

# CITY OF CLAYTON, OHIO

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## RESOLUTIONS AND ORDINANCES

January 16, 2025

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**OLD BUSINESS - NONE**

**NEW BUSINESS**

**ORDINANCES (FIRST OF TWO READINGS)**

**THE FOLLOWING ORDINANCE RECEIVED AN INSUFFICIENT NUMBER OF VOTES TO REJECT OR APPROVE:**

**ORDINANCE NO. O – 01 – 25 – 01**

**AN ORDINANCE (ADOPTING, REJECTING, MODIFYING) THE RECOMMENDATION OF THE PLANNING COMMISSION TO AMEND THE CLAYTON PLANNING AND ZONING CODE IN ORDER TO PERMIT ADULT USE CANNABIS OPERATORS WITH SPECIFIED LIMITATIONS WITHIN THE CITY OF CLAYTON, OHIO**

**WHEREAS**, on November 7, 2023, 57% of voters in Ohio approved State Issue 2, which enacted a new Chapter 3780 of the Ohio Revised Code authorizing and regulating adult use cannabis operators; and

**WHEREAS**, per Ohio Revised Code 3780.01(A)(2), “adult use cannabis operator” is defined as a level I adult use cultivator, a level II adult use cultivator, a level III adult use cultivator, an adult use processor, and an adult use dispensary; and

**WHEREAS**, per Ohio Revised Code 3780.25 (A), “The legislative authority of a municipal corporation may adopt an ordinance, or a board of township trustees may adopt a resolution, by majority vote to prohibit, or limit the number of adult use cannabis operators permitted under this chapter within the municipal corporation or within the unincorporated territory of the township, respectively”; and

**WHEREAS**, via Resolution No. R-12-23-72 adopted by City Council on December 18, 2023, and Resolution 05-24-31 adopted by City Council on May 16, 2024, City Council imposed and extended a moratorium on the processing of permits allowing retail dispensaries, cultivators, and processors of adult use cannabis within the City of Clayton; and

**WHEREAS**, via adoption of Resolution No. R-09-24-48, City Council extended the aforementioned moratorium on the processing of permits allowing retail dispensaries, cultivators, and processors of adult use cannabis within the City of Clayton until September 5, 2025, to allow additional time for the City to consider whether to prohibit or limit adult use cannabis within the City of Clayton, including receiving a recommendation thereon from the Planning Commission; and

**WHEREAS**, Clayton Codified Ordinance Section 1153 (B)(i) states as following with respect to the Planning Commission: “For the purpose of this Code, the Commission shall have the following responsibilities: Initiate

advisable Zoning Map changes, or changes in the text of the Code where same will promote the best interest of the public in general through recommendation to the City Council”; and

**WHEREAS**, on October 28, 2024, the Planning Commission held a public meeting and hearing at which time any and all persons were given an opportunity to be heard thereon regarding the matter of adult use cannabis and City Staff presented to the Planning Commission various possible alternatives with respect to allowing, limiting, or prohibiting adult use cannabis operators within the City of Clayton, Ohio; and

**WHEREAS**, on November 25, 2024, the Planning Commission held a second public meeting and hearing at which time any and all persons were given an opportunity to be heard thereon regarding the matter of adult use cannabis and City Staff presented to the Planning Commission additional information and various possible alternatives with respect to allowing, limiting, or prohibiting adult use cannabis operators within the City of Clayton, Ohio; and

**WHEREAS**, the Planning Commission *voted to recommend approval of amendments to the Planning and Zoning Code in order to permit, within specified zoning districts, adult use cannabis operators within the City of Clayton, but that the total amount of adult use cannabis operators be limited as follows: no more than two (2) dispensaries and no more than four (4) cultivators or processors per the Planning Commission recommendation attached hereto as EXHIBIT A.*

**WHEREAS**, on January 16, 2025, the Clayton City Council held a public hearing at which time any and all persons were given an opportunity to be heard thereon with respect to the recommendation of the Planning Commission to permit adult use cannabis operators within the City as aforesaid and per the attached **Exhibit A**.

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

1. That the Clayton City Council hereby \_\_\_\_\_ (ADOPTS, REJECTS, MODIFIES) the recommendation of the Planning Commission appended hereto as **Exhibit A** and the Clayton Planning and Zoning Code is hereby amended as delineated on the attached **Exhibit B**.
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 January 16, 2025 and February 6, 2025.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.
5. That upon the date this Ordinance becomes effective as stated in Paragraph 4 above, the Moratorium enacted by City Council via Resolution R-09-24-48 shall be vacated.

**THE FOLLOWING ORDINANCE RECEIVED AN INSUFFICIENT NUMBER OF VOTES TO REJECT OR APPROVE:**

**ORDINANCE NO. O – 01 – 25 – 02**

**AN ORDINANCE \_\_\_\_\_ (ADOPTING, REJECTING, MODIFYING) THE PLANNING COMMISSION’S RECOMMENDATION TO APPROVE, WITH SPECIFIED CONDITIONS, THE APPLICATION OF SDG WARNER VILLAGE LLC FOR A CHANGE IN ZONING FROM RESIDENTIAL SINGLE UNIT DISTRICT (RSD) TO PLANNED DEVELOPMENT DISTRICT (PDD) AND TO FURTHER APPROVE THE PRELIMINARY DEVELOPMENT PLAN FOR 183.1044 ACRES OF PROPERTY LOCATED NEAR THE INTERSECTION OF SWEET POTATO RIDGE ROAD AND MAIN STREET BEARING PARCEL I.D. NO. M60 03010 00001 WITHIN THE CITY OF CLAYTON, OHIO**

**WHEREAS**, on or about November 6, 2024, an application was filed by the property owner, SDG Warner Village LLC, for property located near the intersection of Sweet Potato Ridge Road and Main Street consisting of Parcel I.D. Number M60 03010 0001 and containing 183.1044 acres within the City of Clayton, Ohio (“Subject Property”) and requesting a zoning change for same from Residential Single Unit District (RSD) to Planned Development District (PDD) and further requesting approval of the proposed Preliminary Development Plan for said subject property; and

**WHEREAS**, the Clayton Planning Commission held a public hearing on December 16, 2024, on said re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon, and the Clayton Planning Commission, at said meeting, *voted to approve, with specified conditions (Exhibit A), the re-zoning and Preliminary Development Plan request*; and

**WHEREAS**, the Clayton City Council held a public hearing on January 16, 2025, on the aforesaid re-zoning and Preliminary Development Plan request at which time any and all persons were given an opportunity to be heard thereon.

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

1. That the Council hereby \_\_\_\_\_ (Adopts, Rejects, Modifies) the Planning Commission’s *recommendation of approval of the re-zoning and Preliminary Development Plan, with specified conditions (Exhibit A)*.
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 January 16, 2025 and February 6, 2025.
4. That in accordance with Clayton Charter Section 4.031(H) this enactment shall become effective thirty days after its second reading and enactment.

**RESOLUTIONS (SINGLE READING AND IMMEDIATE ENACTMENT)**

**RESOLUTION NO. R – 01 – 25 – 01**

**A RESOLUTION TO APPOINT CLAYTON REPRESENTATIVES TO THE FIRST SUBURBS CONSORTIUM FOR THE YEAR 2025**

**WHEREAS**, pursuant to the Bylaws of the First Suburbs Consortium, of which the City is a member, each member community is entitled to and should designate two representatives and one alternate thereto.

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

1. That the City of Clayton does hereby designate Tim Gorman and Kenneth Henning as representatives and Greg Merkle as alternate to serve on the First Suburbs Consortium for the year 2025.

ADOPTED BY COUNCIL ON JANUARY 16, 2025

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**RESOLUTION NO. R – 01 – 25 – 02**

**A RESOLUTION APPOINTING CLAYTON REPRESENTATIVES TO THE VOLUNTEER FIRE FIGHTERS' DEPENDENTS FUND BOARD FOR THE YEAR 2025**

**WHEREAS**, the City of Clayton is required to appoint two persons to the Volunteer Fire Fighters' Dependents Fund Board on an annual basis; and

**WHEREAS**, the City desires to designate Ryan Farmer and Tina Kelly to serve on the Volunteer Fire Fighters' Dependents Fund Board for the year 2025.

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

1. That the City of Clayton does hereby designate Ryan Farmer and Tina Kelly to serve on the Volunteer Fire Fighters' Dependents Fund Board for the year 2025.

ADOPTED BY COUNCIL ON JANUARY 16, 2025.

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**RESOLUTION NO. R – 01 – 25 – 03**

**A RESOLUTION TO APPOINT A CLAYTON REPRESENTATIVE AND AN ALTERNATE TO THE MIAMI VALLEY REGIONAL PLANNING COMMISSION AND TRANSPORTATION COMMITTEE FOR THE YEAR 2025**

**WHEREAS**, the City of Clayton participates as a member of the Miami Valley Regional Planning Commission ("MVRPC"); and

**WHEREAS**, the City desires to designate a representative to serve on the MVRPC and the Transportation Planning Committee of said Commission for 2025 and an alternate.

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

1. That the City of Clayton does hereby designate Tim Gorman as representative and Mike Stevens as alternate to serve on the Miami Valley Regional Planning Commission and its Transportation Committee for the year 2025.

ADOPTED BY COUNCIL ON JANUARY 16, 2025

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**RESOLUTION NO. R – 01 – 25 – 04**

**A RESOLUTION APPOINTING MEMBER TO THE COST RECOVERY/IMPACT FEE APPEALS BOARD**

**WHEREAS**, by Ordinance No. O-05-05-07 adopted May 19, 2005, a process was adopted to impose a Cost Recovery/Impact Fee for development within Clayton Improvement District No. 1; and

**WHEREAS**, said ordinance provided for the creation of a Cost Recovery/Impact Fee Appeals Board to address and decide objections to the imposition and amount of said fees; and

**WHEREAS**, Council desires to fill the expired term of previous member Kenneth Henning.

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

1. That the following elector of the City of Clayton is hereby appointed to the Cost Recovery/Impact Fee Appeals Board for the term set forth:

Kenneth Henning                      Term ending: January 16, 2027

ADOPTED BY COUNCIL ON JANUARY 16, 2025

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**RESOLUTION NO. R – 01 – 25 – 05**

**A RESOLUTION APPOINTING KIM WILLIAMS TO THE PLANNING COMMISSION**

**WHEREAS**, Charter Section 7.01 provides for the creation and appointment of members to the Clayton Planning Commission; and

**WHEREAS**, the 5 year term of Planning Commission member Kim Williams has expired and Council wishes to make an appointment for a new 5 year term.

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

1. That Kim Williams is hereby appointed as a member of the Clayton Planning Commission for a 5 year term beginning January 15, 2025 and ending January 15, 2030.

ADOPTED BY COUNCIL ON JANUARY 16, 2025

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**COUNCIL VOTED TO TABLE THE FOLLOWING RESOLUTION:**

**RESOLUTION NO. R – 01 – 25 – 06  
A RESOLUTION APPROVING AN AMENDMENT TO CLAYTON CHARTER  
SECTION 3.04 (MAYOR AND VICE MAYOR)**

**WHEREAS**, the Clayton Charter Review Commission has submitted the following rationale for the below listed amendment to the Clayton City Charter:

*Rationale: “The Commission feels the Charter should be more reflective of the fact that we have a City Manager form of government and the Mayor has no more power than any other council member.”*

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

1. That the following amendment to the Clayton City Charter is hereby approved for submission to the voters of the City of Clayton at the May 6, 2025 Primary/Special Election:

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**ARTICLE III COUNCIL**

**3.04 Mayor and Vice Mayor**

(A) The Mayor shall exercise the following powers, duties and functions:

...

(6) To serve as the primary spokesperson for the City. ~~and primary contact person for Economic and Community Development;~~ and

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2. *That the Clerk of Council be and is hereby authorized and directed to forward a certified copy of this Resolution, no later than February 5, 2025, to the Montgomery County Board of Elections for placement on the May 6, 2025 Ballot.*

3. That this Resolution shall take effect from and after the date of its passage.

ADOPTED BY COUNCIL ON JANUARY 16, 2025

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**COUNCIL VOTED TO TABLE THE FOLLOWING RESOLUTION:**

**RESOLUTION NO. R – 01 – 25 – 07**

**A RESOLUTION APPROVING AN AMENDMENT TO CLAYTON CHARTER SECTIONS 5.02 (CITY MANAGER QUALIFICATIONS) AND 11.03 (PERSONNEL PRACTICES MANUAL)**

**WHEREAS**, the Clayton Charter Review Commission has submitted the following rationale for the below listed amendments to the Clayton City Charter:

*Rationale: Sections 5.02 and 11.03 of the Clayton Charter require certain employees to become residents of the City of Clayton. However, Ohio Revised Code Section 9.481 provides at division (B)(1) thereof, “Except as otherwise provided in division (B)(2) of this section, no political subdivision shall require any of its employees, as a condition of employment, to reside in any specific area of the state.” Ohio Revised Code division (B)(2) provides, “To ensure adequate response times by certain employees of political subdivisions to emergencies or disasters while ensuring that those employees generally are free to reside throughout the state, the electors of any political subdivision may file an initiative petition to submit a local law to the electorate, or the legislative authority of the political subdivision may adopt an ordinance or resolution, that requires any individual employed by that political subdivision, as a condition of employment, to reside either in the county where the political subdivision is located or in any adjacent county in this state.”*

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

1. That the following amendments to the Clayton City Charter are hereby approved for submission to the voters of the City of Clayton at the May 6, 2025 Primary/Special Election:

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**ARTICLE V CITY MANAGER**

5.02      Qualifications

The City Manager shall be appointed solely on the basis of his executive and

administrative qualifications, and need not be a resident of the City at the time of his appointment, but shall become a resident of the City within six months after his appointment, unless residence outside the City is approved by a majority vote of the members of Council.

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## ARTICLE XI PERSONNEL ADMINISTRATION AND MERIT SYSTEM

### 11.03 Personnel Practices Manual

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~~(D) Council shall require the following part time or full time officers or employees (including volunteers) hired after January 1, 2000, to live in the City or attain City residency within six months after completion of their probationary period or date of hire whichever is later:~~

- ~~(a) City Manager;~~
- ~~(b) Assistant Managers;~~
- ~~(c) Department Directors;~~
- ~~(d) Assistant Fire Chiefs; and~~

~~(e) All other officers and employees having twenty-four emergency response assignment, including paid on call (volunteer) fire personnel and emergency medical service personnel, and other positions designated as necessary by the City Manager.~~

~~(2) The City Manager, with Council approval, may waive residency requirements as to particular employees if he determines, on balance, the best interests of the City are served by the waiver.~~

~~(3) Council may require by ordinance that all employees newly hired after the effective date of this ordinance must live within the City or attain City residency within six months after completion of their probationary period or date of hire whichever is later.~~

- 2. That the Clerk of Council be and is hereby authorized and directed to forward a certified copy of this Resolution, no later than February 5, 2025, to the Montgomery County Board of Elections for placement on the May 6, 2025 Ballot.**
3. That this Resolution shall take effect from and after the date of its passage.

**COUNCIL VOTED TO TABLE THE FOLLOWING RESOLUTION:**

**RESOLUTION NO. R – 01 – 25 – 08**

**A RESOLUTION APPROVING AN AMENDMENT TO CLAYTON CHARTER  
SECTION 3.08 (SALARIES OF ELECTED OFFICIALS)**

**WHEREAS**, the Clayton Charter at Section 12.16 – *Amendment of Charter* – provides, “Amendments to this Charter may be submitted to the electors of the City at any election by two-thirds vote of the City Council or by initiative petition or as otherwise provided under Ohio law.”; and

**WHEREAS**, City staff is presenting to Council the below Charter amendment regarding mid-term salary adjustment language in Section 3.08 of the Charter per the following rationale:

*Rationale: Although mid-term salary adjustments for Council members have not occurred, City staff recommends removing the language in Section 3.08 which permits mid-term salary adjustments. Ohio Revised Code Section 731.07 states: “The salary of any officer of a city shall not be increased or diminished during the term for which he was elected or appointed. This section does not prohibit the payment of any increased costs of continuing to provide the identical benefits provided to an officer at the commencement of is term of office. ...”*

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

1. That the following amendment to the Clayton City Charter is hereby approved for submission to the voters of the City of Clayton at the May 6, 2025 Primary/Special Election:

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**ARTICLE III COUNCIL**

3.08 Salaries of Elected Officials

The salaries of elected officials of the City shall be established by Council by ordinance to be adopted no later than September 1, of each odd numbered year commencing in the year 2001. The salaries so established shall be effective for a two year period beginning January 1 of the year immediately following the adoption of the ordinance establishing them, **provided that the salary of elected officials shall not be increased or diminished during the term for which said official was elected or appointed.** ~~and shall apply to all elected officials whether they are beginning their terms or are in mid-term.~~ In the event Council shall fail to establish salaries as required in this Section, the salaries in effect for the prior two year period shall remain in effect until changed in accordance with this Section. The initial salary of elected officials under this Charter shall be that salary established for each office in effect on January 1, 1999, and if none have been established, the Council first serving under this Charter shall establish such salaries within ninety days.

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2. *That the Clerk of Council be and is hereby authorized and directed to forward a certified copy of this Resolution, no later than February 5, 2025, to the Montgomery County Board of Elections for placement on the May 6, 2025 Ballot.*
  3. That this Resolution shall take effect from and after the date of its passage.

ADOPTED BY COUNCIL ON JANUARY 16, 2025

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## **COUNCIL VOTED TO TABLE THE FOLLOWING RESOLUTION:**

### **RESOLUTION NO. R – 01 – 25 – 09**

#### **A RESOLUTION APPROVING AMENDMENTS TO CLAYTON CHARTER SECTIONS 3.03 (WARDS AND BOUNDARIES) AND 9.01 (NOMINATIONS AND ELECTIONS)**

**WHEREAS**, the Clayton Charter at Section 12.16 – *Amendment of Charter* – provides, “Amendments to this Charter may be submitted to the electors of the City at any election by two-thirds vote of the City Council or by initiative petition or as otherwise provided under Ohio law.”; and

**WHEREAS**, City staff is presenting to Council the below Charter amendments regarding ward boundaries and nominations per the following rationale:

*Rationale: City staff is recommending amendments to Section 3.03(C) and Section 9.01(C) of the Charter to address a potential issue which could result in a present Ward Council Member or a citizen who wishes to run for a Ward Council Member seat to be prevented from doing so when redistricting of a Ward occurs such that said present or prospective Ward Council Member becomes a citizen of a different Ward.*

*Section 3.03 (A) of the Charter provides that not later than the first day of July, 2003, and every ten years thereafter, Council shall, by ordinance, divide or redivide the City into three wards for the purpose of electing three ward Council members at the next regular municipal election.*

*Section 3.03(C) of the Charter provides that “redivision of the City into wards shall not terminate or otherwise affect the unexpired terms of Ward Council Members; however, at such succeeding elections Ward Council members shall be elected from the wards as reapportioned or reestablished under this Section.”*

*But, Section 9.01(C) of the Charter provides, “Only those persons who reside within a City ward and have continuously resided within said ward or in areas annexed to the City ward by merger or otherwise for twelve months prior to the filing of their nominating petitions shall be eligible to hold elective office representing that ward.”*

*Reading the above Charter sections together, it appears a situation could arise in which a citizen would be prevented from running for a Ward Council Seat if a redistricting occurs in July such that the citizen is moved from one ward to another ward. In November, if that citizen wanted to run for a Ward Council Seat, the language of Section 9.01(C) of the Charter would appear to prevent that person from running because they have not resided in their new ward for at least 12 months.*

*City staff is recommending the below amendments to the Charter to address this situation such that if a ward citizen is moved to another ward in July due to redistricting, then they still have the ability to run for a Ward Council Seat in their new ward at the next election.*

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

1. That the following amendments to the Clayton City Charter are hereby approved for submission to the voters of the City of Clayton at the May 6, 2025 Primary/Special Election:

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**ARTICLE III COUNCIL**

3.03 Wards and Boundaries

...

(C) All wards shall be bounded, as far as practical, by county lines, streets, alleys, avenues, public grounds, canals, watercourses, municipal boundary lines, center lines of platted streets or railroads, or lot lines of platted subdivisions. Redivision of the City into wards shall not terminate or otherwise affect the unexpired terms of Ward Council members; however, at succeeding elections Ward Council members shall be elected from the wards as reapportioned or reestablished under this Section **in accordance with Charter Section 9.01(C)**.

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**ARTICLE IX NOMINATIONS AND ELECTIONS**

9.01 Nominations

...

(C) Only those persons who reside within a City ward and have continuously resided within said ward or in areas annexed to the City ward by merger or otherwise for twelve months prior to the filing of their nominating petition shall be eligible to hold elective office representing that ward. **However, if a person's residency in a ward is changed in accordance with a Charter Section 3.03 ward redivision, then the person shall be eligible to hold elective office representing their new ward provided the person had continuously resided within their prior ward or in areas annexed to their prior City ward by merger or otherwise for twelve months prior to the filing of their nominating petition.**

...

2. *That the Clerk of Council be and is hereby authorized and directed to forward a certified copy of this Resolution, no later than February 5, 2025, to the Montgomery County Board of Elections for placement on the May 6, 2025 Ballot.*
3. That this Resolution shall take effect from and after the date of its passage.

ADOPTED BY COUNCIL ON JANUARY 16, 2025

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**COUNCIL VOTED TO TABLE THE FOLLOWING RESOLUTION:**

**RESOLUTION NO. R – 01 – 25 – 10**

**A RESOLUTION AUTHORIZING ALL ACTIONS NECESSARY TO AFFECT A GOVERNMENTAL NATURAL GAS AGGREGATION PROGRAM WITH OPT-OUT PROVISIONS PURSUANT TO SECTION 4929.26 OF THE OHIO REVISED CODE, DIRECTING THE MONTGOMERY COUNTY BOARD OF ELECTIONS TO SUBMIT A BALLOT QUESTION TO THE ELECTORS**

**WHEREAS**, the Ohio legislature has enacted natural gas deregulation legislation which authorizes the legislative authorities of cities and villages to aggregate the retail natural gas loads located within the respective jurisdictions and to enter into service agreements to facilitate for those loads the purchase and sale of natural gas; and

**WHEREAS**, governmental aggregations provides an opportunity for residential and small business consumers to participate collectively in the potential benefits of natural gas deregulation through lower natural gas rates which would not otherwise be available to those natural gas customers individually, and

**WHEREAS**, the City of Clayton seeks to establish a governmental aggregation program with opt-out provisions pursuant to Section 4929.26 of the Ohio Revised Code for the residents, businesses and other natural gas consumers in the City.

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

**Section 1. BEST INTERESTS OF THE CITY**

The City Council of Clayton has concluded that it is in the best interest of the City, its residents and businesses located within the corporate limits of the City to establish this aggregation program in the City.

**Section 2. APPROVAL BY THE ELECTORATE**

**The aggregation program must be approved by the electors of the City pursuant to Section 3 of this Resolution.** Upon approval by the electorate the City is hereby authorized to automatically aggregate, in accord with Section 4929.26 of the Ohio Revised Code, the retail natural gas loads (customers) located within the City, and enter into service agreements to facilitate for those loads the purchase and sale of natural gas. The City may exercise such authority jointly with any other municipal corporation, township, or county or other

political subdivision of the State of Ohio.

### **Section 3. BALLOT LANGUAGE**

The Board of Elections of Montgomery County is hereby directed to submit the following question to the electors of at the primary election on May 6<sup>th</sup>, 2025:

**Shall the City Council of Clayton have the authority to aggregate the retail natural gas customers located in the City, and for that purpose, enter into services agreements to facilitate for those customers the sale and purchase of natural gas, conversion to the aggregation program will occur automatically unless the customers choose to opt out of the program.**

The Clerk of Council of the City of Clayton is instructed to immediately file a certified copy of this resolution and the proposed form of the ballot question with the Montgomery County Board of Elections not less than ninety days prior to the general election. The aggregation program shall not take effect unless approved by a majority of the electors voting upon this resolution and the aggregation program provided for herein at the election held pursuant to this Section 2 of this resolution and Section 4929.26 of the Ohio Revised Code.

### **Section 4. PROCEDURE AFTER AN AFFIRMATIVE VOTE; HEARINGS AND NOTICE OF HEARINGS; OPT-OUT RIGHTS.**

Upon approval of a majority of the electors voting at the general election provided for in Section 3 of this Resolution, the City Council of Clayton, individually or jointly with any other political subdivision, may develop a plan of operation for the aggregation program. Before adopting this plan, the City Council of Clayton shall hold at least two public hearings on the plan.

Notice of the hearings shall be published once a week for two consecutive weeks in a newspaper of general circulation in the City prior to the first hearing. The notice will summarize the plan and state the date, time and place of each hearing. No plan adopted by this City Council shall aggregate the natural gas load of any natural gas load center within the City unless it, in advance, clearly discloses to the person owning, occupying, controlling or using the load center that the person will be enrolled automatically in the Aggregation Program and will remain so enrolled unless the person affirmatively elects, by a stated procedure, not to be enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the Aggregation Program the opportunity to opt-out of the program at least once every two years without paying a switching fee. Any person that opts out of the Aggregation Program pursuant to the state procedure shall default to the standard service offer provided under division (a) of Section 4929.26 of the Ohio Revised Code until the person choose an alternative supplier.

**Section 5.** It is hereby found and determined that all formal actions of this City Council of Clayton concerning and relating to the passage of this resolution were adopted in an open meeting of this City Council of Clayton and that the deliberations of this City Council of Clayton and any of its committees that resulted in such formal actions were in meetings open to the public in compliance with the law.

**RESOLUTION NO. R – 01 – 25 – 11**

**A RESOLUTION OF THE CITY OF CLAYTON, OHIO SUPPORTING THE OHIO MUNICIPAL LEAGUE’S CHALLENGE OF AT&T’S TARIFF APPLICATION AT THE PUBLIC UTILITIES COMMISSION OF OHIO.**

**WHEREAS**, on December 18, 2024, the Ohio Bell Telephone Company dba AT&T Ohio (“AT&T”) filed a Telecommunications Form related to a change in its tariff for “Construction Charges, Relocation of Facilities” with the Public Utilities Commission of Ohio (the “PUCO”) in PUCO Case Nos. 24-1123-TP-ATA and 90-5032-TP-TRF (collectively referred to as “AT&T’s Tariff Application”);

**WHEREAS**, AT&T’s Tariff Application proposes tariff changes which will require any municipalities in which AT&T is located in the municipality’s public right-of-way to pay the full cost of any relocation or undergrounding of AT&T’s facilities, regardless of the reason for the relocation. This is in direct contradiction of current Ohio law;

**WHEREAS**, AT&T’s Tariff Application is subject to a thirty-day auto approval process, meaning that if the PUCO does not rule on the application, then the application is automatically approved, and the tariff change becomes effective on the thirty-first day after the filing of the application;

**WHEREAS**, if AT&T’s Tariff Application goes unchallenged and becomes automatically effective, municipalities throughout Ohio (and, subsequently, constituents who may or may not be AT&T customers) would be required to pay for any relocation of AT&T facilities in the public rights-of-way, even if the relocation or undergrounding is required for health, safety, or public welfare purposes;

**WHEREAS**, any challenges to AT&T’s application must be filed prior to the January 17, 2025, to allow the PUCO to pause the automatic approval process, allow challengers to be heard through an evidentiary hearing, and consider legal arguments. To challenge AT&T’s Tariff Application, an interested stakeholder must file a motion to intervene with the PUCO showing that it has a real and substantial interest in AT&T’s Tariff Application and the intervener is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest; and

**WHEREAS**, the Ohio Municipal League has engaged counsel to challenge AT&T’s Tariff Application.

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

**SECTION ONE:** The Council of the City of Clayton, Ohio finds that AT&T’s Tariff Application directly changes and significantly impacts, to detriment to the City of Clayton how this City manages and administers its public rights-of-way;

**SECTION TWO:** The Council of the City of Clayton, Ohio hereby authorizes and agrees to participate in and to intervene in the proceeding at the PUCO in order to challenge AT&T’s Tariff Application and any subsequent and/or necessary legal, administrative, legislative efforts; and

**SECTION THREE:** The Council of the City of Clayton, Ohio has been advised by the Ohio Municipal League that future financial and/or other support from the City of Clayton may be

necessary to the success of a challenge to AT&T's Tariff Application and any related legal, administrative, or legislative efforts. The City of Clayton may take under consideration the specific amount or form of such financial and/or other support from the City of Clayton at a subsequent meeting of this Council.

ADOPTED BY COUNCIL ON JANUARY 16, 2025

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## **COUNCIL VOTED TO TABLE THE FOLLOWING RESOLUTION:**

### **RESOLUTION NO. R – 01 – 25 – 12**

#### **A RESOLUTION APPROVING AMENDMENTS TO CLAYTON CHARTER SECTIONS 4.031 (PROCEDURE FOR PASSAGE OF ORDINANCES), 4.032 (PROCEDURE FOR PASSAGE OF RESOLUTIONS), 4.04 (CODIFICATION OF ORDINANCES), AND 8.02 (CONTRACTING POWERS AND PROCEDURES)**

**WHEREAS**, the Clayton Charter Review Commission has submitted the following rationale for the below listed amendments to the Clayton City Charter:

*Rationale: The Commission believes that while it is certainly of primary importance that the City be transparent and that issues of importance be presented to the public, most citizens no longer read the newspaper and instead look to the internet as their primary source of information. The cost of the newspaper advertisement was viewed as a way to cut costs.*

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

1. That the following amendments to the Clayton City Charter are hereby approved for submission to the voters of the City of Clayton *as a single ballot issue* at the May 6, 2025 Primary/Special Election:

#### **ARTICLE IV LEGISLATIVE PROCEDURES**

##### **4.031 Procedure for Passage of Ordinances.**

(J) (1) Every ordinance, in full or summary form, shall be published at least once within thirty days after its final passage or adoption. The ordinance in the form it was adopted shall be made available for public inspection in the office of the municipality. Publication shall be **on the web site and social media account of the City of Clayton.** in a newspaper of general circulation in the City of Clayton. A summary of every ordinance shall also be posted in three places of public access as designated by Council.

(2) A failure to publish or an omission, delay or error in the publication on the part of **the City of Clayton**, a newspaper, its officers, employees, or agents, shall not cause such ordinance to be declared invalid or otherwise affect the validity of such ordinance and in such events the Clerk of Council shall authorize re-publication.

(3) Emergency measures shall also be published as aforesaid, but said requirements shall not postpone the immediate taking effect thereof.

##### **4.032 Procedure for Passage of Resolutions.**

(G) (1) Every resolution in full or summary form, shall be published at least once within thirty days after its final passage or adoption. The resolution in the form it was adopted shall be made available for public inspection in the office of the municipality. Publication shall be **on the web site and social media account of the City of Clayton.** in a newspaper of general circulation in the City of Clayton. A summary of every resolution shall also be posted in three places of public access as designated by Council.

(2) A failure to publish or an omission, delay or error in the publication on the part of **the City of Clayton,** a newspaper, its officers, employees, or agents, shall not cause such resolution to be declared invalid or otherwise affect the validity of such resolution, and in such events the Clerk of Council shall authorize re-publication.

#### **4.04 Codification of Ordinances.**

By a majority vote of the members elected to Council, the Council may cause the ordinances and resolutions of the City to be revised, codified, recodified, rearranged or published in book form. Such revision, codification, recodification, rearrangement or publication of ordinances and resolutions in book form shall be immediately effective upon approval by a majority vote of the members elected to Council and may contain new matter therein. Council shall cause a notice of such proposed revision, codification, rearrangement or publication in book form to be published one time **on the web site and social media account of the City of Clayton** in a newspaper of general circulation within the City at least seven days prior to the final approval thereof by Council, and no further publication shall be necessary. A current service supplementing such revision, codification, recodification, rearrangement or publication of ordinances and resolutions in book form shall be maintained in the manner prescribed by Council.

### **ARTICLE VIII FINANCE, TAXATION AND DEBT**

#### **8.02 Contracting Powers And Procedures.**

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(B) When any expenditure or contract is required to be competitively bid under the provisions of this Charter or ordinance or resolution of Council, the City Manager may solicit competitive bids without the prior approval of Council. All solicitations for submittal of bids shall be advertised once a week for at least two weeks **on the web site and social media account of the City of Clayton** in a newspaper of general circulation in the City. **While additional notice of solicitations for submittal of bids using newspapers of general circulation in the City may be utilized when deemed appropriate by the City Manager, the lack of such additional newspaper notice shall not constitute a defect in the bidding process.** The award shall be made by the City Manager after approval by majority vote of Council to the lowest and best, responsive bid submitted by a responsible bidder. The City shall have the right to waive defects in a bid and to reject any and all bids.

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*2. That the Clerk of Council be and is hereby authorized and directed to forward a certified copy of this Resolution, no later than February 5, 2025, to the Montgomery County Board of Elections for placement on the May 6, 2025 Ballot.*

3. That this Resolution shall take effect from and after the date of its passage.