

CITY OF CLAYTON, OHIO

ORDINANCE NO. O – 02 – 26 – 03

AN ORDINANCE DECLARING THE NECESSITY FOR AND APPROVING THE APPROPRIATION OF CERTAIN INTERESTS IN REAL PROPERTY FOR THE NORTH MAIN STREET/STATE ROUTE 48 SIDEWALK IMPROVEMENT PROJECT KNOWN AS MOT 48-20.6; AUTHORIZING THE LAW DIRECTOR TO FILE PETITIONS FOR APPROPRIATION AND TO DEPOSIT THE VALUE OF THE TAKINGS AND DAMAGES; PROVIDING FOR PROCEDURAL REQUIREMENTS AND DECLARING AN EMERGENCY

WHEREAS:

- 1.1. City Council finds that the public convenience and necessity require the construction of roadway improvements known as the North Main Street/State Route 48 Sidewalk Improvement project (Mot 48-20.6) within the City of Clayton, Montgomery County, Ohio.
- 1.2. The project necessitates the acquisition of permanent right-of-way interests and temporary construction easements over and across certain parcels located along North Main St/State Rte 48, as more particularly described in the exhibits attached hereto.
- 1.3. Negotiations were undertaken in good faith with affected owners, but agreements could not be reached with all owners; and

WHEREAS:

- 2.1. It is hereby declared necessary and is ordered that the City appropriate the following interests:
 - (a) Permanent right-of-way in fee simple over the lands described in Exhibits A and B; and
 - (b) Temporary construction easements for grading and seeding and related work over the lands described in Exhibits A and B for 12 months from date of entry by the City of Clayton.
- 2.2. The interests appropriated are taken for public use and for the purpose of constructing, operating, and maintaining public roadway improvements.
- 2.3. Access Reservation. Grantors and their successors shall retain all existing rights of ingress and egress to and from any residue not taken, except as may be reasonably restricted during active construction for safety; and

WHEREAS:

- 3.1. The parcels are situated in the City of Clayton, Montgomery County, Ohio, identified by permanent parcel numbers and legal descriptions set forth in the attached exhibits:
 - Exhibit A M57-00821-0003
 - Exhibit B M57-00821-0001
- 3.2. The legal descriptions and drawings attached as Exhibits A and B are incorporated by reference and made a part of this Ordinance; and

WHEREAS:

- 4.1. The City has obtained appraisals and/or appraisal reviews of the interests to be acquired and the resulting damages, if any, to the residue.

4.2. The Law Director is authorized and directed to tender just compensation to affected owners consistent with the approved appraisals and to continue good-faith negotiations.

4.3. If agreement cannot be reached, the Law Director is authorized to file petitions for appropriation in the appropriate court and to deposit with the court the amount of the City's valuation of the property taken and any damages to the residue, all in accordance with Ohio law; and

WHEREAS:

5.1. The Law Director is authorized to prepare and file petitions for appropriation, to prosecute such actions to judgment, to make any necessary applications or motions, and to take such further actions as are reasonably necessary to acquire the interests described herein; and

WHEREAS:

6.1. Upon deposit or as otherwise provided by law, the City and its contractors may enter upon the areas to be appropriated for purposes of construction, subject to any court orders and statutory requirements; and

WHEREAS:

7.1. This Ordinance is adopted pursuant to the City of Clayton Charter and the laws of the State of Ohio governing municipal appropriations of property for public purposes; and

WHEREAS:

8.1. This Ordinance shall operate as an exception to any ordinance, resolution, or legislation of the City of Clayton that is inconsistent herewith or imposes additional requirements for effectiveness or validity, and such prior enactments are superseded to the extent of conflict; and

WHEREAS;

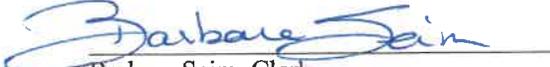
9.1. Readings. This Ordinance shall be read on two different days in accordance with Charter Section 4.031 unless duly dispensed with by the requisite vote; and

WHEREAS;

10.1. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare, in order to timely commence and complete the North Main Street/State Route 48 Sidewalk Improvement project (Mot 48-20.6) and to avoid increased costs and risks to the traveling public.

10.2. This Ordinance shall take effect immediately upon its adoption by the affirmative vote of at least five Council members.

ATTEST:


Barbara Seim, Clerk


Ryan Farmer, Mayor

APPROVED AS TO FORM:


Law Director

CERTIFICATE

The undersigned, Clerk of the City of Clayton, Ohio does hereby certify that the foregoing is a true and correct copy of Ordinance No. O-02-26-03 passed by the Council of said City on the 19th day of February 2026, and that the foregoing Ordinance No. O-02-26-03 was posted at the City Building, Fire Station 83 and Fire Station 84, on the 20th day of February 2026, to the 5th day of March 2026, both days inclusive.


Barbara Seim, Clerk



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PID 119822

**PARCEL 22-SH
MOT SR 48 20.61 SIDEWALK
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF CLAYTON, MONTGOMERY COUNTY, OHIO**

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the City of Clayton, Montgomery County, Ohio, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter.

[Surveyor's description of the premises follows]

Situate in Section 26, Town 5, Range 5 East, City of Englewood, Montgomery County, Ohio and being part of Lot 1 of Meijer 106 as shown on Plat Book 149, Page 5 of the Montgomery County Recorder's Office and lying on the right side of the centerline of right-of-way of North Main Street (SR 48) as shown on MOT SR 48 20.61 SIDEWALK Centerline Plat as filed at the City of Clayton with stations and offsets referenced to the baseline plat of survey MOT SR 48 20.61 SIDEWALK as the same in recorded Plat Book 246, Page 10-A of the Montgomery County, Ohio Recorder's Office, and being more particularly described as follows:

Commencing for reference at the southwest corner of Lot 1 of said Meijer 106 and being on the east right-of-way line of North Main Street (SR 48) and being 82.08 feet right of and perpendicular to centerline of survey Station 1121+36.65;

thence, North 60°-29'-24" West, 91.14 feet, along the east right-of-way line of North Main Street (SR 48) to an iron pin found and being 59.92 feet right of and perpendicular to centerline of survey Station 1122+25.05;

thence, North 46°-23'-56" West, 33.45 feet, along the east right-of-way line of North Main Street to a Mag nail set and being the **PRINCIPAL PLACE OF BEGINNING** of the parcel herein described with said point being 59.93 feet right of and perpendicular to centerline of survey Station 1122+58.50;



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thence, North 46°-23'-56" West, 36.63 feet, along the east right-of-way line of North Main Street to a point and being 59.95 feet right of and perpendicular to centerline of survey Station 1122+95.13;

thence, North 43°-27'-23" East, 20.00 feet, to an iron pin with cap set on the new standard highway easement line and being 79.95 feet right of and perpendicular to centerline Station 1122+95.18;

thence, South 46°-23'-56" East, 36.68 feet, along the new standard highway easement line to a Mag nail set and being 79.93' feet right of and perpendicular to centerline of survey Station 1122+58.49;

thence, South 43°-36'-04" West, 20.00 feet, along the new standard highway easement line to the **PRINCIPAL PLACE OF BEGINNING.**

Containing in all 0.017 acres, gross, of which 0.000 acres is PRO (present road occupied), leaving a net take of 0.017 acres, more or less, subject to all legal easements and rights-of-way.

The above described area is part of currently assigned Montgomery County Auditor's Parcel Number M57-00821-0003.

Bearings described herein are for project use only and are based on the Ohio State Plane Coordinate System NAD 83, South Zone using CORS 2011 adjustment, GEOID 18, ODOT VRS CORS Network.

All iron pins set are 3/4" x 30" rebar with a 2" diameter aluminum cap stamped "ODOT OR LPA R/W CHOICE ONE ENG PS 8629".

This legal description was prepared from a survey by Choice One Engineering dated July, 2025 and written by Allen J. Bertke, P.S. Professional Surveyor, State of Ohio Registration Number 8629.

Allen J. Bertke
Allen J. Bertke, PS #8629



7-11-2025
Date

ANDREW J. SHARAN, P.E., P.S.
DIVISIONAL COUNTY ENGINEER
PRINCIPAL POINT OF BEGINNING
FOR PROJECT USE ONLY
DATE: 7/11/25 FILE NO. 25-0115
Andrew J. Sharan



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PID 119822

**PARCEL 22-T
MOT SR 48 20.61 SIDEWALK
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
PERFORM GRADING AND SEEDING
FOR 12 MONTHS FROM DATE OF ENTRY BY THE
CITY OF CLAYTON, MONTGOMERY COUNTY, OHIO**

[Surveyor's description of the premises follows]

Situate in Section 26, Town 5, Range 5 East, City of Englewood, Montgomery County, Ohio and being part of Lot 1 of Meijer 106 as shown on Plat Book 149, Page 5 of the Montgomery County Recorder's Office and lying on the right side of the centerline of right-of-way of North Main Street (SR 48) as shown on MOT SR 48 20.61 SIDEWALK Centerline Plat as filed at the City of Clayton with stations and offsets referenced to the baseline plat of survey MOT SR 48 20.61 SIDEWALK as the same in recorded Plat Book 2416, Page 1d-A of the Montgomery County, Ohio Recorder's Office, and being more particularly described as follows:

Commencing for reference at the southwest corner of Lot 1 of said Meijer 106 and being on the east right-of-way line of North Main Street (SR 48) and being 82.08 feet right of and perpendicular to centerline of survey Station 1121+36.65;

thence, North 60°-29'-24" West, 70.60 feet, along the east right-of-way line of North Main Street (SR 48) to a point and being the **PRINCIPAL PLACE OF BEGINNING** of the parcel herein described with said point being 64.92 feet right of and perpendicular to centerline of survey Station 1122+05.13;

thence, North 60°-29'-24" West, 20.54 feet, along the east right-of-way line of North Main Street (SR 48) to an iron pin found and being 59.92 feet right of and perpendicular to centerline of survey Station 1122+25.05;

thence, North 46°-23'-56" West, 33.45 feet, along the east right-of-way line of North Main Street to a Mag nail set on the new standard highway easement line and being 59.93 feet right of and perpendicular to centerline of survey Station 1122+58.50;

thence, North 43°-36'-04" East, 20.00 feet, along the new standard easement line to a Mag nail set and being 79.93 feet right of and perpendicular to centerline of survey Station 1122+58.49;



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thence, North 46°-23'-56" West, 36.68 feet, along the new standard highway easement line to an iron pin with cap set and being 79.95 feet right of and perpendicular to centerline of survey Station 1122+95.18;

thence, North 43°-27'-23" East, 72.99 feet, to a point on the new temporary easement line and being 152.94 feet right of and perpendicular to centerline of survey Station 1122+95.33;

thence, South 46°-32'-37" East, 4.62 feet, along the new temporary easement line to a point and being 152.95 feet right of and perpendicular to centerline of survey Station 1122+90.71;

thence, South 43°-27'-23" West, 51.28 feet, along the new temporary easement line to a point and being 101.67 feet right of and perpendicular to centerline of survey Station 1122+90.60;

thence, South 46°-32'-37" East, 15.52 feet, along the new temporary easement line to a point and being 101.71 feet right of and perpendicular to centerline of survey Station 1122+75.08;

thence, South 43°-26'-14" West, 19.77 feet, along the new temporary easement line to a point and being 81.94 feet right of and perpendicular to centerline of survey Station 1122+75.03;

thence, South 46°-23'-56" East, 18.54 feet, along the new temporary easement line to a point and being 81.93 feet right of and perpendicular to centerline of survey Station 1122+56.49;

thence, South 43°-36'-04" West, 17.00 feet, along the new temporary easement line to a point and being 64.93 feet right of and perpendicular to centerline of survey Station 1122+56.50;

thence, South 46°-23'-56" East, 51.37 feet, along the new temporary easement line to the **PRINCIPAL PLACE OF BEGINNING.**

Containing in all 0.022 acres, gross, of which 0.000 acres is PRO (present road occupied), leaving a net take of 0.022 acres, more or less, subject to all legal easements and rights-of-way.

The above described area is part of currently assigned Montgomery County Auditor's Parcel Number M57-00821-0003.

Bearings described herein are for project use only and are based on the Ohio State Plane Coordinate System NAD 83, South Zone using CORS 2011 adjustment, GEOID 18, ODOT VRS CORS Network.

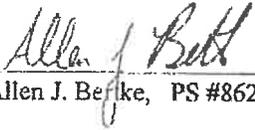
All iron pins set are 3/4" x 30" rebar with a 2" diameter aluminum cap stamped "ODOT OR LPA R/W CHOICE ONE ENG PS 8629".

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This legal description was prepared from a survey by Choice One Engineering dated July, 2025 and written by Allen J. Bertke, P.S. Professional Surveyor, State of Ohio Registration Number 8629


Allen J. Bertke, PS #8629



7-11-2025
Date



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PID 119822

PARCEL 25-SH
MOT SR 48 20.61 SIDEWALK
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
CITY OF CLAYTON, MONTGOMERY COUNTY, OHIO

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the City of Clayton, Montgomery County, Ohio, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter.

Surveyor's description of the premises follows

Situate in Section 26, Town 5, Range 5 East, City of Englewood, Montgomery County, Ohio and being part of Lot 1 of Meijer 106 as shown on Plat Book 149, Page 5 of the Montgomery County Recorder's Office and lying on the right side of the centerline of right-of-way of North Main Street (SR 48) as shown on MOT SR 48 20.61 SIDEWALK Centerline Plat as filed at the City of Clayton with stations and offsets referenced to the baseline plat of survey MOT SR 48 20.61 SIDEWALK as the same in recorded Plat Book 246, Page 10-A of the Montgomery County, Ohio Recorder's Office, and being more particularly described as follows:

Commencing for reference at the southwest corner of Lot 1 of Tumbleweed as shown on Plat Book 196, Page 6 and being on the east right-of-way line of North Main Street (SR 48) and being 60.00 feet right of and perpendicular to centerline of survey Station 1124+42.40;

thence, South 46°-23'-56" East, 67.21 feet, along the east right-of-way line of North Main Street (SR 48) to an iron pin with cap set on the new standard highway easement line and being the **PRINCIPAL PLACE OF BEGINNING** of the parcel herein described with said point being 59.98 feet right of and perpendicular to centerline of survey Station 1123+75.19;

thence, North 43°-36'-04" East, 20.00 feet, along the new standard highway easement line to an iron pin with cap set and being 79.98 feet right of and perpendicular to centerline of survey Station 1123+75.19;



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thence, South 46°-23'-56" East, 80.01 feet, along the new standard highway easement line to an iron pin with cap set and being 79.95 feet right of and perpendicular to centerline Station 1122+95.18;

thence, South 43°-27'-23" West, 20.00 feet, to a point on the east right-of-way line of North Main Street (SR 48) and being 59.95 feet right of and perpendicular to centerline of survey Station 1122+95.13;

thence, North 46°-23'-56" West, 80.06 feet, along the east right-of-way line of North Main Street (SR 48) to the **PRINCIPAL PLACE OF BEGINNING**.

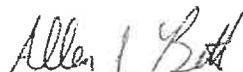
Containing in all 0.037 acres, gross, of which 0.000 acres is PRO (present road occupied), leaving a net take of 0.037 acres, more or less, subject to all legal easements and rights-of-way.

The above described area is part of currently assigned Montgomery County Auditor's Parcel Number M57-00821-0001.

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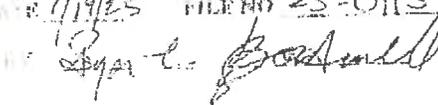
All iron pins set are 3/4" x 30" rebar with a 2" diameter aluminum cap stamped "ODOT OR LPA R/W CHOICE ONE ENG PS 8629".

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Allen J. Bertke, PS #8629



7-11-2025
Date

ANDREW J. SHADAN, P.E., P.S.
MONTGOMERY COUNTY ENGINEER
APPROVED FOR POINT OF BEGINNING,
ENCLOSURE AND CLOSURE ONLY
DATE 7/14/25 FILE NO 25-0115




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**PARCEL 25-T
MOT SR 48 20.61 SIDEWALK
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
PERFORM GRADING AND SEEDING
FOR 12 MONTHS FROM DATE OF ENTRY BY THE
CITY OF CLAYTON, MONTGOMERY COUNTY, OHIO**

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Beginning at the southwest corner of Lot 1 of Tumbleweed as shown on Plat Book 196, Page 6 and being on the east right-of-way line of North Main Street (SR 48) and being the **PLACE OF BEGINNING** of the parcel herein described with said point being 60.00 feet right of and perpendicular to centerline of survey Station 1124+42.40;

thence, North 43°-36'-04" East, 7.00 feet, along the south line of said Lot 1 of Tumbleweed to a point on the new temporary easement line and being 67.00 feet right of and perpendicular to centerline of survey Station 1124+42.40;

thence, South 46°-23'-56" East, 53.91 feet, along the new temporary easement line to a point and being 66.98 feet right of and perpendicular to centerline of survey Station 1123+88.49;

thence, North 43°-34'-15" East, 15.00 feet, along the new temporary easement line to a point and being 81.98 feet right of and perpendicular to centerline of survey Station 1123+88.49;

thence, South 46°-23'-56" East, 12.30 feet, along the new temporary easement line to a point and being 81.98 feet right of and perpendicular to centerline of survey Station 1123+76.19;

thence, North 43°-35'-46" East, 22.00 feet, along the new temporary easement line to a point on the south line of said Lot 1 of Tumbleweed and being 103.98 feet right of and perpendicular to centerline of survey Station 1123+76.18;



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thence, South $46^{\circ}-23'-56''$ East, 23.35 feet, along the south line of said Lot 1 of Tumbleweed to a point and being 103.97 feet right of and perpendicular to centerline of survey Station 1123+52.83;

thence, North $43^{\circ}-24'-45''$ East, 48.85 feet, along the south line of said Lot 1 of Tumbleweed to a point on the new temporary easement line and being 152.82 feet right of and perpendicular to centerline of survey Station 1123+52.98;

thence, South $46^{\circ}-32'-37''$ East, 57.64 feet, along the new temporary easement line to a point and being 152.94 feet right of and perpendicular to centerline of survey Station 1122+95.33;

thence, South $43^{\circ}-27'-23''$ West, 72.99 feet, to an iron pin with cap set on the new standard highway easement line and being 79.95 feet right of and perpendicular to centerline of survey Station 1122+95.18;

thence, North $46^{\circ}-23'-56''$ West, 80.01 feet, along the new standard highway easement line to an iron pin with cap set and being 79.98 feet right of and perpendicular to centerline of survey Station 1123+75.19;

thence, South $43^{\circ}-36'-04''$ West, 20.00 feet, along the new standard highway easement line to an iron pin with cap set on the east right-of-way line of North Main Street (SR 48) and being 59.98 feet right of and perpendicular to centerline of survey Station 1123+75.19;

thence, North $46^{\circ}-23'-56''$ West, 67.21 feet, along the east right-of-way line of North Main Street (SR 48) to the **PLACE OF BEGINNING**.

Containing in all 0.125 acres, gross, of which 0.000 acres is PRO (present road occupied), leaving a net take of 0.125 acres, more or less, subject to all legal easements and rights-of-way.

The above described area is part of currently assigned Montgomery County Auditor's Parcel Number M57-00821-0001.

Bearings described herein are for project use only and are based on the Ohio State Plane Coordinate System NAD 83, South Zone using CORS 2011 adjustment, GEOID 18, ODOT VRS CORS Network.

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Allen J. Bertke, PS #8629



7-11-2025
Date