

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

August 15, 2019

OLD BUSINESS

ORDINANCES (SECOND OF TWO READINGS AND IMMEDIATE ENACTMENT VIA EMERGENCY)

ORDINANCE NO. O – 08 – 19 – 04

AN ORDINANCE ADOPTING ESTIMATED ASSESSMENTS AND CERTIFYING UNPAID CHARGES FOR 2019/2020 CURB AND GUTTER REPAIR/REPLACEMENT WORK TO THE MONTGOMERY COUNTY AUDITOR FOR COLLECTION WITH REAL ESTATE TAXES (FIVE ANNUAL INSTALLMENTS) AND DECLARING AN EMERGENCY

WHEREAS, the City Staff has heretofore studied the need to repair and/or remove and replace curbs and gutters within the areas identified on **Exhibit A** appended to the previously adopted Resolution of Necessity No. R-08-17-42 enacted on August 17, 2017; and

WHEREAS, the aforementioned Resolution of Necessity provided that in the event said curbs and gutters are not repaired and/or removed and replaced by the respective property owners after service of notice upon said property owners and prior to October 31, 2017 in accordance with the plans and specifications filed with the Clerk of Council, the municipal corporation will cause such repair and/or removal and replacement to occur and assess the cost thereof against the lots and lands abutting thereon; and

WHEREAS, consistent with the aforementioned Resolution of Necessity, the City has caused certain curbs and gutters to be repaired and/or removed and replaced and a List of Estimated Assessments relative to same was provided to the subject property owners via publication per CCO 904.04(e) and issued to Council on July 26, 2019; and

WHEREAS, the Clerk of Council has delivered to Council all objections to the Estimated Assessments received to date, if any, and Council has reviewed same and desires to adopt the present Ordinance in order to levy upon the lots and lands enumerated in the List of Estimated Assessments the amounts set forth on such List of Estimated Assessments and attached hereto as **Exhibit A**.

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

1. That Council hereby approves and adopts the attached List of Estimated Assessments and levies same and the Finance Director is hereby authorized and directed to certify to the Auditor of Montgomery County, Ohio, the attached List of Estimated Assessments for 2019/2020 curbs and gutters repair/replacement assessments within the City of Clayton,

Ohio by the City of Clayton, Ohio. The List, which is attached hereto as **Exhibit A** and incorporated by reference herein, identifies the properties to be assessed by Parcel I.D. and specifies the unpaid charges for said work. The City requests that these charges be made a lien against the respective properties in accordance with Ohio Revised Code 729.01, et. seq.

2. *That the attached Assessments NOT in excess of \$2,500.00 shall be payable in annual installments not exceeding five.*
3. That Assessments may be payable in cash until August 30, 2019.
4. That no later than Tuesday, September 10, 2019, the Clerk is directed to forward a certified copy of this Ordinance to the Montgomery County Auditor.
5. 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.
6. That in accordance with Clayton Charter Section 4.031(B) the requirement that this enactment be read on two (2) separate days is dispensed with by affirmative vote of at least five (5) of the members of Council.
7. That unless the assessments are immediately passed and submitted to the Auditor of Montgomery County the public peace, health, safety and welfare will be detrimentally affected because the assessments would not appear on the next tax duplicate and passage as an emergency will enable the City to timely assert its lien rights prior to properties being sold and/or transferred. 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.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

ORDINANCE NO. O – 08 – 19 – 05

AN ORDINANCE ADOPTING ESTIMATED ASSESSMENTS AND CERTIFYING UNPAID CHARGES FOR 2019/2020 CURB AND GUTTER REPAIR/REPLACEMENT WORK TO THE MONTGOMERY COUNTY AUDITOR FOR COLLECTION WITH REAL ESTATE TAXES (TEN ANNUAL INSTALLMENTS) AND DECLARING AN EMERGENCY

WHEREAS, the City Staff has heretofore studied the need to repair and/or remove and replace curbs and gutters within the areas identified on **Exhibit A** appended to the previously adopted Resolution of Necessity No. R-08-17-42 enacted on August 17, 2017 and

WHEREAS, the aforementioned Resolution of Necessity provided that in the event said curbs and gutters are not repaired and/or removed and replaced by the respective property owners after

service of notice upon said property owners and prior to October 31, 2017 in accordance with the plans and specifications filed with the Clerk of Council, the municipal corporation will cause such repair and/or removal and replacement to occur and assess the cost thereof against the lots and lands abutting thereon; and

WHEREAS, consistent with the aforementioned Resolution of Necessity, the City has caused certain curbs and gutters to be repaired and/or removed and replaced and a List of Estimated Assessments relative to same was provided to the subject property owners via publication per CCO 904.04(e) and issued to Council on July 26, 2019; and

WHEREAS, the Clerk of Council has delivered to Council all objections to the Estimated Assessments received to date, if any, and Council has reviewed same and desires to adopt the present Ordinance in order to levy upon the lots and lands enumerated in the List of Estimated Assessments the amounts set forth on such List of Estimated Assessments and attached hereto as **Exhibit A**.

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

1. That Council hereby approves and adopts the attached List of Estimated Assessments and levies same and the Finance Director is hereby authorized and directed to certify to the Auditor of Montgomery County, Ohio, the attached List of Estimated Assessments for 2019/2020 curbs and gutters repair/replacement assessments within the City of Clayton, Ohio by the City of Clayton, Ohio. The List, which is attached hereto as **Exhibit A** and incorporated by reference herein, identifies the properties to be assessed by Parcel I.D. and specifies the unpaid charges for said work. The City requests that these charges be made a lien against the respective properties in accordance with Ohio Revised Code 729.01, et. seq.
2. *That the attached Assessments in excess of \$2,500.00 shall be payable in annual installments not exceeding ten.*
3. That Assessments may be payable in cash until August 30, 2019.
4. That no later than Tuesday, September 10, 2019, the Clerk is directed to forward a certified copy of this Ordinance to the Montgomery County Auditor.
5. 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.
6. That in accordance with Clayton Charter Section 4.031(B) the requirement that this enactment be read on two (2) separate days is dispensed with by affirmative vote of at least five (5) of the members of Council.
7. That unless the assessments are immediately passed and submitted to the Auditor of Montgomery County the public peace, health, safety and welfare will be detrimentally affected because the assessments would not appear on the next tax duplicate and passage as an emergency will enable the City to timely assert its lien rights prior to properties being sold and/or transferred. 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.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

ORDINANCE NO. O – 08 – 19 – 06

AN ORDINANCE CERTIFYING UNPAID CHARGES FOR GRASS/WEED CUTTING FOR 2019/2020 TO THE MONTGOMERY COUNTY AUDITOR FOR COLLECTION WITH REAL ESTATE TAXES AND DECLARING AN EMERGENCY

WHEREAS, the Codified Ordinances of the City of Clayton, Ohio, require that the owners, occupants, or persons having care of any lot or land within the City of Clayton, Ohio shall cut down and remove offensive and noxious weeds; and

WHEREAS, Section 1313.05(d) of the Clayton Codified Ordinances and Sections 731.51 through 731.53, Ohio Revised Code, permit the City of Clayton to cause such offensive and noxious weeds to be cut and destroyed if the City has complied with the requirements of those sections; and

WHEREAS, Section 731.54, Ohio Revised Code, permits municipalities which have cut noxious weeds under the procedure outlined in Sections 731.51 through 731.53, Ohio Revised Code, to make a written return of its actions with a statement of the charges for this service to the County Auditor the amounts, when allowed, shall be entered upon the tax duplicate, which shall be a lien upon such lands from the date of the entry and shall be collected as other taxes and returned to the municipal corporation with the general fund; and

WHEREAS, the City of Clayton in conformity with the provisions of Section 1313.05(d) of the Clayton Codified Ordinances and Sections 731.51 through 731.53, Ohio Revised Code, did cut down and destroy offensive and noxious weeds, grass and rank vegetation at various locations throughout the City of Clayton, and the charges for these services, in many instances, remain unpaid.

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

1. That the Finance Director is hereby authorized and directed to certify to the Auditor of Montgomery County, Ohio, the attached list of unpaid charges for cutting down offensive and noxious weeds at various locations throughout the City of Clayton, Ohio by the City of Clayton, Ohio. The list, which is attached hereto as **Exhibit A** and incorporated by reference herein, identifies the properties to be assessed by Parcel I.D. and specifies the unpaid charges for cutting down offensive and noxious weeds. The City requests that these charges be made a lien against the respective properties in accordance with Section 731.54, Ohio Revised Code.
2. That immediately upon becoming effective, the Clerk is directed to forward a copy of this Ordinance to the Montgomery County Auditor.

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 dispensed with by affirmative vote of at least five (5) of the members of Council.
5. That unless the assessments are immediately passed and submitted to the Auditor of Montgomery County the public peace, health, safety and welfare will be detrimentally affected because the assessments would not appear on the next tax duplicate and passage as an emergency will enable the City to timely assert its lien rights prior to properties being sold and/or transferred. 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.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

ORDINANCE NO. O – 08 – 19 – 07

AN ORDINANCE TO IMPOSE ASSESSMENTS UPON OWNERS OF REAL PROPERTY IN ARREARS FOR PAYMENT OF FEES FOR WASTE HAULING AND DISPOSAL SERVICES FOR 2019/2020 AND DECLARING AN EMERGENCY

WHEREAS, on April 16, 2009, via Ordinance O-04-09-04, Council authorized the City Manager to enter into an exclusive agreement with Republic Waste Services to provide waste hauling and disposal services for residents of the City of Clayton for a period through April 30, 2014; and

WHEREAS, via enactment of Ordinance No. O-03-14-15 on March 20, 2014, Council approved an option to renew the above referenced agreement with Republic Services, Inc.; and

WHEREAS, via enactment of legislation on April 4, 2019, Council authorized the City Manager to accept the bid of and award contract for residential solid waste collection to Dempsey Waste Systems II, Inc. dba Republic Services of Dayton through June 30, 2024; and

WHEREAS, Charter Section 3.01(B) grants to Council the power to adopt and provide for enforcement of local police, sanitary and other similar regulations as are not in conflict with the general laws of Ohio; and

WHEREAS, Charter Section 3.01(A) provides the legislative power to levy taxes and assessments; and

WHEREAS, R.C. 715.43 provides that a municipality may provide for the collection and disposition of garbage and assess a reasonable fee for such services; and

WHEREAS, the appended list of Collection Assessments sets forth the Parcel ID numbers of the properties to whom service has been provided and the unpaid waste disposal fees attributable to each property; and

WHEREAS, the City desires to impose a lien upon the identified properties served and to refer said liens to the County Auditor to be collected in the same manner as other taxes.

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

1. That there is hereby levied and assessed against the parcels specifically identified on the appended list(s) those amounts set forth which represent unpaid charges for waste collection and disposal services. The appended list(s) are incorporated herein and made a part hereof.
2. That immediately upon becoming effective, the Clerk is directed to forward a copy of this Ordinance to the Montgomery County Auditor.
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 dispensed with by affirmative vote of at least five (5) members of Council.
5. That unless the assessments are immediately passed and submitted to the Auditor of Montgomery County the public peace, health, safety and welfare will be detrimentally affected because the assessments would not appear on the next tax duplicate. 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.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

ORDINANCE NO. O – 08 – 19 – 08

**AN ORDINANCE TO MAINTAIN LIGHTING ASSESSMENT AND
DECLARING AN EMERGENCY**

WHEREAS, Charter Section 3.01 provides the legislative power to levy taxes and assessments; and

WHEREAS, Charter Sections 4.02 and 4.033 requires that actions to levy or enact taxes be taken pursuant to non-emergency ordinance; and

WHEREAS, Randolph Township as predecessor to the City of Clayton had enacted resolution(s) of necessity for artificial lighting assessments in accordance with R.C. 515.08 and utilizing the

method whereby the assessments were in an equal amount against each benefited lot, the amount determined by dividing the total cost per annual installment by the number of benefited lots in the affected district; and

WHEREAS, the Village of Clayton, as predecessor to the City of Clayton had enacted legislation for artificial lighting assessments in a manner similar in nature to Randolph Township; and

WHEREAS, the City of Clayton by Resolutions enacted in March, July and November, 1998 authorized the City to enter into a successor street lighting agreement with The Dayton Power & Light Company for a ten year period commencing January 1, 1998 through December 31, 2007 for defined areas of the municipality; and

WHEREAS, the City of Clayton by Resolution No. R-10-07-52, enacted on October 4, 2007, authorized the City to enter into a successor street lighting agreement with Miami Valley Lighting, LLC, a DPL Inc. subsidiary, dba DPL Energy, for a period of forty-eight (48) months commencing January 1, 2008 and expiring December 31, 2011; and

WHEREAS, the City of Clayton by Resolution No. R-09-10-57, enacted on September 2, 2010, authorized the City to enter into a successor street lighting agreement with Miami Valley Lighting, LLC and DPL Energy Resources, Inc., both subsidiaries of DPL, Inc., for a period through December, 2012; and

WHEREAS, the City of Clayton by Resolution No. R-11-12-72, enacted on November 1, 2012, authorized the City to enter into a successor street lighting agreement with Miami Valley Lighting, LLC and DPL Energy (DPLE) for a period of three years commencing January 1, 2013 and expiring on December 31, 2015; and

WHEREAS, the City of Clayton by Resolution No. R-12-15-85, enacted on December 17, 2015, authorized the City to enter into a successor street lighting agreement with Miami Valley Lighting (MVLt) for a period of ten years, commencing January 1, 2016 and expiring on December 31, 2025; and

WHEREAS, the City of Clayton by Ordinances in 1999 through 2012 continued the assessments for said lighting upon the abutting, adjacent, and contiguous lots and lands within the City of Clayton; and

WHEREAS, Council desires to continue the assessments for said lighting upon the abutting, adjacent, and contiguous lots and lands within the City of Clayton which benefit therefrom in a manner similar to what has been previously utilized; and

WHEREAS, Council has determined that the method of assessment provided under R.C. 727.01(B) whereby the assessment is levied "in proportion to the benefits that may result from the improvement" is satisfied by continuing to utilize the method previously utilized by Randolph Township, the Village of Clayton and the City of Clayton.

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

1. That to provide for the cost and expenses of furnishing and maintaining the lights for lighting the lighting district areas of the City known as:

- | | | | |
|----|-------------|----|-----------------------------|
| A. | Allison | G. | Riverbend Estates |
| B. | Ashbrook | H. | Old Village |
| C. | Ashbrook II | I. | Riverbend Phase II |
| D. | Hilltop | J. | Riverbend Phase III |
| E. | Oak Hill | K. | Wenger Village, Section One |
| F. | Portrait | L. | Wenger Village, Section Two |
| | | M. | Village of North Clayton |

in accordance with the terms and rates set forth in the Street Lighting Agreement with Miami Valley Lighting (MVLt) as amended, that there is hereby levied and specially assessed in proportion to the benefits which result or may result from said improvement against the lots within the respective Lighting Districts and each of them within said Lighting Districts, bounding and abutting the streets and public ways to be lighted under said agreement, the amounts paid and to be paid by the City of Clayton to the Miami Valley Lighting (MVLt) in such amounts as are set forth on **Schedules A - M attached** hereto.

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 dispensed with by affirmative vote of at least five (5) members of Council.

4. That unless the assessments are immediately passed and submitted to the Auditor of Montgomery County the public peace, health, safety and welfare will be detrimentally affected because the assessments would not appear on the next tax duplicate. 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.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

ORDINANCE NO. O – 08 – 19 – 09

AN ORDINANCE AUTHORIZING THE SUBMISSION OF THE 2019/2020 NORTH CLAYTON COMMUNITY AUTHORITY CHARGE ASSESSMENTS TO THE MONTGOMERY COUNTY AUDITOR AND DECLARING AN EMERGENCY

WHEREAS, the North Clayton Community Authority (the "Community Authority") is a new community authority established pursuant to Ohio Revised Code Chapter 349, by action of the Board of County Commissioners of Montgomery County, Ohio by Resolution No. 09-0510 adopted March 17, 2009 and Resolution No. 09-0555 adopted March 24, 2009; and

WHEREAS, the jurisdiction of the Community Authority extends to that area defined as the North Clayton Community Authority District (hereinafter the "Community Authority District") and consisting of approximately 101.455 acres of property; and

WHEREAS, the Community Authority either has imposed a community authority development charge pursuant to Ohio Revised Code Section 349.07 upon assessed valuation of property within the Community Authority District or such other methods as are permitted under Ohio Revised Code Section 349.01(L) and utilize funds generated from such charges to pay for, among other things, maintenance and replacement of said improvements either by contracting directly with third party contractors or by reimbursing Clayton for such expenses; and

WHEREAS, the City of Clayton Council, via passage of Resolution No. R-02-10-15, on February 18, 2010, approved a Maintenance Agreement between the City of Clayton and the North Clayton Community Authority which states, in relevant part, "To the extent that the Community Authority desires that said unpaid charges [Community Authority Development Charges] be certified to the Montgomery County Auditor for placement on the tax lists and duplicates of real property opposite the parcel against which it is charged, it shall provide a list to the Clayton Finance Director with sufficient time to provide such certification and shall cooperate with all requirements necessary thereto."; and

WHEREAS, the Community Authority has provided a list to the Clayton Finance Director identifying unpaid Community Authority Development Charges and requesting same be certified to the County Auditor consistent with the above referenced term of the Maintenance Agreement entered into between the City of Clayton and the North Clayton Community Authority; and

WHEREAS, Charter Section 3.01(B) grants to Council the power to adopt and provide for enforcement of local police, sanitary and other similar regulations as are not in conflict with the general laws of Ohio; and

WHEREAS, Charter Section 3.01(A) provides the legislative power to levy taxes and assessments.

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

1. That there is hereby levied and assessed against the parcels specifically identified on the appended list(s), those amounts set forth which represent unpaid North Clayton Community Authority Development Charges. The appended list(s) are incorporated herein and made a part hereof.
2. That immediately upon becoming effective, the Clerk is directed to forward a copy of this Ordinance to the Montgomery County Auditor.
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 dispensed with by affirmative vote of at least five (5) members of Council.

5. That unless the assessments are immediately passed and submitted to the Auditor of Montgomery County the public peace, health, safety and welfare will be detrimentally affected because the assessments would not appear on the next tax duplicate. 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.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

ORDINANCE NO. O – 08 – 19 – 10

AN ORDINANCE CERTIFYING UNPAID CHARGES FOR NUISANCE ASSESSMENTS FOR 2019/2020 TO THE MONTGOMERY COUNTY AUDITOR FOR COLLECTION WITH REAL ESTATE TAXES AND DECLARING AN EMERGENCY

WHEREAS, the Codified Ordinances of the City of Clayton, Ohio, require that the owners, occupants, or persons having care of any lot or land within the City of Clayton, Ohio shall keep same free of debris/litter and other materials; and

WHEREAS, Section 1313.04 of the Clayton Codified Ordinances and/or Sections 731.51 through 731.53, Ohio Revised Code, permit the City of Clayton to cause debris/litter to be removed; and

WHEREAS, Section 731.54, Ohio Revised Code, permits municipalities which have removed such debris/litter under the procedure outlined in Sections 731.51 through 731.53, Ohio Revised Code, to make a written return of its actions with a statement of the charges for this service to the County Auditor the amounts, when allowed, shall be entered upon the tax duplicate, which shall be a lien upon such lands from the date of the entry and shall be collected as other taxes and returned to the municipal corporation with the general fund; and

WHEREAS, the City of Clayton in conformity with the provisions of Section 1313.04 of the Clayton Codified Ordinances and Sections 731.51 through 731.53, Ohio Revised Code, did cause debris/litter at various locations to be removed throughout the City of Clayton, and the charges for these services, in many instances, remain unpaid.

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

1. That the Finance Director is hereby authorized and directed to certify to the Auditor of Montgomery County, Ohio, the attached list of unpaid charges for nuisance abatement at various locations throughout the City of Clayton, Ohio by the City of Clayton, Ohio. The list, which is attached hereto as **Exhibit A** and incorporated by reference herein, identifies the properties to be assessed by Parcel I.D. and specifies the unpaid charges for said

nuisance abatement. The City requests that these charges be made a lien against the respective properties in accordance with Section 731.54, Ohio Revised Code.

2. That immediately upon becoming effective, the Clerk is directed to forward a copy of this Ordinance to the Montgomery County Auditor.
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 dispensed with by affirmative vote of at least five (5) members of Council.
5. That unless the assessments are immediately passed and submitted to the Auditor of Montgomery County the public peace, health, safety and welfare will be detrimentally affected because the assessments would not appear on the next tax duplicate and passage as an emergency will enable the City to timely assert its lien rights prior to properties being sold and/or transferred. 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.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

NEW BUSINESS

ORDINANCES (FIRST OF TWO READINGS)

ORDINANCE NO. O – 08 – 19 – 11

AN ORDINANCE APPROVING AMENDMENTS TO CLAYTON CODIFIED ORDINANCE CHAPTER 1313 OF THE BUILDING CODE TO ADD A NEW SECTION 1313.10 ENTITLED “PLACEMENT OF PORTABLE TOILETS IN RESIDENTIAL AREAS” AND TO REVISE SECTION 1313.99 ENTITLED, “PENALTY”

WHEREAS, City staff has reviewed Chapter 1313 (“Residential Exterior Property Maintenance Standards”) of the Clayton Codified Ordinances and has recommended amendment thereto in order to include a new Section 1313.10 entitled, “Placement of Portable Toilets In Residential Areas”; and in conjunction therewith, City staff has recommended revisions to Section 1313.99 (“Penalty”).

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

1. That Clayton Codified Ordinance Chapter 1313 (“Residential Exterior Property Maintenance Standards”) is hereby approved for amendment to include a new Section

1313.10 entitled, "Placement of Portable Toilets In Residential Areas" as follows. (Additions in **bold** and deletions in ~~strikethrough~~):

1313.10 PLACEMENT OF PORTABLE TOILETS IN RESIDENTIAL AREAS

(a) **Definitions.** As used in this Section 1313.10, the following definitions shall apply:

(1) **Portable Toilet:** A commercially manufactured or assembled toilet facility that is portable and is not designed or intended for connection to a sewer system with a standard connection. Portable toilets shall have a watertight, impervious pail or tank containing a chemical solution placed immediately beneath the seat or urinal and a pipe or conduit connecting the riser with the tank.

(b) **Permit Required.** Prior to placement of a Portable Toilet in an area zoned residential, application shall be made, on a form prescribed by the City, to the Director of Development. This Section 1313.10 applies to placement of Portable Toilet(s) only in residentially zoned areas of the City.

(c) **Placement.** A permit for placement of Portable Toilets shall be issued by the Director of Development in areas zoned residential only upon the following conditions:

(1) Placement is necessary during active construction and/or reconstruction of one or more residential units as a temporary facility to serve construction workers. When construction workers are not present on-site, portable toilet(s) shall be secured; and

(2) Portable Toilet(s) shall not be placed for a period in excess of 60 days without specific written authorization from the Director of Development. The Director of Development may renew a permit upon a showing of good cause for an additional period of time not to exceed 60 days without the payment of an additional permit fee. Portable Toilet(s) may be placed for a period exceeding 60 days in a newly platted development where multiple new units will be under construction simultaneously, with specific written authorization from the Director of Development. The Director of Development may waive the location requirements for such newly platted development(s) if the Director finds the general health, safety and welfare of the community will be served; and

(3) Once placed, portable toilet(s) shall be regularly maintained and kept in good working order and condition at all times, including but not limited to, no broken surfaces, leaks, or foul or obnoxious odors shall be permitted; and

(4) Portable toilet(s) are to be placed no less than forty (40) feet from all other neighboring property lines. If property dimensions prevent placement of a portable toilet a minimum of forty (40) feet from a neighboring property line, then the portable toilet must be located no closer than thirty-five percent (35%) of the width of said property line from the neighboring property line(s); and

(5) Portable toilet(s) shall be placed on a hard surface; and

- (6) Portable toilet(s) shall not be placed within the public right-of-way nor upon any public sidewalk; and
 - (7) Portable toilet(s) shall not be placed for the purpose of providing sewer service to a site, residence, or facility where sewer or water service has been discontinued due to delinquency of the account; and
 - (8) Payment of the required permit fee; and
 - (9) The Director of Development may specify in writing additional conditions for issuance of a permit, not enumerated herein, which the Director in good faith believes are necessary to protect the health, safety, and welfare of the citizens or general public.
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- 2. That Clayton Codified Ordinance Chapter 1313 (“Residential Exterior Property Maintenance Standards”) is hereby approved for amendment to revise Section 1313.99 entitled, “Penalty” as follows. (Additions in **bold** and deletions in ~~strike through~~):

1313.99 PENALTY

In addition to penalties specified in Section 1309.99, “Violations and Penalties”, violations of Sections 1313.08, ~~and~~ 1313.09, **and 1313.10** may result in the City abating the violation at the property owner’s expense. In addition, whoever violates Section 1313.09 shall be fined one hundred dollars (\$100.00) for each offense in addition to any other costs incurred by the City.

- 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 August 15, 2019 and September 5, 2019.
- 5. 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 (SINGLE READING AND IMMEDIATE ENACTMENT VIA EMERGENCY)

ORDINANCE NO. O – 08 – 19 – 12

AN ORDINANCE AUTHORIZING REMOVAL OF SPECIFIC ASSESSMENTS FOR GRASS/WEED CUTTING AND SPECIFIC ASSESSMENTS FOR CURB AND GUTTER REPAIR/REPLACEMENT WORK PREVIOUSLY SUBMITTED IN ERROR TO MONTGOMERY COUNTY AUDITOR AND DECLARING AN EMERGENCY

WHEREAS, via enactment of Ordinance O-08-17-14 on September 7, 2017, Council authorized and directed the Finance Director to certify to the Auditor of Montgomery County, Ohio, unpaid charges for cutting down offensive and noxious weeds throughout the City as identified on Exhibit A appended to said Ordinance; and

WHEREAS, Exhibit A to said Ordinance O-08-17-14 listed in error the following property for certification of unpaid charges: **M60 16322 0002, 0003, 0004, 0005, 0006 at \$336.00 per parcel** and Council desires to remove said charges which were certified in error; and

WHEREAS, via enactment of Ordinance O-08-18-16(B) on August 16, 2018, Council authorized and directed the Finance Director to certify to the Auditor of Montgomery County, Ohio, unpaid charges for curb and gutter repair/replacement work as identified on Exhibit A appended to said Ordinance; and

WHEREAS, Exhibit A to said Ordinance O-08-18-16(B) listed in error the following property for certification of unpaid charges: **M60 16424 0007 - four separate charges of \$455.23 each** and Council desires to remove said charges which were certified in error.

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

1. That Council hereby approves and authorizes removal of the following specified charges for cutting down offensive and noxious weeds only which were listed in error on Exhibit A appended to previously enacted Ordinance O-08-17-14 on September 7, 2017: **M60 16322 0002, 0003, 0004, 0005, 0006 0006 at \$336.00 per parcel.** (See attached *Exhibit 1* hereto).
2. That Council hereby approves and authorizes removal of the following specified charges for curb and gutter repair/replacement work only which were listed in error on Exhibit A appended to previously enacted Ordinance O-08-18-16(B) on August 16, 2018: **M60 16424 0007 - four separate charges of \$455.23 each.**(See attached *Exhibit 1* hereto).
3. That immediately upon becoming effective, the Clerk is directed to forward a copy of this Ordinance to the Montgomery County Auditor.
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 in accordance with Clayton Charter Section 4.031 the requirement that this enactment be read on two (2) separate days is dispensed with by affirmative vote of at least five (5) members of Council.

6. That unless these assessments placed in error are immediately removed from the Auditor records, the public peace, health, safety and welfare will be detrimentally affected because the removal thereof would be unnecessarily delayed as the charges were placed in error and should be removed as expeditiously as possible to reflect actual circumstances. 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.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

NEW BUSINESS

RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)

RESOLUTION NO. R – 08 – 19 – 60

A RESOLUTION ACCEPTING THE PROPOSAL OF AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MANAGEMENT PARTNERS FOR PERFORMANCE OF EXECUTIVE RECRUITMENT SEARCH FOR A NEW CITY MANAGER AT A COST OF \$17,990.00

WHEREAS, current City Manager Richard Rose anticipates retiring in the February/March 2020 timeframe and in order to timely select a new City Manager Council desires to engage Management Partners to perform an executive recruitment search at a cost of \$17,990.00, exclusive of advertising and background check expenses.

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

1. That the proposal of Management Partners for performance of an executive recruitment search for a new City Manager at a cost of \$17,990.00, exclusive of advertising and background check expenses, is hereby approved and the City Manager is authorized to execute an Agreement with Management Partners for said services in accordance with the terms of the proposal.

ADOPTED BY COUNCIL ON AUGUST 15, 2019

RESOLUTION NO. R – 08 – 19 – 61

A RESOLUTION APPROVING AMENDMENT OF 2019 APPROPRIATIONS AND ESTIMATED RESOURCES

WHEREAS, during the operation of the City of Clayton certain expenditures are required to provide required governmental services; and

WHEREAS, the expenditures must be in accordance with requirements provided by applicable state law and be applied against certain designated City funds; and

WHEREAS, certain transfers of moneys within and between specified City funds may be required to comply with accounting requirements established by the office of the State Auditor of Ohio; and

WHEREAS, certain appropriations are necessary to authorize payment from certain funds; and

WHEREAS, Council previously approved the Original Certificate of Estimated Resources and Appropriations; and

WHEREAS, the Finance Director has requested amendment of the 2019 Appropriations and Estimated Resources with respect to the Fire Trust Fund (330), Street Fund (401), Fire Fund (301), Sewer Construction Fund (904), and the General Fund (101).

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

1. That the following amendments are hereby approved as follows and all appropriation amendments below are for *operating expenses*:

<u>Fund</u>	<u>Estimated Resource Amount</u>	<u>Appropriation Amount</u>
Fire Trust (330)	\$20,144.13	(\$65,153.87)
Street (401)	\$13,144.00	\$13,144.00
Fire (301)		\$15,591.51
Sewer Construction (904)		(\$0.26)
General (101)	\$127,233.62	\$127,233.62

2. That the Finance Director is hereby authorized, empowered and directed to take all action necessary to effect such amendments and appropriations and evidence same on the books and financial record of the City.

ADOPTED BY COUNCIL ON AUGUST 15, 2019
