

THE CITY OF SOUTH EUCLID SCHEDULE OF MEETING

March 12, 2018
8:00 PM

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. APPROVAL OF MINUTES FEBRUARY 12, 2018
4. REPORT OF MAYOR
5. REPORT OF LAW DIRECTOR & DEPARTMENTAL HEADS
6. REPORT OF SCHOOL DISTRICT
7. PUBLIC HEARINGS (OPEN MEETING) RELATED TO AGENDA ITEMS
8. REPORT OF COMMITTEES

ZONING & PLANNING COMMITTEE:

1. RESOLUTION 03-18 GRANTING A CONDITIONAL USE PERMIT FOR A DRIVE-THRU FOR "BURGER KING" AT 4525 MAYFIELD ROAD IN THE CITY OF SOUTH EUCLID, OHIO. **THIRD READING.**

SAFETY COMMITTEE:

1. RESOLUTION 13-18 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH EUCLID, COUNTY OF CUYAHOGA, CALLING ON THE OHIO GENERAL ASSEMBLY TO ENACT A BAN ON THE SALE OF ASSAULT WEAPONS AND AMMUNITION MAGAZINES IN EXCESS OF TEN ROUNDS. **SECOND READING.**

9. LEGISLATION REQUESTED BY THE PLANNING COMMISSION

1. ORDINANCE 05-18 AMENDING CHAPTER 731 "PERMITTED USES IN COMMERCIAL DISTRICTS", BY ENACTING NEW SECTION 731.07 "MAJOR RETAIL ESTABLISHMENTS" OF TITLE THREE "COMMERCIAL DISTRICT REGULATIONS" OF PART SEVEN "THE PLANNING AND ZONING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. **TO BE PLACED ON FIRST READING FOR REFERRAL TO THE ZONING & PLANNING COMMITTEE.**

10. LEGISLATION REQUESTED BY THE MAYOR & ADMINISTRATION

1. RESOLUTION 14-18 AUTHORIZING THE MAYOR TO PAY A MORAL CLAIM. **TO BE PLACED ON FIRST READING AND REFERRED TO THE FINANCE COMMITTEE.**
2. RESOLUTION 15-18 AUTHORIZING THE MAYOR TO PAY A MORAL CLAIM. **TO BE PLACED ON FIRST READING AND REFERRED TO THE FINANCE COMMITTEE.**

3. ORDINANCE 06-18

REPEALING SECTION 731.06 "SALE OF GASOLINE AND/OR MOTOR VEHICLE FUEL FROM PREMISES AT WHICH ALCOHOLIC BEVERAGES ARE SOLD OR OFFERED FOR SALE; PENALTY" OF CHAPTER 731 "PERMITTED USES IN COMMERCIAL DISTRICTS" OF TITLE THREE "COMMERCIAL DISTRICT REGULATIONS" OF PART SEVEN "PLANNING AND ZONING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO. **TO BE PLACED ON FIRST READING AND REFERRED TO THE PLANNING COMMISSION.**

11. COMMUNICATIONS OF CITY COUNCIL

12. PUBLIC HEARINGS (OPEN MEETING) RELATED TO OPEN BUSINESS

13. ADJOURN

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 03-18
INTRODUCED BY: Fiorelli
REQUESTED BY: Planning Commission

January 8, 2018
Second Reading: February 12, 2018
Third Reading: March 12, 2018

A RESOLUTION

GRANTING A CONDITIONAL USE PERMIT FOR A DRIVE-THRU FOR "BURGER KING" AT 4525 MAYFIELD ROAD IN THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, "Burger King" proposes to construct a new restaurant at 4525 Mayfield Road and proposes to include a drive-thru as part of the project; and

WHEREAS, in the Mayfield-Green (M-G) District in which this property is located, a conditional use permit is required in order for a business to have a drive-thru; and

WHEREAS, in accordance with Chapter 739 "Mayfield-Green District (M-G)" of the codified ordinances, the application for conditional use was referred to the Planning Commission; and

WHEREAS, notice of a public hearing on the aforesaid requested Conditional Use Permit has been duly given, and a full public hearing has been held thereon by the Planning Commission pursuant to such notice and as prescribed by law; and

WHEREAS, the Planning Commission made a motion to recommend to City Council that such a conditional use permit be issued; and

WHEREAS, in a vote of 0-5-0, the motion failed, justification for this motion failing is provided in the December 14, 2017 Meeting Minutes of the Planning Commission; and

WHEREAS, after careful consideration and study, a majority of the Council of the City of South Euclid deems that the aforesaid Conditional Use Permit should be given in that the standards set forth in Chapter 739 of the South Euclid Zoning Code have been achieved provided "Burger King" follow the conditions as defined below when constructing the drive-thru.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of South Euclid, Ohio:

Section 1: That a Conditional Use Permit is hereby granted to "Burger King" to construct a drive thru at 4525 Mayfield Road in the City of South Euclid, Ohio, per the following conditions:

- Condition 1:** The drive thru shall be set back ten feet from the sidewalk with greenspace between the sidewalk and the drive thru.
- Condition 2:** There shall be a raised barrier between the drive thru lane and Mayfield Road to prevent headlights from vehicles in the drive thru lane from shining onto Mayfield Road.
- Condition 3:** Any necessary variances required to construct this building must be obtained from the Board of Zoning Appeals prior to construction commencing.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Resolution shall take effect and be in full force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2018.

Dennis Fiorelli, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 13-18
INTRODUCED BY: Fiorelli
REQUESTED BY: Gelfand

February 26, 2018
Second Reading: March 12, 2018

A RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH EUCLID, COUNTY OF CUYAHOGA, CALLING ON THE OHIO GENERAL ASSEMBLY TO ENACT A BAN ON THE SALE OF ASSAULT WEAPONS AND AMMUNITION MAGAZINES IN EXCESS OF TEN ROUNDS.

WHEREAS, in 1994, Congress passed and President Clinton signed the Public Safety and Recreational Firearms Use Protection Act, which banned the manufacture for civilian use of certain semi-automatic firearms defined as assault weapons and certain ammunition magazines defined as large capacity in order to reduce crime and violence in the United States; and

WHEREAS, in 2004, the Act expired by operation of law and has not been renewed by Congress; and

WHEREAS, due to the expiration of the Act, assault weapons may be legally sold and purchased within the state of Ohio; and

WHEREAS, The City of Cleveland and other municipalities in the State of Ohio pursuant to their police powers as municipal corporations had withstood the efforts of the Ohio Legislature and advocates from the National Rifle Association to legalize such weapons persisted in enacting municipal ordinances banning assault weapons allowing those cities to protect their citizens from the dangers of Assault Weapons until 2010; and

WHEREAS, in 2006 the General Assembly and Governor of the State of Ohio began a concerted effort to undermine the authority of local governments to ban assault weapons; and

WHEREAS, in 2010 the State of Ohio and its Attorney General persuaded the Ohio Supreme Court in *Cleveland v. State of Ohio*, 128 Ohio St.3d 135 to rule that the less restrictive gun regulations passed by the legislature of the State of Ohio should preempt and invalidate Assault Weapons Bans such as those enacted by local governments; and

WHEREAS, also in 2010 the United States Supreme Court in *McDonald v. Chicago* 130 S. Ct. 3020, 561 US 742 agreed with amicus arguments submitted by the National Rifle Association, The Buckeye Firearms Association and certain State Attorneys General, including Ohio's Attorney General and ruled that the ability of municipal governments to regulate the use of dangerous weapons should be further limited; and

WHEREAS, since 1999, the number of mass shootings in schools, churches, and other public places has increased as the overall national crime rate has steadily declined; and

WHEREAS, in the last several years, mass shooting incidents involving assault style weapons and high-volume magazines once banned by the Act have occurred in locations across the United States including Tucson, Arizona; Aurora, Colorado; Newtown, Connecticut; Clackamas, Oregon; Virginia Tech University, Las Vegas, Nevada, Orlando, Florida, and Parkland Florida; and

WHEREAS, hundreds of innocent children and adults have been killed or injured in these incidents; and

WHEREAS, the use of semi-automatic, assault-style weapons equipped with large capacity magazines enables persons intent on committing mass murder to cause far more deaths and injuries than would be possible if such weapons and ammunition magazines were not available; and

WHEREAS, the people of the City of South Euclid mourn the loss of the 17 innocent people murdered on February 14, 2018 at Marjory Stoneman Douglas High School in Parkland, Florida, the deadliest school shooting since 2012; and

WHEREAS, the firearm used to murder and injure the victims at Marjory Stoneman Douglas High School was an AR-15 semi-automatic assault style weapon equipped with high capacity magazines; and

WHEREAS, assault-style weapons and large capacity ammunition magazines are not suitable for civilian use of any type and constitute a demonstrated threat to the general public and law enforcement personnel; and

WHEREAS, this City Council finds that enactment of a ban on assault-style weapons and high-capacity magazines based upon the provisions of the Assault Weapons Ban of 2013 as introduced in the United States Senate would serve the best interests of the residents of this community.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of South Euclid:

Section 1: Urges the Ohio General Assembly to immediately enact a law mirroring the provisions of the Assault Weapons Ban of 2013 as introduced in the United States Senate; and

Section 2: That the Clerk of City Council is directed to send a certified copy of this resolution to the members of the Ohio General Assembly who represent the City, to the Speaker of the Ohio House of Representatives, to the President of the Ohio Senate and to the Governor of the State of Ohio.

Section 3: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this Resolution is deemed to be an emergency measure necessary for the immediate preservation for the public peace, health, and safety and for further reason that a vital function of the municipal government is effected hereby. Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2018.

Dennis Fiorelli, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

THE CITY OF SOUTH EUCLID

ORDINANCE NO.: 05-18
INTRODUCED BY: Fiorelli
REQUESTED BY: Planning Commission

March 12, 2018

AN ORDINANCE

AMENDING CHAPTER 731 "PERMITTED USES IN COMMERCIAL DISTRICTS", BY ENACTING NEW SECTION 731.07 "MAJOR RETAIL ESTABLISHMENTS" OF TITLE THREE "COMMERCIAL DISTRICT REGULATIONS" OF PART SEVEN "THE PLANNING AND ZONING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, the Planning Commission, by a vote of 4-0-0 on February 22, 2018, has recommended to Council that Chapter 731 be amended by enacting new Section 731.07 of Title Three of Part Seven of the Codified Ordinances of the City of South Euclid, Ohio, regarding Major Retail Development; and

WHEREAS, notice of a Public Hearing on the aforesaid requested Zoning amendment has been duly given, and a full Public Hearing has been held thereon, pursuant to such notice and as prescribed by law; and

WHEREAS, Council deems that the aforesaid Zoning amendment should be made and the same is conducive to the public health, safety, convenience and general welfare of the City.

NOW, THEREFORE, BE IT ORDAINED that the Council of the City of South Euclid, Ohio:

Section 1: That new Section 731.07 of Title Three of Part Seven of the Codified Ordinances of the City of South Euclid, Ohio, be and the same is hereby enacted to read as follows:

"731.07 MAJOR RETAIL ESTABLISHMENTS.

(a) Major Retail Development. A Major Retail Development is defined as a singular Retail Sales Establishment or Shopping Center that involves any one, or a combination of the following and as is defined herein:

- (1) New construction of a singular Retail Sales Establishment that is greater than eight thousand (8000) gross square feet in size; or
- (2) New construction of a Shopping Center on a parcel or combination of parcels of real property comprising one half (1/2) acres or more; or
- (3) Expansion of a singular Retail Sales Establishment or Shopping Center existing as of the effective date of adoption of this Section and which said expansion will increase the square footage of a singular Retail Sales Establishment to become more than eight thousand (8000) gross square feet in area or increase the size of a Shopping Center to more than one half (1/2) acres.
- (4) Retail Sales Establishment. A Retail Sales Establishment is defined as an establishment or place of business primarily engaged in the sales of goods or services directly to the consumer, where such goods or services are generally available for immediate purchase.
- (5) Shopping Center. A Shopping Center is defined as a grouping of three (3) or more commercial units built primarily for Retail Sales Establishments on common property planned, developed, owned or managed as a unit with common off-street parking provided on the same site.

(b) Unless otherwise specifically provided in a developer's agreement approved by the City, all Major Retail Developments shall be subject to the following provisions:

(1) The owner and tenant(s) shall maintain the Major Retail Development in compliance with all provisions of the Codified Ordinances of the City of South Euclid and/or a plan approved as part of a developer's agreement approved by the City. If the Major Retail Development or any part thereof is not found to be in compliance with Codified Ordinances of the City of South Euclid and/or a plan approved as part of a developer's agreement approved by the City, the City may take action to correct the situation pursuant to South Euclid Codified Ordinance Chapter 531.

(2) If the Major Retail Development becomes either: (a) a "Vacant Commercial Building" as is defined by South Euclid Codified Ordinance 1414; or (b) has more than fifty percent (50%) of the gross square footage of a Shopping Center unoccupied, the owner or operator of the Major Retail Development shall fully comply with South Euclid Codified Ordinance Chapter 1414.

(3) Fees: The annual registration fee shall be \$.05 per gross square foot for the first year, \$.10 per gross square foot for the second year, \$.20 per gross square foot for the third year, \$.30 per gross square foot for each year thereafter that the structure remains vacant.

(4) Prior to issuance of a building permit for any Major Retail Development, the owner and/or tenant(s), as may be required by the City, shall obtain, provide evidence to the City, and carry in full force and effect for the duration of the operation of the Major Retail Development or as may be stipulated in a development agreement with the City, a performance/surety bond in an amount which provides for the cost of demolition of the building or buildings identified by the City. Said bond shall specifically name the City as a beneficiary, and shall provide funds to the City for the cost of demolition of some or all of a Major Retail Development the City may undertake pursuant to the South Euclid Codified Ordinances.

(5) Buildings or Shopping Centers in existence at the adoption of this ordinance shall provide a performance/surety bond in an amount which provides for the cost of demolition of the building or buildings identified by the City when: (a) the Building or Shopping Center meets the criteria of a Vacant Building as identified in South Euclid Ordinance 1414; or, (b) has more than fifty percent (50%) of the gross square footage of a Shopping Center unoccupied. Said bond shall specifically name the City as beneficiary, and shall provide funds to the City for the cost of demolition of some or all of a Major Retail Development the City may undertake pursuant to the South Euclid Codified Ordinances.

(6) Prior to issuance of a building permit for any Major Retail Development, the owner and/or tenant(s), as may be required by the City, shall provide the Building Commissioner and Director of Law a copy of the written lease between the owner and each tenant to be located at the Major Retail Development. No lease that refers, relates or is in any way connected to a Major Retail Development shall contain a provision prohibiting the owner, agent, property manager, successor or assign of a Major Retail Development from re-leasing all or any portion of a Major Retail Development when a tenant has either involuntarily or voluntarily vacated all or any portion of a Major Retail Development."

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Ordinance shall take effect and be enforced from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2018.

Dennis Fiorelli, President of Council

Approved:

Georgine Welo , Mayor

Attest:

Keith A. Benjamin, Clerk of Council

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 14-18
INTRODUCED BY: Fiorelli
REQUESTED BY: Mayor

March 12, 2018

A RESOLUTION

AUTHORIZING THE MAYOR TO PAY A MORAL CLAIM.

WHEREAS, Reds Property Management presented a moral claim to the City of South Euclid, Ohio, pursuant to section 117.17 of the Codified Ordinances; and

WHEREAS, after due deliberations, the Finance Committee recommends payment of said moral claim to Reds Property Management in the amount of \$840.00. (A copy of said recommendation is attached hereto and made a part hereof.)

NOW, THEREFORE, BE IT RESOLVED by the City of South Euclid, Ohio:

Section 1: That the Mayor be and she is hereby authorized to pay Reds Property Management the sum of \$840.00 for the said moral claim upon the execution of an appropriate release.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety, and for further reason that a vital function of municipal government is effected hereby. Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2018.

Dennis Fiorelli, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

RESOLUTION NO.: 15-18
INTRODUCED BY: Fiorelli
REQUESTED BY: Mayor

March 12, 2018

A RESOLUTION

AUTHORIZING THE MAYOR TO PAY A MORAL CLAIM.

WHEREAS, James Evans presented a moral claim to the City of South Euclid, Ohio, pursuant to Section 117.17 of the Codified Ordinances; and

WHEREAS, after due deliberations, the Finance Committee recommends payment of said moral claim to James Evans in the amount of \$368.50. (A copy of said recommendation is attached hereto and made a part hereof.).

NOW, THEREFORE, BE IT RESOLVED by the City of South Euclid, Ohio:

Section 1: That the Mayor be and she is hereby authorized to pay James Evans the sum of \$368.50 for the said moral claim upon the execution of an appropriate release.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety, and for further reason that a vital function of municipal government is effected hereby. Wherefore, this Resolution shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2018.

Dennis Fiorelli, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 06-18
INTRODUCED BY: Fiorelli
REQUESTED BY: Mayor

March 12, 2018

AN ORDINANCE

REPEALING SECTION 731.06 "SALE OF GASOLINE AND/OR MOTOR VEHICLE FUEL FROM PREMISES AT WHICH ALCOHOLIC BEVERAGES ARE SOLD OR OFFERED FOR SALE; PENALTY" OF CHAPTER 731 "PERMITTED USES IN COMMERCIAL DISTRICTS" OF TITLE THREE "COMMERCIAL DISTRICT REGULATIONS" OF PART SEVEN "PLANNING AND ZONING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, as the codified ordinances are reviewed, City Council periodically finds the need to update certain legislation; and

WHEREAS, Section 731.06 is one such piece of legislation as City Council desires to repeal the legislation so that the codified ordinances are consistent with policy.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Section 731.06 "Sale of gasoline and/or motor vehicle fuel from premises at which alcoholic beverages are sold or offered for sale; penalty" of Chapter 731 "Permitted Uses in Commercial Districts" of Title Three "Commercial District Regulations" of Part Seven "Planning and Zoning Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby repealed:

~~731.06 SALE OF GASOLINE AND/OR MOTOR VEHICLE FUEL FROM PREMISES AT WHICH ALCOHOLIC BEVERAGES ARE SOLD OR OFFERED FOR SALE; PENALTY.~~

~~—(a) No building or lot shall be used for the sale of, or for offering the sale of, gasoline and/or motor vehicle fuel if beer, wine and/or intoxicating liquor is sold or offered for sale at retail at or from such building or lot.~~

~~—(b) Any person, including, without limitation, the president, the chief executive officer, a responsible officer or other employee of a firm or organization, who is convicted of a violation of this section, shall be guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both, for each offense.~~

~~—(c) For the purpose of this section, a separate offense shall be deemed committed each day during or on which a violation of this section occurs or continues.~~

~~—(d) The imposition of any penalty shall not preclude the Director of Law from instituting an appropriate action or proceeding, in a court of proper jurisdiction, to restrain, correct or abate a violation, to prevent the occupancy of a building, structure or premises or to require compliance with the provisions of this section or the orders or determinations of the Zoning Administrator, the Mayor or the Zoning and Building Standards Board of Appeals as said orders or determinations relate to this section.~~

Section 2: That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety within the City and therefore should be adopted at the earliest possible time. Wherefore this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2018.

Dennis Fiorelli, President of Council

Approve:

Georgine Welo, Mayor

Attest:

Keith A. Benjamin, Clerk of Council

Approved as to form:

Michael P. Lograsso, Director of Law