayton Codified Ordinance Chapter 1519 (“Fireworks”) is hereby repealed and replaced with the updated version of Clayton Codified Ordinance Chapter 1519 (“Fireworks”) attached hereto as **Exhibit A** and incorporated by reference.
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 July 18, 2024 and August 15, 2024.
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 AUGUST 15, 2024

EXHIBIT A

CHAPTER 1519 Fireworks

- 1519.01 Definitions.
- 1519.02 Public exhibition permit required; fee; bond; records.
- 1519.03 Unlawful conduct by exhibitor.
- 1519.04 Possession, sale or discharge prohibited; exceptions.
- 1519.05 Application.
- 1519.99 Penalty.

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)
Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)
Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68
Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

1519.01 DEFINITIONS.

As used in this chapter:

(a) "Beer" and "intoxicating liquor" have the same meanings as in Ohio R.C. 4301.01.

(b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition and that is ignited by pulling the ends of the string.

(c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(d) (1) "1.3 G fireworks" means display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49, Code of Federal Regulations.

(2) "1.4 G fireworks" means consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49, Code of Federal Regulations.

(e) "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

(f) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in Section 1519.05.

(g) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio R.C. 3743.50 to 3743.55.

(h) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio R.C. 3743.02 to 3743.08.

(i) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio R.C. 3743.15 to 3743.21.

(j) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(k) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(l) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs and sidings installed and primarily used in serving a mine, quarry or plant.

(m) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(n) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

(o) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

(p) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(q) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a non-explosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

(ORC 3743.01)

1519.02 PUBLIC EXHIBITION PERMIT REQUIRED; FEE; BOND; RECORDS.

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the Municipality shall apply for approval to conduct the exhibition to the Fire Chief and from the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

The required approval shall be evidenced by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer, signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

(b) Before a permit is signed and issued to a licensed exhibitor of

fireworks, the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the Fire Chief or Fire Prevention Officer.

The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke the permit for noncompliance with the rules. (ORC 3743.54)

(c) The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the applicant pays a permit fee assessed in accordance with the City of Clayton Table of Fees established by Resolution of Council plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000), with surety satisfactory to the Fire Chief or Fire Prevention Officer and to Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000) for liability arising from injury, death or loss to persons or property emanating from the fireworks exhibition. The Legislative Authority may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this subsection. The Fire Chief or Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.

(d) (1) Each permit for a fireworks exhibition issued by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall contain a distinct number, designate the Municipality, and identify the certified Fire Safety Inspector, Fire Chief or Fire Prevention Officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued

shall be forwarded by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, issuing it to the Fire Marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.

(2) The Fire Chief, Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.

(e) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer be present before, during, and after the exhibition, and shall require the certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter and Ohio R.C. Chapter 3743. (ORC 3743.54; Ord. 16-22. Passed 4-4-22.)

1519.03 UNLAWFUL CONDUCT BY EXHIBITOR.

(a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.

(b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1519.02 or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.

(c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

(d) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises on which the exhibition is being conducted.

(e) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the Fire Marshal under Ohio R.C. 3743.56. (ORC 3743.64)

1519.04 POSSESSION, SALE OR DISCHARGE PROHIBITED; EXCEPTIONS.

(a) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed

manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55 and Section 1519.02 and except as provided in Section 1519.05.

(b) Except as provided in Section 1519.05 and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55 and Section 1519.02, no person shall discharge, ignite or explode any fireworks in this Municipality.

(c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(d) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(e) Except as otherwise provided in Ohio R.C. 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3 G fireworks. (ORC 3743.65)

1519.05 APPLICATION.

This chapter does not prohibit or apply to the following:

(a) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;

(b) The manufacture, sale, possession, transportation, storage or use of fuses, torpedoes or other signals necessary for the safe operation of railroads;

(c) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

(d) The manufacture for, the transportation, storage, possession or use by, or sale to the Armed Forces of the United States and the militia of this State of pyrotechnic devices;

(e) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;

(f) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models;

(g) The manufacture, sale, possession, transportation, storage or use of wire sparklers.

(h) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of following:

(1) No explosive aerial display is conducted in the exhibition;

(2) The exhibition is separated from spectators by not less than two hundred feet;

(3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.

(ORC 3743.80)

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both. (ORC 3743.99(C))

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 07 – 24 – 43

A RESOLUTION REQUESTING THE STATE OF OHIO DIRECTOR OF TRANSPORTATION MODIFY THE SPEED LIMIT TO 35 MPH ON MAIN STREET WITHIN THE CITY OF CLAYTON, OHIO FROM GREENVIEW DRIVE AT SLM 20.039 TO THE END OF THE CORPORATION LIMIT AT SLM 21.028

WHEREAS, residents and citizens have voiced concerns as to the posted speed limit along Main Street within the City of Clayton, Ohio from Greenview Drive to the north corporation limit at SLM 21.028, approximately 6400' (1.22 miles) in length; and

WHEREAS, the City of Clayton, Ohio contracted Choice One Engineering to conduct a speed study for the above referenced portion of Main Street; and

WHEREAS, the City Council has determined the general welfare and safety of the traveling public requires the speed limit on the above-mentioned road should be modified as recommended by Choice One Engineering: *Modify speed limit to 35 MPH on Main Street within the City of Clayton, Ohio from Greenview Drive at SLM 20.039 to the end of the corporation limit at SLM 21.028.*

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

1. That the State of Ohio Director of Transportation is hereby requested to modify the speed limit on the above-mentioned road as follows: *Modify speed limit to 35 MPH on Main Street within the City of Clayton, Ohio from Greenview Drive at SLM 20.039 to the end of the corporation limit at SLM 21.028.*

2. That the City of Clayton, Ohio hereby agrees, in the event the speed limit is changed on the above-mentioned road as requested to erect and maintain appropriate signs and markings.
3. That this Resolution shall take immediate effect.

ADOPTED BY COUNCIL ON JULY 18, 2024

RESOLUTION NO. R – 07 – 24 – 44

A RESOLUTION REQUESTING THE STATE OF OHIO DIRECTOR OF TRANSPORTATION MODIFY THE SPEED LIMIT TO 35 MPH ON GARBER ROAD WITHIN THE CITY OF CLAYTON, OHIO FROM WESTBROOK ROAD TO MAIN STREET

WHEREAS, residents and citizens have voiced concerns as to the posted speed limit along Garber Road within the City of Clayton, Ohio from Westbrook Road to Main Street, approximately 7428' (1.41 Miles) in length; and

WHEREAS, the City of Clayton, Ohio contracted Choice One Engineering to conduct a speed study for the above referenced portion of Garber Road; and

WHEREAS, the City Council has determined the general welfare and safety of the traveling public requires the speed limit on the above-mentioned road should be modified as recommended by Choice One Engineering: *Modify speed limit to 35 MPH on Garber Road from Westbrook Road to Main Street.*

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

1. That the State of Ohio Director of Transportation is hereby requested to modify the speed limit on the above-mentioned road as follows: *Modify speed limit to 35 MPH on Garber Road from Westbrook Road to Main Street.*
2. That the City of Clayton, Ohio hereby agrees, in the event the speed limit is changed on the above-mentioned road as requested to erect and maintain appropriate signs and markings.
3. That this Resolution shall take immediate effect.

ADOPTED BY COUNCIL ON JULY 18, 2024

RESOLUTION NO. R – 07 – 24 – 45

A RESOLUTION REQUESTING THE STATE OF OHIO DIRECTOR OF TRANSPORTATION MODIFY THE SPEED LIMIT TO 35 MPH ON WESTBROOK ROAD WITHIN THE CITY OF CLAYTON, OHIO FROM 0.37 MILES WEST OF SALEM AVENUE (STATE ROUTE 49) TO MAIN STREET (STATE ROUTE 48) AND TO FURTHER MODIFY THE SPEED LIMIT TO 45 MPH ON WESTBROOK ROAD WITHIN THE CITY OF CLAYTON, OHIO FROM DIAMOND MILL ROAD TO 0.37 MILES WEST OF SALEM AVENUE (STATE ROUTE 49)

WHEREAS, residents and citizens have voiced concerns as to the posted speed limit along Westbrook Road within the City of Clayton, Ohio from State Route 49 to Main Street, approximately 14282' (2.71 miles) in length; and on Westbrook Road from Diamond Mill Road to State Route 49, approximately 17952' (3.4 miles) in length; and

WHEREAS, the City of Clayton, Ohio contracted Choice One Engineering to conduct a speed study for the above referenced portions of Westbrook Road; and

WHEREAS, the City Council has determined the general welfare and safety of the traveling public requires the speed limit on the above-mentioned road should be modified as recommended by Choice One Engineering: *Modify speed limit to 35 MPH on Westbrook Road within the City of Clayton, Ohio, from 0.37 miles west of Salem Avenue (State Route 49) to Main Street (State Route 48); and to further modify the speed limit to 45 MPH on Westbrook Road within the City of Clayton, Ohio, from Diamond Mill Road to 0.37 miles west of Salem Avenue (State Route 49).*

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

1. That the State of Ohio Director of Transportation is hereby requested to modify the speed limit on the above-mentioned road as follows: *Modify speed limit to 35 MPH on Westbrook Road within the City of Clayton, Ohio, from 0.37 miles west of Salem Avenue (State Route 49) to Main Street (State Route 48); and to further modify the speed limit to 45 MPH on Westbrook Road within the City of Clayton, Ohio, from Diamond Mill Road to 0.37 miles west of Salem Avenue (State Route 49).*
2. That the City of Clayton, Ohio hereby agrees, in the event the speed limit is changed on the above-mentioned road as requested to erect and maintain appropriate signs and markings.
3. That this Resolution shall take immediate effect.