

# CITY OF CLAYTON, OHIO

## RESOLUTION NO. R - 01 - 23 - 11

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PROVIDE WRITTEN NOTICE TO THE BOARD OF COMMISSIONERS OF MONTGOMERY COUNTY, OHIO OF TERMINATION OF A CERTAIN SEPTEMBER 2, 1997 AGREEMENT BETWEEN THE THEN VILLAGE OF CLAYTON, OHIO (NOW CITY OF CLAYTON, OHIO) AND BOARD OF COMMISSIONERS OF MONTGOMERY COUNTY, OHIO RELATIVE TO BUILDING INSPECTION AND RELATED DUTIES (EXCEPTING PLUMBING INSPECTIONS AND RELATED DUTIES) AND FURTHER REQUESTING WAIVER OF THE NOTICE OF TERMINATION PROVISION IN SAID AGREEMENT SUCH THAT SAID TERMINATION MAY BECOME IMMEDIATELY EFFECTIVE**

**WHEREAS**, Charter Section 8.02 provides the City Manager shall be the contracting officer of the City and shall award and execute all contracts on behalf of the City; and

**WHEREAS**, the City of Clayton, Ohio is the legal successor to the Village of Clayton, Ohio; and

**WHEREAS**, the Village of Clayton, Ohio and the Board of Commissioners of Montgomery County, Ohio entered into an *Agreement* dated September 2, 1997 by which Montgomery County agreed to provide specified building inspections and related duties as delineated in said *Agreement*, a copy of which is appended hereto as *Exhibit A*; and

**WHEREAS**, the City of Clayton, Ohio desires to terminate the *Agreement* appended hereto, except with respect to plumbing inspections and related duties, and further requests the Board of Commissioners of Montgomery County, Ohio waive the 90-day notice of termination provision found at Paragraph 4 of said *Agreement* such that the City's termination may become immediately effective.

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

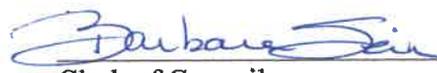
1. That the City Manager is hereby authorized to provide written notice of the City's termination of the *Agreement* dated September 2, 1997 (*Exhibit A*) by which Montgomery County agreed to provide specified building inspections and related duties as delineated in said *Agreement* to the Village of Clayton, Ohio (now City of Clayton, Ohio).
2. The City Manager is further authorized to request the Board of Commissioners of Montgomery County, Ohio waive the 90-day notice of termination provision found at Paragraph 4 of said *Agreement* such that the City's termination may become immediately effective.

3. Said termination and agreement by the Board of Commissioners of Montgomery County, Ohio to waive the 90-day notice of termination provision found at Paragraph 4 of said *Agreement* shall release Montgomery County from any further obligations under said *Agreement*, except that, pursuant to the attached December 2, 2022 Public Health- Dayton & Montgomery County correspondence (*Exhibit B*), Public Health- Dayton & Montgomery County will continue to conduct all plumbing permitting, fee collection, and inspections for the City.

ADOPTED BY COUNCIL ON JANUARY 5, 2023.

AUTHENTICATION:

  
\_\_\_\_\_  
Mayor (Presiding Officer of Council)

  
\_\_\_\_\_  
Clerk of Council

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Law Director

CERTIFICATION OF PUBLICATION

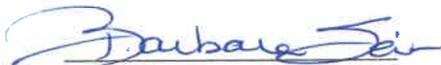
This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper

Brookville Star

Date of publication

January 11, 2023

  
\_\_\_\_\_  
CLERK

VILLAGE OF CLAYTON, OHIO  
RESOLUTION NO. R - 08 - 97 - 1

**RESOLUTION AUTHORIZING AN AGREEMENT WITH MONTGOMERY COUNTY, OHIO, UNDER WHICH THE COUNTY AGREES TO PROVIDE PLAN REVIEW, INSPECTION, AND BUILDING CODE ENFORCEMENT OF ALL NEW CONSTRUCTION AND REPAIRS TO ONE, TWO OR THREE FAMILY DWELLINGS REGULATED BY MONTGOMERY COUNTY, AND OF ALL NEW CONSTRUCTION AND REPAIRS TO MULTIPLE FAMILY DWELLINGS OF FOUR FAMILIES OR MORE, INDUSTRIAL BUILDINGS, INDUSTRIALIZED RESIDENTIAL UNITS AND COMMERCIAL BUILDINGS REGULATED BY THE STATE OF OHIO WITHIN SAID CITY IN CONSIDERATION OF REQUIRING ALL CONTRACTORS, OWNERS, AND LESSEES OF REAL PROPERTY WITHIN SAID CITY TO SECURE SUCH BUILDING AND INSPECTION PERMITS FROM MONTGOMERY COUNTY, OHIO AND TO DECLARE AN EMERGENCY**

WHEREAS, the Village of Clayton, Ohio is desirous of securing the services of a Building Department certified by the State of Ohio to provide plan review, inspection, and building code enforcement of all new construction and repairs to one, two and three family dwellings regulated by Montgomery County, and of all new construction and repairs to multiple family dwellings of four families or more, industrial buildings, industrialized residential units and commercial buildings regulated by the State of Ohio within said Municipality; and,

WHEREAS, the Board of Commissioners of Montgomery County, Ohio through its Building Regulations Division, is to certified to conduct such building code enforcement pursuant to Revised Code Section 3781.10 and willing to provide such services when there is an Agreement specifying the rights and duties of each party; and,

WHEREAS, this Agreement is authorized pursuant to Revised Code Section 307.15.

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

1. That an Agreement with the Village of Clayton, Ohio, whereby Montgomery County, Ohio agrees to provide plan review, inspection, and building code enforcement of all new construction and repairs to one, two and three family dwellings regulated by Montgomery County, and of all new construction and repairs to multiple family dwellings of four families or more, industrial buildings, industrialized residential units and commercial buildings regulated by the State of Ohio within said municipality in consideration of all fees generated by such building permits and associated fees from said Municipality and in consideration of requiring all contractors, owners, and lessees of real property within said Municipality to secure such building permits from Montgomery County, Ohio is hereby authorized to be executed in a form substantially similar to that appended hereto.

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2. That in accordance with R.C. §731.14 said contract will be executed in the name of the Village and signed on its behalf by the Mayor and Clerk.

3. That in accordance with R.C. §705.11 the contract is to be reviewed, approved and indorsed by the Village Solicitor.

4. That the Clerk certify a copy of said resolution to the Auditor, OMB, Building Regulations Division, and the Village of Clayton, Ohio.

5. That in accordance with R.C. 705.30 this resolution is hereby declared to an emergency measure necessary for the immediate preservation of the health and safety of the Village and shall therefore be in full force and effect from and immediately upon its passage by Council and approval by the Mayor.

6. The Clerk-Treasurer, pursuant to R.C. §§ 705.16; 731.21 and 731.22, shall cause this Resolution to be published once a week for two consecutive weeks in the manner required by law. Copies of the Resolution shall be posted in the five most public places as required by law and a complete text of the Resolution shall be made available for viewing and copying at the clerk's office.

PASSED BY COUNCIL ON VOTE  
OF 4 (YES) TO 0 (NO)

August 14, 1997

Approved as to  
Form: Robert E. Porter  
Village Solicitor

APPROVED: [Signature]  
(Mayor)

ATTEST: May G. Haney  
(Clerk)

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RESOLUTION NO. 97-1724  
SEPTEMBER 2, 1997

MONTGOMERY COUNTY  
BUILDING REGULATIONS DIVISION

RESOLUTION AUTHORIZING AN AGREEMENT WITH THE MUNICIPALITY OF CLAYTON, OHIO, WHEREBY MONTGOMERY COUNTY, OHIO, AGREES TO PROVIDE PLAN REVIEW, INSPECTION, AND BUILDING CODE ENFORCEMENT OF ALL NEW CONSTRUCTION AND REPAIRS TO ONE, TWO AND THREE FAMILY DWELLINGS REGULATED BY MONTGOMERY COUNTY, AND OF ALL NEW CONSTRUCTION AND REPAIRS TO MULTIPLE FAMILY DWELLINGS OF FOUR FAMILIES OR MORE, INDUSTRIAL BUILDINGS, INDUSTRIALIZED RESIDENTIAL UNITS AND COMMERCIAL BUILDINGS REGULATED BY THE STATE OF OHIO WITHIN SAID MUNICIPALITY IN CONSIDERATION OF REQUIRING ALL CONTRACTORS, OWNERS, AND LESSEES OF REAL PROPERTY WITHIN SAID MUNICIPALITY TO SECURE SUCH BUILDING AND INSPECTION PERMITS FROM MONTGOMERY COUNTY, OHIO.

WHEREAS, the Municipality of Clayton, Ohio is desirous of securing the services of a Building Department certified by the State of Ohio to provide plan review, inspection, and building code enforcement of all new construction and repairs to one, two and three family dwellings regulated by Montgomery County, and of all new construction and repairs to multiple family dwellings of four families or more, industrial buildings, industrialized residential units and commercial buildings regulated by the State of Ohio within said Municipality, and,

WHEREAS, the Board of Commissioners of Montgomery County, Ohio through its Building Regulations Division, is certified to conduct such building code enforcement pursuant to Revised Code Section 3781.10 and willing to provide such services when there is an Agreement specifying the rights and duties of each party, and,

WHEREAS, this Agreement is authorized pursuant to Revised Code Section 307.15.

NOW, THEREFORE, BE IT RESOLVED that an Agreement with the Municipality of Clayton, Ohio, whereby Montgomery County, Ohio agrees to provide plan review, inspection, and building code enforcement of all new construction and repairs to one, two and three family dwellings regulated by Montgomery County, and of all new construction and repairs to multiple family dwellings of four families or more, industrial buildings, industrialized residential units and commercial buildings regulated by the State of Ohio within said municipality in consideration of all fees generated by such building permits and associated fees from said Municipality and in consideration of requiring all contractors, owners, and lessees of real property within said Municipality to secure such building permits from Montgomery County, Ohio is hereby authorized.

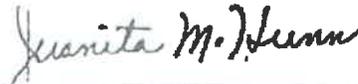
BE IT FURTHER RESOLVED that the Clerk certify a copy of said resolution to the Auditor, OMB, Building Regulations Division, and the Municipality of Clayton, Ohio.

PAGE NO: 2  
RESOLUTION NO. 97-1724  
SEPTEMBER 2, 1997

Mr. Lucas moved the adoption of the foregoing resolution. It was seconded by Mr. Curran and upon call of the roll the following vote resulted:

Mr. Lucas, aye; Mr. Curran, aye; Mrs. Pegg, aye: Carried.

I hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the Board of County Commissioners of Montgomery County, Ohio, the 2nd day of September, 1997.



Juanita M. Hunn, Clerk  
Board of County Commissioners  
Montgomery County, Ohio

jmh

THE BOARD OF COUNTY COMMISSIONERS HEREBY FINDS AND DETERMINES THAT ALL FORMAL ACTIONS RELATIVE TO THE ADOPTION OF THIS RESOLUTION WERE TAKEN IN ACCORDANCE WITH THE BYLAWS OF THIS BOARD OF COUNTY COMMISSIONERS AND ALL DELIBERATIONS OF THE BOARD OF COUNTY COMMISSIONERS, AND OF ITS COMMITTEES, IF ANY, WERE TAKEN IN FORMAL ACTION WERE TAKEN IN MEETINGS OPEN TO THE PUBLIC, IN FULL COMPLIANCE WITH THE REQUIREMENTS OF LOCAL GOVERNMENT CODE, SECTION 153.02, THE REVISED CODE.

REFER TO RESOLUTION NO. 97-1724  
DATED 9-2-97

**AGREEMENT**

THIS AGREEMENT entered into this 2<sup>nd</sup> day of September 1997, by and between the Board of Commissioners of Montgomery County, Ohio acting for and on behalf of Montgomery County, Ohio, hereinafter referred to as "County" and the Municipality of Clayton, hereinafter referred to as "Municipality"; and

WHEREAS, the Board of Building Standards of the State of Ohio has heretofore certified the Montgomery County Building Department to exercise enforcement authority in accordance with the Ohio Basic Building Code, effective July 1, 1979, as set forth in said Board's certification dated March 17, 1960; and

WHEREAS, the Board of Building Standards has formulated and adopted the Ohio Basic Building Code containing regulations governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in Section 3781.06 of the Revised Code of Ohio; and

WHEREAS, it is necessary in accordance with law that the Ohio Basic Building Code be administered and enforced within the limits of the Municipality; and

WHEREAS, the Board of Building Standards is being petitioned to certify the Municipality to enforce the Ohio Basic Building Code within the limits of said Municipality, with the condition that the Montgomery County Building Regulations Division perform all inspections and exercise the enforcement authority in accordance with the Ohio Basic Building Code; and

WHEREAS, the County desires and is willing to administer and enforce the Ohio Basic Building Code within the limits of said Municipality pursuant to its authority as so contained in

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BUILDING REGULATIONS DIVISION

Chapter 3781 of the Revised Code of Ohio and as granted by the Ohio Board of Building Standards;  
and

WHEREAS, the Municipality of Clayton has heretofore passed its Ordinance No. R-08-97-1 on  
the 14<sup>th</sup> day of August 1997, authorizing the Municipality, through its Mayor and its  
Clerk, to enter into an agreement with Montgomery County for the enforcement of the Ohio Basic  
Building Code within the limits of said Municipality whereby the Montgomery County Building  
Regulations Division is to exercise all enforcement authority necessary within the said Municipality;  
and

WHEREAS, the County has on the 2<sup>nd</sup> day of September  
1997, adopted its resolution authorizing the County to enter into said agreement with the  
Municipality of Clayton, for the purposes aforesaid;

NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS  
FOLLOWS:

1. The Municipality of Clayton hereby grants to the County full authority to do all things  
necessary to exercise all enforcement authority accept and approve plans and specifications and make  
inspections necessary within the Municipality of Clayton in accordance with the provisions of the  
Ohio Basic Building Code pursuant to rule 4101:2-1-03 of the Administrative Code, except  
"Plumbing, Chapter 4101:2-51 of the Administrative Code (Plumbing-Montgomery County Board  
of Health).
2. The County accepts the authority and responsibility to carry out the terms of this  
agreement:
3. The County shall have full authority to do all things necessary to administer and  
enforce the Ohio Basic Building Code within the limits of Municipality of Clayton and in

consideration therefore the County shall retain all permit and associated fees authorized by the State of Ohio for such purposes.

4. The effective date for which the County shall begin to perform its said duties under the terms of this agreement shall be the date of certification by the Ohio Board of Building Standards, and this agreement shall thereafter continue in full force and effect until either of the parties shall give written notice to the other of its intention to terminate the agreement, which may be for any reason, except that this agreement shall not terminate in less than ninety (90) days following the receipt of such notice by either of the parties.

5. The Municipality hereby agrees to hold the County harmless from all claims or causes of action of every kind and nature arising from the acts of the County, its agents, or employees, or representatives in the administration and enforcement of the Ohio Basic Building Code within the limits of said Municipality.

6. This agreement shall be deemed to authorize the County to administer and enforce for the Municipality any amendments or additions to the Ohio Basic Building code hereafter adopted by the Board of Building Standards pursuant to the authority granted by said Board by Chapter 3781 of the Revised Code of Ohio at all times after said Board shall have adopted such amendments or additions.

The Municipality hereby acknowledges that this Agreement must be signed and returned to the Montgomery County Building Regulations Division within thirty (30) days of receipt of said Agreement for signature or this Agreement may be cancelled and voided by Montgomery County.

IN WITNESS WHEREOF, the parties have hereunto set their hands on this 2<sup>nd</sup> day of September, 1997

SIGNED IN THE PRESENCE OF:

\_\_\_\_\_  
\_\_\_\_\_

BOARD OF COMMISSIONERS OF MONTGOMERY COUNTY

By \_\_\_\_\_  
By \_\_\_\_\_  
By \_\_\_\_\_

Juanita M. Huron  
\_\_\_\_\_

OR  
By Deborah Feldman  
Deborah Feldman, Administrator  
Montgomery County, Ohio

SIGNED IN THE PRESENCE OF:

Robert E. Portner  
Jean Haney  
\_\_\_\_\_

MUNICIPALITY OF CLAYTON

By Mark A. Pickett  
Mayor  
By Mat E. Haney  
Clerk

APPROVED AS TO FORM:  
Mathias H. Heck, Jr.

By Marcell Oz  
Assistant Prosecuting Attorney

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Robert E. Portner  
SOLICITOR OF THE CITY OF CLAYTON



## Public Health - Dayton & Montgomery County

Reibold Building, 117 South Main Street, Dayton, Ohio 45422-1280  
(937) 225-5700 • www.phdmc.org



December 2, 2022

John F. Kuntz  
Director of Development  
P.O. Box 280  
Clayton, Ohio 45315

Dear Mr. Kuntz,

This letter is to acknowledge that the City of Clayton, Ohio is forming a building department. It is the understanding of Public Health – Dayton & Montgomery County (PHDMC) that PHDMC will continue to conduct all plumbing permitting, fee collection and inspections.

PHDMC's plumbing inspection service will continue to cover required inspections and testing pursuant to Chapter 3703 of the Ohio Revised Code and Section 4101:3 of the Ohio Administrative Code. More specifically, this service covers "Building Sewers" inspections and testing according to applicable standards.

PHDMC will only provide inspection services for public water service lines from the meter tap to the structure. These services are to be effective immediately and without additional costs to the City of Clayton.

To assist PHDMC in the performance of these additional services, you agreed to forward to the plumbing inspection section, all permits and receipts for water and sewage tap-in applications. The plumbing section will in return forward to you a periodic report of all plumbing inspections conducted in the City of Clayton. We are looking forward to working with you in this cooperative arrangement.

Sincerely,

Matthew Tyler  
Director of Environmental Health  
Public Health – Dayton & Montgomery County

