

CITY OF CLAYTON, OHIO

RESOLUTIONS AND ORDINANCES

August 3, 2023

NEW BUSINESS

ORDINANCES (FIRST OF TWO READINGS)

ORDINANCE NO. O – 08 – 23 – 13

AN ORDINANCE ADOPTING ESTIMATED ASSESSMENTS AND CERTIFYING UNPAID CHARGES FOR 2023/2024 CURB AND GUTTER REPAIR/REPLACEMENT WORK TO THE MONTGOMERY COUNTY AUDITOR FOR COLLECTION WITH REAL ESTATE TAXES (FIVE ANNUAL INSTALLMENTS)

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-03-22-25 enacted on March 17, 2022; 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 April 25, 2022 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 March 11, 2022; 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 2023/2024 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 Friday, September 8, 2023.
4. That no later than Tuesday, September 11, 2023, 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 the requirement that this enactment be read on two (2) separate days is complied with by readings on August 3, 2023 and August 17, 2023.
7. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON AUGUST 17, 2023

ORDINANCE NO. O – 08 – 23 – 14

AN ORDINANCE ADOPTING ESTIMATED ASSESSMENTS AND CERTIFYING UNPAID CHARGES FOR 2023/2024 CURB AND GUTTER REPAIR/REPLACEMENT WORK TO THE MONTGOMERY COUNTY AUDITOR FOR COLLECTION WITH REAL ESTATE TAXES (TEN ANNUAL INSTALLMENTS)

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-03-22-25 enacted on March 17, 2022 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 April 25, 2022 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 March 11, 2022; 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 2023/2024 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 Friday, September 8, 2023.
4. That no later than Tuesday, September 12, 2023, 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 the requirement that this enactment be read on two (2) separate days is complied with by readings on August 3, 2023 and August 17, 2023.
7. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON AUGUST 17, 2023

ORDINANCE NO. O – 08 – 23 – 15

AN ORDINANCE CERTIFYING UNPAID CHARGES FOR GRASS/WEED CUTTING FOR 2023/2024 TO THE MONTGOMERY COUNTY AUDITOR FOR COLLECTION WITH REAL ESTATE TAXES

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 complied with by readings on August 3, 2023 and August 17, 2023.
5. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON AUGUST 17, 2023

ORDINANCE NO. O – 08 – 23 – 16

AN ORDINANCE TO MAINTAIN LIGHTING ASSESSMENT

WHEREAS, Charter Section 3.01 provides the legislative power to levy taxes and assessments; 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 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
E. Oak Hill
F. Portrait

J. Riverbend Phase III
K. Wenger Village, Section One
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 complied with by readings on August 3, 2023 and August 17, 2023.

4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON AUGUST 17, 2023

ORDINANCE NO. O – 08 – 23 – 17

AN ORDINANCE AUTHORIZING THE SUBMISSION OF THE 2023/2024 NORTH CLAYTON COMMUNITY AUTHORITY CHARGE ASSESSMENTS TO THE MONTGOMERY COUNTY AUDITOR

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 complied with by readings on August 3, 2023 and August 17, 2023.
5. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ADOPTED BY COUNCIL ON AUGUST 17, 2023

ORDINANCE NO. O – 08 – 23 – 18

AN ORDINANCE CERTIFYING UNPAID CHARGES FOR NUISANCE ASSESSMENTS FOR 2023/2024 TO THE MONTGOMERY COUNTY AUDITOR FOR COLLECTION WITH REAL ESTATE TAXES

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 complied with by readings on August 3, 2023 and August 17, 2023.
5. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

ORDINANCE NO. O – 08 – 23 – 19

AN ORDINANCE TO IMPOSE ASSESSMENTS UPON OWNERS OF REAL PROPERTY IN ARREARS FOR PAYMENT OF FEES FOR WASTE HAULING AND DISPOSAL SERVICES FOR 2023/2024

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 complied with by readings on August 3, 2023 and August 17, 2023.
5. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.