

RESOLUTION 23-43

No.

Passed December 19

Yr. 2023

**A RESOLUTION REQUIRING THE ESTABLISHMENT OF A BUFFER WHEN MANDATED BY OHIO REVISED CODE SECTION 709.023 IN THE EVENT THAT THE PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO IS APPROVED, AND DECLARING IT AN EMERGENCY.**

**WHEREAS**, a petition for annexation was filed with the Clerk of the Board of County Commissioners of Montgomery County, Ohio on December 15, 2023 seeking annexation of 71.701 acres, more or less, from Perry Township to the City of Brookville; and

**WHEREAS**, the petition for annexation was filed under the special annexation procedure provided in Ohio Revised Code Section 709.023; and

**WHEREAS**, Ohio Revised Code Section 709.023(C) requires that if the territory proposed for annexation is subject to zoning regulations, adopted under either Chapter 303 or 519 of the Ohio Revised Code at the time the petition is filed, the legislative authority of the municipal corporation to which the annexation is proposed shall adopt an ordinance or resolution stating that if the territory is annexed and becomes subject to zoning by the municipal corporation and that municipal zoning permits uses in the annexed territory that the municipal corporation determines are clearly incompatible with the uses permitted under current county or township zoning regulations in the adjacent land remaining within the township from which the territory was annexed, the legislative authority of the municipal corporation will require, in the zoning ordinance permitting the incompatible uses, the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township; and

**WHEREAS**, Ohio Revised Code Section 709.023(C) requires that this resolution be approved by City Council and filed with the Board of County Commissioners within twenty (20) days after the filing of the petition for annexation.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO THAT:**

**SECTION I:** In the event that the petition for annexation of 71.701 acres, more or less, from Perry Township to the City of Brookville is approved by the Board of County Commissioners of Montgomery County, Ohio, and the territory becomes subject to zoning by the City of Brookville, and in the event that the zoning ordinance of the City of Brookville permits uses in the annexed territory that the City of Brookville determines are clearly incompatible with the uses permitted under current county or township zoning regulations in the adjacent land remaining within the township from which the territory was annexed, the owner of the annexed territory shall be required to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township. For the purposes of this Resolution, the term "buffer" shall include open space, landscaping, fences, walls, and other structured elements, streets, and street rights of ways, and bicycle and pedestrian paths and sidewalks, as specified in Ohio Revised Code Section 709.023(C).

**SECTION II:** The Clerk of the Council of the City of Brookville shall cause a certified copy of this Resolution to be filed with the Board of County Commissioners of Montgomery County, Ohio within twenty (20) days after the date of filing of the petition for annexation as required by Ohio Revised Code Section 709.023(C).

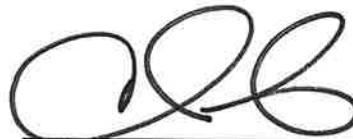
**SECTION III:** This Resolution is hereby declared to be an emergency measure to meet an emergency in the government of the City, which is the timely filing of this Resolution with the Board of County Commissioners within twenty (20) days after the filing of the petition for annexation as required by Ohio Revised Code Section 709.023(C). This Resolution shall take effect immediately upon passage of this Resolution as provided by the Charter of the City of Brookville, Ohio.

PASSED this 19th day of December, 2023.

ATTEST:



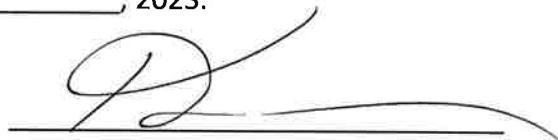
Kimberly Duncan, Clerk



Charles Letner, Mayor

**CERTIFICATE**

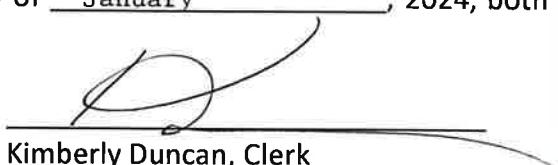
The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Resolution No. 23-43, passed by the Council of the City of Brookville, Ohio, on the 19th day of December, 2023.



Kimberly Duncan, Clerk

**CERTIFICATE OF POSTING**

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Resolution No. 23-43 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 20th day of December, 2023, to the 18th day of January, 2024, both days inclusive.



Kimberly Duncan, Clerk