

CITY OF DAYTON, KENTUCKY ORDINANCE NO. 2022#20

**AN ORDINANCE CREATING A NEW SUBCHAPTER OF CHAPTER 150 OF THE DAYTON CODE OF ORDINANCES, TITLED “RESIDENTIAL RENTAL LICENSE AND SAFETY INSPECTION PROGRAM,” TO ESTABLISH A RENTAL PROPERTY INSPECTION PROGRAM IN THE CITY OF DAYTON, INCLUDING OBLIGATIONS OF OWNERS OF RESIDENTIAL RENTAL PROPERTY IN THE CITY, HOW INSPECTIONS WILL BE CONDUCTED AND ENFORCED BY THE CITY, IMPOSING A RENTAL LICENSE FEE OF \$40 PER RENTAL UNIT, AND ESTABLISHING PENALTIES FOR VIOLATION OF THE ORDINANCE OF NOT LESS THAN \$50 PER DAY, PER VIOLATION BUT NOT MORE THAN \$250 PER DAY, PER VIOLATION, UP TO A MAXIMUM OF \$5,000 PER CITATION AND A PROPERTY LIEN IN THE AMOUNT OF \$250 PER RENTAL UNIT.**

**WHEREAS**, for the reasons set for in Section 158.81, titled “Findings” below, the Dayton City Council believes that this ordinance is needed to protect the public health and welfare by addressing substandard conditions in residential rental dwellings and to ensure that the City’s rental housing stock is properly maintained and residents of rental properties live in safe and healthy conditions.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF DAYTON, KENTUCKY:**

Sections § 150.80 through § 150.99 of the Dayton Code of Ordinances (“Code”) are hereby repealed in full and replaced with a new subchapter of Chapter 150 of the Code, titled as “Residential Rental License and Safety Inspection Program,” as follows:

**§ 150.80 GENERAL PROVISIONS.**

(A) Scope. The provisions of this subchapter apply uniformly to the construction, maintenance, use, and occupancy of all buildings, mobile homes, structures, and premises, where applicable, and shall apply uniformly to the alteration, repair, equipment, use, occupancy and maintenance of all existing buildings, mobile homes, structures, and premises within the jurisdiction of the City, irrespective of when or under what codes such buildings or structures were originally constructed or rehabilitated. No person shall lease any residential rental property unit without complying with the terms of this subchapter and acquiring both an occupational license and a rental inspection license from the City of Dayton, Kentucky (“City”), as required herein.

(B) Title. This subchapter shall be known and may be cited as the “Residential Rental License and Safety Inspection Ordinance.”

## § 150.81 FINDINGS.

(A) A substantial number of Dayton citizens reside in rental dwellings that are substandard and/or are detrimental to health, safety, and welfare of these residents as well as to neighboring properties.

(B) Substandard conditions in residential rental dwellings are responsible for a wide array of significant health problems, such as childhood lead poisoning, asthma, and respiratory conditions that result from exposure to mold, pests, and other household allergens as well as increased rates of injury and mortality among the elderly.

(C) Requested and systematic inspections of rental dwellings can help to ensure that the City's rental housing stock is properly maintained and residents live in safe and healthy conditions.

(D) The continuation of substandard conditions in rental dwellings reduces property values in the City, causing economic hardships for all its citizens.

(E) The City desires to promote the health, safety, and welfare of its citizens and adopts this subchapter to ensure that all rental dwelling are safe, sanitary, and suitable in accordance with applicable ordinances and regulations enacted by the City.

## § 150.82 DEFINITIONS.

(A) Meaning of certain terms. Whenever the words "BUILDING," "BUILDING UNIT," "DWELLING," "DWELLING UNIT," "MOBILE HOME," "PREMISES" and "STRUCTURE" are used in this subchapter, they shall be construed as though they are followed by the words "or any part thereof or any premises accessory thereto." Words used in the singular include the plural and the plural the singular.

(B) Undefined words. Words not specifically defined in this subchapter shall have the common definition set forth in a standard dictionary, or the City's Code of Ordinances, the most current version of the International Property Maintenance Code, or the statewide Building Code or Fire Safety Code.

(C) For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"ADMINISTRATIVE SEARCH WARRANT." A written order of a judge or other officer authorized by statute to issue search warrants that commands the inspection of rental dwellings under this subchapter, which shall be obtained pursuant to Section 10.50 of the Dayton Code of Ordinances.

"BUILDING." A fixed construction with walls, foundation, and roof, such as a house, factory, or garage.

"BUSINESS REG

"CITY." The City of Dayton, Kentucky

“CITY CODE OF ORDINANCES” or “CODE.” The codification of the ordinances adopted by the City of Dayton, Kentucky, and published by American Legal Publishing Corporations, including supplements thereto.

“DILAPIDATED.” No longer adequate for the purpose or use for which it was originally intended, or the City has deemed it blighted.

“DWELLING UNIT.” Any enclosed space used or intended to be used -- wholly or in part -- for living and sleeping purposes, whether or not cooking and eating facilities are provided, including such space provided to third parties by the owner, including family members and friends, free of charge. Temporary housing, as defined hereinafter, shall not be classified as a “DWELLING UNIT.” Industrialized housing and/or modular construction used or intended for use of living and sleeping purposes shall be classified as DWELLING UNIT. DWELLING UNIT shall not include hotels or motels that primarily rent rooms on a daily or weekly basis, but it does include short-term rentals.

“FIRE SAFETY CODE.” The current NFPA Code (including NFPA 101, Life Safety Code), or any other code (such as electrical code or fire alarm code) adopted by the City and/or the Bellevue-Dayton Fire Department.

“HABITABLE ROOM.” A room or enclosed floor area used or intended to be used for living or sleeping purposes, excluding bathrooms, basement laundries, furnace rooms, utility rooms of less than 50 square feet of floor space, corridors, stairways, closets, storage spaces, unheated areas, and workshops and hobby areas below ground level.

“HOUSEHOLD.” One or more individuals living together in a single dwelling unit and sharing common living, sleeping, cooking, and eating facilities.

“HOUSING CODE.” The current property maintenance code enforced by the the City, including the International Property Maintenance Code and nuisance ordinances adopted by the City.

“KENTUCKY BUILDING CODE.” The statewide Building Code adopted pursuant to KRS 198B.010 *et seq.*, or other versions of the Building Code applicable to the particular structure or building.

“MOBILE HOME.” A structure, transportable in one (1) or more sections, which is eight (8) feet or more in width and forty (40) body feet or more in length when in the traveling mode, has three hundred twenty (320) or more square feet when erected on site, is built on a permanent chassis, is designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, includes plumbing, heating, air-conditioning, and electrical systems and may be used as a place of residence, business, profession, or trade by the owner, lessee or their assigns, and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

“OCCUPANT.” Any individual having possession of a premises or any individual over one year of age, living, sleeping, cooking or eating in or having possession of a dwelling unit or a rooming unit, including family members and others who are living in the premises, whether or not they are paying rent to the owner or operator of the premises.

“OPERATOR.” Any person who has ownership, charge, care, control, or management of a building, or part thereof, in which building units are leased.

“OWNER.” Any person who alone, jointly, or severally with others, as of January 1 of each calendar year, beginning on January 1, 2022:

a) Has legal title to any premises, building, or dwelling unit, with or without accompanying actual possession thereof, including property for which the owner has granted or has attempted to grant equitable interest to an occupant, whether by land contract or other legal document; or

(b) Shall have charge, care, or control of any premises, building, or dwelling unit, as owner, as an agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner. Any such person thus representing the owner shall be bound to comply with the provisions of this subchapter and of rules and regulations adopted pursuant to it to the same extent as if he or she were the owner.

“PERSON.” Any individual, firm, corporation, limited liability company, association, partnership, cooperative, trust, or governmental agency.

“PREMISES.” A platted lot or part thereof or unplatted lot or parcel of land or plat of land, either occupied with a dwelling or other structure or unoccupied, and includes any such building or part thereof, accessory structure, or other structure thereon.

“SHORT-TERM RENTAL.” (a) Any residential dwelling unit or part thereof; (b) Offered or held out to the public or rented on a hosting website, web, or mobile application, or other online platform through which short-term rentals are listed, advertised, solicited, or otherwise held out for rent; and (c) For a duration of occupancy of less than thirty consecutive days, or longer if the short-term rental otherwise meets the definition herein.

“RENTAL DWELLING.” Any residential structure or residential or commercial building containing one or more units, which the owner and/or operator either actually rents or leases or intends to rent or lease to the public for residential purposes, excluding those buildings not covered by this subchapter.

“RENTAL INSPECTION LICENSE” or “INSPECTION LICENSE.” The rental dwelling license established and required by this subchapter.

“RENTAL DWELLING UNIT.” Any residential unit within a rental dwelling that is actually rented, leased, or otherwise made available to the public or is intended to be rented, leased, or otherwise made available to the public for residential purposes, excluding those units not covered by this subchapter. With regard to mixed-use properties, only those units within the parcel that are rented, leased, or made available to the public for residential purposes shall require a rental dwelling license.

“OCCUPATIONAL LICENSE.” The occupational license for every person engaged in the business of leasing or renting real property as required by Section 110.03(A)(2) of the City Code or Ordinances.

“RENTAL UNIT INSPECTOR” or “INSPECTOR.” Any authorized City employee or contractor, including, but not limited to, a License Inspector, Code Enforcement Officer, City Administrator, Assistant City Administrator, inspectors with the Campbell County Planning, Zoning, and Building Department, and inspectors with the Bellevue-Dayton Fire Department.

“RESIDENT.” Any adult or child residing within the City.

“SAFETY.” The condition of being reasonably free from danger and hazards that may cause accidents or disease.

“SUPPLIED.” Paid for, furnished by, provided by, or under the control of the owner, operator, or its agent.

“TEMPORARY HOUSING.” Any tent, trailer, transient mobile home, or any other structure used for human shelter that is designed to be transportable and that is not attached to the ground, to another structure, or to any utility system and remains on the same premises for more than 30 consecutive days.

“UNIT.” A room or group of rooms located within a building forming a single habitable unit.

### § 150.83 RESPONSIBILITIES OF OWNERS.

(A) Every owner and/or operator of a rental dwelling in the City must register every rental dwelling unit it owns or operates in the City every year and pay an annual rental license fee for each rental dwelling unit. The owner and/or operator must *also* acquire an occupational license to do business in the City and pay annual business license taxes pursuant to subchapter 110 of the Dayton Code of Ordinances.

(B) No person shall let a rental dwelling unit in the City for occupancy unless it is clean, sanitary, and complies with all applicable laws and the City Code of Ordinances, including the International Property Maintenance Code, the Kentucky Building Code, the Kentucky Fire Safety Code, and applicable Dayton city ordinances.

(C) Every owner of a building containing two or more rental dwelling units shall maintain in a clean and sanitary condition any shared entrances or shared stairways or public areas.

(D) Every owner of a building containing one or more rental dwelling units shall maintain the private sidewalks, curbs, and grassy areas contiguous to the rental property in a safe condition free of patent defects, trash and debris, and dangerous conditions.

(E) Every owner of a building containing one or more units shall comply with the provisions of the City of Dayton Code of Ordinances, including the removal from the premises of all brush, weeds, stumps, dead trees, obnoxious growth, filth, garbage, trash, and debris.

(F) Every owner of a building containing one or more rental dwelling units shall comply with all provisions of the City Code of Ordinances, including ordinances prohibiting nuisances as set forth in Chapter 99 of the Code. In addition, every owner of a building containing one or more units shall screen the area where garbage cans and receptacles are kept on the premises so that the garbage area is not easily visible to those persons using the public sidewalks and streets. Screening may be accomplished by the erection of a fence, planting shrubs and foliage, or by using a fence or foliage already in existence so long as such screening applies to applicable zoning and building codes.

### § 150.84 RENTAL INSPECTION LICENSE; FEES.

(A) No person or entity shall rent or offer for rent a dwelling unit in the City unless the building is covered by a current, unrevoked Dayton occupational license, as required by subchapter 110 of the Dayton Code of Ordinances, *and* a Dayton rental inspection license, as required by this subchapter.

(B) The City of Dayton hereby creates a Rental License and Safety Inspection Program (“program”), which shall become effective on January 1, 2023. Any individual or entity that owns or operates a rental dwelling in the City of Dayton shall obtain an annual rental inspection license from the City for each

rental dwelling unit(s) within that dwelling. Payment for each inspection license shall be due on April 15 of each year and will expire each April 15 thereafter. The City shall not issue a license to any individual or entity if it owes any taxes, fines, fees, or other obligations to the City.

(C) The annual rental license fee shall be forty dollars (\$40.00) for each rental unit, which shall be used to support and pay for the program operated through the City's Code Enforcement Department. Under the program, the City will endeavor to inspect all rental dwelling units in the city on a biennial basis, i.e., once every two years.

(D) The City Clerk shall issue initial licenses and renewals in the names of the owners of residential rental property. No license shall be issued by the City unless the rental dwelling unit for which the license is issued meets all requirements of this subchapter and applicable rules and regulations pursuant thereto.

(E) No rental inspection license shall be issued or renewed unless the owner or its designee has applied to the City on an application form provided by the City and signed this form. The owner of the rental dwelling shall provide convenient times for inspectors to enter the building to inspect the building under the program.

(F) The City will not issue or renew a rental inspection license for a rental dwelling unless the owner of the dwelling pays the annual fee for each rental unit in the dwelling. The City will not issue an occupational license for a property owner providing rental dwelling units in the City unless the owner first submits an application and pays an annual rental inspection license fee for each rental dwelling unit it owns or operates in the City.

(G) The City will not issue or renew the rental inspection license to an individual or entity not residing in the Commonwealth of Kentucky unless such applicant designates, in writing, with the City Clerk, the name and address of an agent within the Commonwealth of Kentucky.

(H) The owner of rental dwelling unit(s) in City must produce, if requested by the inspector or other City official, a copy of the rental inspection license for these dwelling unit(s). The rental inspection license is not transferable to another person or entity. Every person holding a rental inspection license shall give notice, in writing, to the inspector within 24 hours after transferring the property or otherwise disposing of ownership or legal control of it. Such notice shall include the name and address of the person or entity that now owns or controls the rental dwelling.

(I) Whenever, upon inspection of a rental dwelling unit, an inspector finds conditions or practices that violate provisions of this subchapter, he or she may serve upon the owner or its designee notice of such violation as provided herein. This notice shall be served by the City by either hand delivery to the owner or its agent or by first-class, U.S. Mail at its last known address. Such notice shall state that if the cited violations are not corrected within a reasonable time, the owner may be subject to civil fines and/or a suspension or revocation of owner's occupational license and/or rental inspection license.

(J) At the end of the time allowed for correction of any violations cited by the inspector, the inspector shall reinspect the rental dwelling unit, at a cost of \$40 per each additional inspection. If the inspector determines that the violations still exist or have not been properly corrected, then he or she may issue an order assessing fines for noncompliance and/or take action to suspend the City's rental inspection license and occupational licenses for the rental dwelling. The inspector shall notify the owner of this action in writing and the owner may request a hearing, in writing, before the Code Enforcement Board within seven days after receipt of the notice of violation.

(K) Any person whose license to operate a rental dwelling has been suspended and who has been notified as provided herein shall be entitled to a hearing in the manner provided for in § 150.88 of this

subchapter. The City will not revoke an rental inspection license while a hearing is pending. If, upon reinspection, the inspector finds that the rental dwelling cited with a notice of violation is now in compliance with this subchapter, then the inspector shall reinstate the license by written order, which will automatically cancel any pending hearing.

#### **§ 150.85 INSPECTION.**

(A) The inspector shall enforce the provisions of this subchapter. The inspector is authorized and directed to inspect rental dwelling units within the City in response to a complaint that an alleged violation of this subchapter may exist, when the inspector has valid reason to believe a violation of this subchapter has been or is being committed, or as part of a proactive rental inspection (“PRI”) program that the City may implement. Complaints to the City may be submitted by any individual, including an occupant of a rental dwelling unit, a neighbor, contractor, Code Enforcement Officer, or Police or Fire Department officer.

(B) The inspector is authorized to enter and inspect all premises subject to the provisions of this subchapter for the purpose of determining whether a rental dwelling or dwelling unit complies with the provisions of this subchapter. The inspector may enter any rental dwelling unit and the common areas used by the tenant in that rental dwelling at the tenant’s invitation, without the consent of the owner and/or operator of the rental dwelling.

(C) The inspector and the owner, occupant, or other person in charge of the premises may agree to an inspection by appointment.

(D) During inspections, the owner, occupant, or other person in charge of premises, upon presentation of proper identification by the inspector, shall allow the inspector to enter and have free access to every part of the premises. If access is refused, the inspector may apply for an administrative search warrant to gain access. The Dayton Police Department shall assist the inspector in preparing the administrative search warrant and presenting it to the Campbell District Court to secure issuance of the warrant.

(E) No owner or landlord shall retaliate against a tenant for lodging a complaint about his or her rental dwelling unit with the City.

#### **§ 150.86 NOTICE OF VIOLATION.**

(A) Whenever any inspector determines that any premises or rental dwelling unit in a rental dwelling fails to meet the requirements set forth in this subchapter, he or she shall issue a notice setting forth the alleged violations and advise the owner that such violation must be corrected (“notice”). This notice shall:

(1) Be in writing;

(2) Set forth the alleged violations of this subchapter;

(3) Describe the rental dwelling or rental dwelling unit where the violations are alleged to exist or to have been committed;

(4) Provide a reasonable time, generally not to exceed 30 days, to make corrections to the alleged violations;

(5) Notify the owner or operator of the rental dwelling or rental dwelling unit responsible for compliance with the alleged violation(s) by regular U.S. mail;

(6) State that the violation must be corrected within 30 days and describe the procedure and time limit to apply for a reconsideration or formal hearing. An extension of this deadline may be given upon good cause at the discretion of the inspector.

(B) At the end of the period of time allowed for compliance, the inspector shall reinspect the premises or dwelling unit described in the notice.

#### **§ 150.87 REPAIRS AND OTHER CORRECTIVE ACTION.**

Whenever an owner of any rental dwelling unit fails, neglects, or refuses to make repairs or other corrective action cited in a notice, the inspector may either apply to the court for appointment of a receiver, or take other appropriate action permitted by the Kentucky Revised Statutes, the Dayton Code of Ordinances, or orders issued by the Campbell County District and/or Circuit Courts to collect rents and make repairs, or proceed in accordance with City ordinances relating to demolishing dilapidated or dangerous buildings.

#### **§ 150.88 APPLICATIONS FOR HEARING; APPEALS.**

(A) (1) Any person aggrieved by any notice or order of the inspector issued under this subchapter may file a petition setting forth his or her reasons for contesting the notice or order with the City of Dayton Code Enforcement Board (hereafter referred to as "Board"), within seven business days after receipt of such notice or order from the inspector.

(2) Upon receipt of the petition, the Board shall set a hearing date and notify the petitioner of this date. At the hearing, the City shall prosecute the case before the Board and present sufficient evidence to allow the Board to find, by a preponderance of the evidence, that a violation has occurred.

(3) At the hearing, the petitioner shall be given an opportunity to show cause why the notice or order should be modified or withdrawn or why the period of time permitted for compliance should be extended.

(4) The Board may affirm, modify, or reverse the notice or order and may grant an extension of time for the performance of any act required where practical difficulty or undue hardship exists in connection with the performance of any act required by the notice or order and that such extension is in harmony with the general purpose of this subchapter to secure the public health, safety, and welfare, or the Board may fine the owner for noncompliance pursuant to the terms of this subchapter.

(B) In addition to the other remedies outlined in this subchapter, any rental inspection license issued by the City, with notice to the holder thereof and after a hearing, may be revoked or suspended by the Board for the following:

(1) If the owner continually and persistently allows a public nuisance on the premises or permits persons occupying any rental dwelling to make or cause any loud, unnecessary, or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety, of others within the City limits;



(2) If the owner continually and persistently allows a public nuisance on the premises or permits persons occupying a rental dwelling to cause inconvenience, annoyance, or alarm or wantonly create a risk by engaging in fighting or in violent, tumultuous, or threatening behavior, or to cause a hazardous or physically offensive condition by any act that serves no legitimate purpose;

(3) If the owner continually and persistently allows a public nuisance on the premises or permits persons occupying any rental dwelling to emit or cause any foul, offensive, nauseous, noxious, or disagreeable odors that are extremely repulsive to the physical senses of reasonable persons, which annoy, cause discomfort, injury, or inconvenience to others within the City;

(4) If the owner fails to make corrections or repairs mandated by the inspector, which include, but are not limited to, work required to ensure the rental dwelling is safe and sanitary; or

(5) If the owner has failed to pay any city taxes, fees, or obligations.

(C) Final decisions of the Dayton Code Enforcement Board may be appealed to Campbell District Court.

(D) If an owner files an action for a writ of forcible detainer in the Campbell County District Court or for any action of ejectment in a court of competent jurisdiction for eviction of a tenant who is the cause of a nuisance, as described herein, then any proceeding before the Board shall be placed on hold pending a final determination by the court. If the court refuses to evict the offending tenant and the owner has made a good faith effort to abate the nuisance by eviction, then any pending proceeding before the Code Enforcement Board shall be dismissed. Dismissal shall not prevent the City, through the inspector, from implementing the provisions of this subchapter to abate future or continuing nuisances occurring in the rental dwelling.

(E) The inspector shall cooperate with an owner who is attempting to evict a tenant charged with creating a nuisance by furnishing documentary and/or oral evidence, if applicable, to the court to support the owner's efforts to prove the existence of a nuisance.

#### **§ 150.89 PENALTY.**

Violations of any provision in this subchapter shall be subject to the following schedule of civil fines:

(A) If a notice of violation or citation issued under this subchapter is not contested by the person charged with the violation, the penalties set forth in this section and in accordance with the notice issued shall apply.

(B) Any person or legal entity that violates a provision of this ordinance shall be subject to a civil fine of not less than \$50 per day, per violation, but not more than \$100 per day, per violation for the first 30 days the violation(s) remains uncorrected, and thereafter, a civil fine of not less than \$100 per day, per violation, but not more than \$250 per day per violation, until the violation(s) are corrected. The City may also recover any costs it incurs in abating the violation(s), including attorney fees, court costs, and interest. Each day a violation continues after due notice has been served shall be deemed a separate offense, up to a maximum of \$5,000 per violation.

(C) The City shall possess a lien on the property for all fines, penalties, charges, attorney's fees, court costs, interest, and other reasonable costs associated with enforcing this subchapter and placing of a lien on a parcel of real property. The lien shall be superior to and have priority over all other liens filed, except state, county, school board, and city taxes.

(D) Each section of this subchapter violated shall be considered a separate, finable offense. If two or more sections of this subchapter or other provisions of the City Code of Ordinances are violated, then the fines for these violations shall be cumulative.

(E) The Dayton Code Enforcement Board is hereby authorized to determine within its by-laws and rules of procedure the civil fines to be imposed under this subchapter for cases that come before the Board.

(F) Any person or legal entity that is delinquent in payment of the annual rental license fee of \$40 per unit per year one month after its due date shall subject to a lien in the amount of \$250 per rental unit.

CITY OF DAYTON, KENTUCKY

By: \_\_\_\_\_

Mayor Ben Baker

ATTEST:

\_\_\_\_\_  
Tiffany Myers, Interim City Clerk

First Reading: Aug. 2, 2022

Second Reading:

Publication:

CITY OF DAYTON, KENTUCKY ORDINANCE NO. 2022#21

**AN ORDINANCE CREATING A NEW CHAPTER 117 OF THE DAYTON CODE OF ORDINANCES, UNDER TITLE XI, BUSINESS REGULATIONS, TITLED “CITY OF DAYTON SMOKE-FREE AIR ORDINANCE,” TO PROHIBIT SMOKING IN PLACES OF EMPLOYMENT AND PUBLIC PLACES IN THE CITY OF DAYTON, KENTUCKY.**

**WHEREAS**, for the reasons set for in Section 117.02, titled “Findings and Intent” below, the Dayton City Council believes that this ordinance is needed to protect the public health and welfare by prohibiting smoking in public places and places of employment, guarantee the right of all residents and visitors to breathe smoke-free air, and recognize that the need to breathe smoke-free air shall have priority and override the desire to smoke in all places of employment and public places in the City of Dayton.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF DAYTON, KENTUCKY:**

A new section of the Dayton Code of Ordinances (“Code”) is created as Chapter 117 of the Code, titled as “City of Dayton Smoke-Free Air Ordinance,” as follows:

Section I

**Section 117.01 Title**

This Ordinance shall be known as the City of Dayton Smoke-Free Air Ordinance of 2022.

**Section 117.02 Findings and Intent**

The Dayton City Council does hereby find that:

Exposure to exhaled cigarette smoke, e-cigarette aerosol, and other tobacco-related emissions is harmful to health:

- The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, concluded that (1) secondhand-smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; and (4) there is no risk-free level of exposure to secondhand smoke.<sup>1</sup>
- The 2010 U.S. Surgeon General's Report, *How Tobacco Smoke Causes Disease*, states that even occasional exposure to secondhand smoke is harmful and low levels of exposure to

secondhand tobacco smoke can lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke.<sup>ii</sup>

- According to the 2014 U.S. Surgeon General's Report, *The Health Consequences of Smoking—50 Years of Progress*, secondhand smoke exposure causes stroke in nonsmokers, and that exposure to secondhand smoke causes an estimated 41,000 deaths each year among adults in the United States.<sup>iii</sup>
- Emissions from electronic smoking devices (ESDs), commonly referred to as electronic cigarettes, or “e-cigarettes,” are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.<sup>iv</sup> Human lung cells that are exposed to ESD aerosol and flavorings show increased oxidative stress and inflammatory responses.<sup>v</sup> The World Health Organization (WHO), the National Institute for Occupational Safety and Health (NIOSH), and the American Industrial Hygiene Association (AIHA) recommend that ESDs not be used in smoke-free environments to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smoke-free laws.<sup>vi</sup>
- In a study of a Hookah lounge in Lexington, Ky., secondhand smoke from waterpipe smoking created high fine particulate concentrations, 3-6 times the National Ambient Air Quality Standard for outdoor air – a Clean Air Act limit on pollution.<sup>vii</sup>

Smoking and exposure to secondhand smoke pose significant costs for businesses and the economy:

- Secondhand smoke costs the U.S. economy \$5.6 billion annually in lost productivity.<sup>viii</sup>

Comprehensive, 100% smoke-free laws do not harm business:

- The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry.<sup>ix</sup>

Comprehensive, 100% smoke-free laws are necessary:

- A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.<sup>x</sup>
- The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, has concluded that establishing smoke-free workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke.<sup>x</sup>
- The American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) bases its ventilation standards on totally smoke-free environments. ASHRAE has determined that there is currently no air filtration or other ventilation technology that can completely eliminate all the carcinogenic components in secondhand smoke and the health risks caused by secondhand smoke exposure and recommends that indoor environments be smoke-free in their entirety. In 2015, ASHRAE amended its ventilation Standard for Acceptable Indoor Air Quality (62.1) to include an environment that is

- completely free from marijuana smoke and emissions from electronic smoking devices.<sup>xi</sup>
- During periods of active smoking either outdoors or indoors, peak and average outdoor tobacco smoke levels measured in outdoor cafes and restaurant and bar patios near smokers rival indoor smoke concentrations.<sup>xii</sup>
- Secondhand smoke exposure may increase the risk of smoking, especially among never-smoking college students.<sup>xiii</sup>

Accordingly, the Dayton City Council finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and (2) to guarantee the right of all residents and visitors to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

### **Section 117.03 Definitions**

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this Section:

“Bar” means an establishment that is devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

“Business” means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs. This definition does not include “home occupations,” as set forth in Chapter 154, Article IX, Section 9.11 of the Dayton Code of Ordinances.

“Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

“Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, including a contract employee, or a person who volunteers his or her services for a non-profit entity.

“Employer” means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.

“Enclosed Area” means all space between a floor and a ceiling that has forty percent or more of its perimeter closed in by walls or other coverings of any material, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing

openings of any kind.

“Healthcare Facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

“Hookah” means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or aerosol from the burning or heating of material including, but not limited to, tobacco, shisha, or other plant matter.

“Place of Employment” means an area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, construction sites, temporary offices, and vehicles. A private residence is not a “place of employment” unless it is used as a childcare, adult day care, or health care facility.

“Playground” means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public grounds.

“Private Club” means an organization, whether incorporated or not, which the owner, lessee, or occupant of a building or portion thereof uses exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

“Public Event” means an event which is open to and may be attended by the general public, including but not limited to, such events as concerts, fairs, farmers’ markets, festivals, parades, performances, and other exhibitions, regardless of any fee or age requirement.

“Public Place” means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gambling facilities, health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a “public place” unless it is used as a childcare, adult daycare, or healthcare facility.

“Reasonable distance,” for purposes of outdoor smoking under Section 117.08 and Section 117.09 of this ordinance, shall mean a reasonable distance between an individual who is smoking and a child or adult who is not smoking (“nonsmokers”), taking into consideration atmospheric conditions, such as wind and precipitation, and the confines of the outdoor space, but at no time shall the outdoor smoker be closer than 10 feet to nonsmokers.

“Recreational Area” means any public or private area open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to, amusement parks, athletic fields, beaches, fairgrounds, gardens, golf courses, parks, plazas, skate parks, swimming pools, trails, and zoos.

“Restaurant” means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public-school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “restaurant” shall include any bar area(s) within the restaurant.

“Service Line” means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money, including but not limited to, ATM lines, concert lines, food vendor lines, movie ticket lines, and sporting event lines.

“Shopping Mall” means an enclosed or unenclosed public walkway or hall area that serves to connect retail or professional establishments.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, including marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.

#### **Section 117.04 Application of Ordinance to City of Dayton Facilities and Property**

All enclosed areas, including buildings and vehicles owned, leased, or operated by City of Dayton or under the control of City of Dayton shall be subject to the provisions of this ordinance.

#### **Section 117.05 Prohibition of Smoking in Enclosed Public Places**

Smoking shall be prohibited in all enclosed areas of public places within City of Dayton.

#### **Section 117.06 Prohibition of Smoking in Enclosed Places of Employment**

- A. Smoking shall be prohibited in all enclosed areas of places of employment without exception. This includes, without limitation, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities,

cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities.

- B. This prohibition on smoking shall be communicated to all existing employees before the effective date of this ordinance and to all prospective employees upon their application for employment.

#### **Section 117.07 Prohibition of Smoking in Enclosed Residential Facilities**

Smoking shall be prohibited in the following enclosed areas of residential facilities:

- A. All private and semi-private rooms in long-term care facilities.
- B. All hotel and motel guest rooms.

#### **Section 117.08 Prohibition of Smoking in Outdoor Places of Employment**

- A. Smoking shall be prohibited within a reasonable distance of other persons in all outdoor places of employment where two or more employees are required to be present in the course of their employment. This includes, without limitation, work areas, construction sites, and associated indoor areas like temporary offices such as trailers, and restroom facilities.
- B. This prohibition on smoking shall be communicated to all existing employees by the effective date of this ordinance and to all prospective employees upon their application for employment.

#### **Section 117.09 Where Smoking Not Regulated**

Notwithstanding any other provision of this ordinance to the contrary, smoking shall not be prohibited in all private clubs (as defined in Section 117.03) or private residences, unless used as a childcare, adult daycare, or healthcare facility.

#### **Section 117.10 Declaration of Establishment or Outdoor Area as Nonsmoking**

Notwithstanding any other provision of this ordinance, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of this section is posted.

#### **Section 117.11 Posting of Signs and Removal of Ashtrays**

The owner, operator, manager, or other person in control of a place of employment or public place City of Dayton facilities or property, or residential facility where smoking is prohibited by this ordinance shall:



- A. Clearly and conspicuously post “No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) in that place.
- B. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited or, in the case of outdoor places, clearly and conspicuously post “No Smoking” signs in a location visible to all employees, visitors, and patrons.
- C. Remove all ashtrays from any area where smoking is prohibited by this ordinance, except for ashtrays displayed for sale and not for use on the premises.

#### **Section 117.12 Nonretaliation; Nonwaiver of Rights**

- A. No person or employer shall discharge, refuse to hire, fail to promote, eject, or in any other manner retaliate against an employee, applicant for employment, customer, or resident of a multiple-unit residential facility because that employee, applicant, customer, or resident exercises any rights afforded by this ordinance or reports or participates in the investigation or prosecution of a violation of this ordinance. Notwithstanding Section 117.16, violation of this Subsection shall be a misdemeanor, punishable by a fine not to exceed \$1,000 for each violation. Nothing in this subsection should be construed to waive or otherwise surrender any other legal right or remedy available to the employee, applicant for employment, customer, or resident.
- B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

#### **Section 117.13 Enforcement**

- A. The City of Dayton requests the assistance of the Northern Kentucky Independent District Health Department (NKY Health) to enforce this ordinance, or an authorized designee. The City will enter into an Interlocal Agreement with the NKY Health that establishes enforcement parameters in the event NKY Health agrees to assist with enforcement of the ordinance. Nothing herein shall be construed to prevent any peace officer with jurisdiction from issuing a citation for violation of this subchapter committed in his or her presence.
- B. Notice of the provisions of this ordinance shall be given by the City to all applicants for a business license in City of Dayton.
- C. Any person who desires to register a complaint under this ordinance may do so by contacting NKY Health by telephone or other identified methods.
- D. NKY Health or its designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Ordinance.
- E. An owner, manager, or operator, or an employee if an owner, manager, or operator is not

available, of an area regulated by this ordinance shall direct a person who is smoking in violation of this ordinance to extinguish or turn off the product being smoked. If the person does not stop smoking, the owner, manager, operator, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, manager, operator, or employee shall contact a law enforcement agency.

- F. Notwithstanding any other provision of this ordinance, an employee or private party may bring legal action to enforce this ordinance.
- G. In addition to the remedies provided by the provisions of this Section, NKY Health or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this ordinance may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.
- H. Any person or business aggrieved by enforcement action related to this ordinance may appeal that action to a court of competent jurisdiction.

#### **Section 117.14 Violations and Penalties**

- A. A person who smokes in an area where smoking is prohibited by the provisions of this ordinance shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50).
- B. Except as otherwise provided in Section 117.13, a person who owns, manages, operates, or otherwise controls a public place or place of employment and who knowingly fails to comply with the provisions of this ordinance shall be guilty of an infraction, punishable by:
  - 1. A warning that the person is not in compliance with the law, for an initial violation.
  - 2. A fine not exceeding one hundred dollars (\$100), for a second violation within one (1) year.
  - 3. A fine not exceeding two hundred and fifty dollars (\$250), for each additional violation within one (1) year.
- C. All fines collected are payable to NKY Health for reimbursement of services provided for enforcement of the ordinance.
- D. In addition to the fines established by this Section, violation of this ordinance by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued by the City of Dayton to the person for the premises on which the violation occurred.
- E. Each day on which a violation of this ordinance occurs shall be considered a separate and distinct violation.

**Section 117.15 Public Education**

The City of Dayton will provide education and related materials on this ordinance to businesses and the public. NKY Health may assist in the education and guidance to individuals, owners, operators, and managers on the purposes and requirements of this ordinance and their compliance with it. The education may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

**Section 117.16 Other Applicable Laws**

This ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

**Section 117.17 Liberal Construction**

This ordinance shall be liberally construed so as to further its purposes.

**Section 117.18 Severability**

If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

**Section 117.19 Effective Date**

This ordinance shall be effective sixty (60) days from and after the date of its second reading and adoption.

CITY OF DAYTON, KENTUCKY

By: \_\_\_\_\_  
Mayor Ben Baker

ATTEST:

\_\_\_\_\_  
Tiffany Myers, Interim City Clerk

First Reading: Aug. 2, 2022

Second Reading:

## REFERENCES

- <sup>i</sup> U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.
- <sup>ii</sup> U.S. Department of Health and Human Services. *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010.
- <sup>iii</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking—50 Years of Progress*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.
- <sup>iv</sup> Fuoco, F.C.; Buonanno, G.; Stabile, L.; Vigo, P., "Influential parameters on particle concentration and size distribution in the mainstream of e-cigarettes," *Environmental Pollution* 184: 523-529, January 2014.
- <sup>v</sup> Lerner CA, Sundar IK, Yao H, Gerloff J, Ossip DJ, McIntosh S, et al. "Vapors Produced by Electronic Cigarettes and E-Juices with Flavorings Induce Toxicity, Oxidative Stress, and Inflammatory Response in Lung Epithelial Cells and in Mouse Lung," *PLoS ONE* 10(2): e0116732, February 6, 2015.
- <sup>vi</sup> World Health Organization (WHO), "Electronic nicotine delivery systems," *World Health Organization (WHO)*, 2014
- <sup>vii</sup> Lee K, Bucholtz C, Robertson H, Vogel S, Hahn E. Indoor air quality in a Hookah Lounge: Is waterpipe smoking (hookah) related to indoor air pollution? 2008:1-4.
- <sup>viii</sup> Xu X, Bishop EE, Kennedy SM, Simpson SA, Pechacek TF. Annual Healthcare Spending Attributable to Cigarette Smoking: An Update. *American Journal of Preventive Medicine* 2014;48(3):326–33.
- <sup>ix</sup> Pitsavos, C.; Panagiotakos, D.B.; Chrysohoou, C.; Skoumas, J.; Tzioumis, K.; Stefanadis, C.; Toutouzas, P., "Association between exposure to environmental tobacco smoke and the development of acute coronary syndromes: the CARDIO2000 case-control study," *Tobacco Control* 11(3): 220-225, September 2002.
- <sup>x</sup>U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.
- <sup>xi</sup> ANSI/ASHRAE Standard 62.1-2016 – Ventilation for Acceptable Indoor Air Quality. Atlanta, GA: American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. <https://www.ashrae.org/technical-resources/standards-and-guidelines/read-only-versions-of-ashrae-standards>
- <sup>xii</sup> Klepeis, N.; Ott, W.R.; Switzer, P., "Real-time measurement of outdoor tobacco smoke particles," *Journal of the Air & Waste Management Association* 57: 522-534, 2007.
- <sup>xiii</sup> Chizimuzo T C Okoli, Mary Kay Rayens, Amanda T Wiggins, Melinda J Ickes, Karen M Butler, Ellen J Hahn, "Secondhand Tobacco Smoke Exposure and Susceptibility to Smoking, Perceived Addiction, and Psychobehavioral Symptoms Among College Students," *J Am Coll Health*. 2016;64(2):96-103

**CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2022#22**

**AN ORDINANCE PROVIDING FOR THE IMPOSITION,  
LEVY, COLLECTION AND APPORTIONMENT OF TAXES  
FOR THE CITY OF DAYTON, CAMPBELL COUNTY,  
KENTUCKY FOR THE FISCAL YEAR JULY 1, 2022,  
THROUGH JUNE 30, 2023.**

This ordinance sets the real property ad valorem tax rate for the city for the present fiscal year at .470 per hundred dollars of value for the general fund and .050 per hundred dollars of value for parks. The tax rate for automobiles and watercraft is set at .5009 per hundred dollars of value and at .750 per hundred dollars of value for all other personal property.

The ordinance requires that all Real Property and Other Tangible Property (excluding motor vehicles and motorboats) taxes be paid by November 30, 2022. Taxes not paid by this date shall become delinquent. Taxes paid during the first three days after they become delinquent will be assessed a 1% penalty. Any taxes not paid more than three days after they become delinquent shall be subject to a penalty of 10% and shall accrue interest at a rate of twelve percent (12%) per annum until paid. The delinquent taxpayer shall also pay all costs, attorney's fees, and other expenses incidental to any action taken by the city for collection of the delinquent tax bill.

The ordinance also sets the bank deposits at twenty-five thousandths of one percent (.025%) of those deposits. The payor of these taxes may pay the sum due less 2% if paid by December 31, 2022, or the full amount by January 31, 2023.

The ordinance may be viewed in full at [www.daytonky.com](http://www.daytonky.com) or at the Dayton City Building, 514 Sixth Avenue, Dayton, KY, or call 859-491-1600. This advertisement will be paid by the City of Dayton, Kentucky using taxpayers' dollars.

**CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2022#22**

**AN ORDINANCE PROVIDING FOR THE IMPOSITION,  
LEVY, COLLECTION, AND APPORTIONMENT OF  
TAXES FOR THE CITY OF DAYTON, CAMPBELL  
COUNTY, KENTUCKY FOR THE FISCAL YEAR JULY 1,  
2022, THROUGH JUNE 30, 2023.**

**WHEREAS**, KRS 83 A.130 to 83A.150 and KRS 92.280 and KRS 92.330 require that the legislative body of each city levy an ad valorem tax for city purposes, that this be done by ordinance to provide for sufficient revenue to operate city government, and

**WHEREAS**, KRS Chapter 132 requires that this be calculated in accordance with the provisions of that chapter, and KRS 134.800 and KRS 134.810 require that ad valorem taxes on motor vehicles and motorboats be collected by the City Clerk and that such taxes shall become due and delinquent as set forth in KRS 134.810 and that such taxes not paid when due shall be subject to the penalty and interest as specified therein,

**NOW, THEREFORE BE IT ORDAINED BY THE CITY OF DAYTON,  
CAMPBELL COUNTY, KENTUCKY, AS FOLLOWS:**

**SECTION 1. Real Property – General Tax.**

An ad valorem tax rate of .470 cents on each \$100.00 (one hundred dollars) of assessed valuation of real property subject to taxation under the laws of the Commonwealth of Kentucky is hereby levied for city purposes.

**SECTION 2. Real Property – Park Tax.**

An ad valorem tax rate of .050 cents on each \$100.00 (one hundred dollars) of assessed valuation of real property subject to taxation under the laws of the Commonwealth of Kentucky is hereby levied for city purposes.

**SECTION 3. Other Personal (Tangible) Property.**

An ad valorem tax rate of 0.750 cents on each \$100.00 (one hundred dollars) of assessed valuation of personal property (other than motor vehicles and motorboats) subject to taxation under the laws of the Commonwealth of Kentucky is hereby levied for city purposes.

#### **SECTION 4. Motor Vehicles and Motorboats.**

An ad valorem tax rate of \$.5009 cents on each \$100.00 (one hundred dollars) of assessed valuation of motor vehicles and motorboats subject to taxation under the laws of the Commonwealth of Kentucky is hereby levied for city purposes.

#### **SECTION 5. Bank Deposits.**

There shall be imposed and collected for said City, as permitted under KRS Chapter 136, on the taxable fair cash value of bank deposits within the city as assessed, corrected, altered, certified and returned by the Revenue Cabinet or as assessed by the Mayor and Council, if for any reason said deposits have not been listed in any manner for taxation, a sum equal to twenty-five thousandths of one percent (.025%) of those deposits. The levy called for in this Section shall be imposed, levied, collected and apportioned for payment of incidental expenses of the City. Those banks upon which the above tax is imposed may pay the sum due less 2% if paid by December 31, 2022, or the full amount by January 31, 2023. Thereafter the penalty and interest herein shall be imposed.

#### **SECTION 6. Due Date, Payment, Discount and Penalty.**

The taxes mentioned in this Ordinance Sections 1, 2 and 3 shall be due and payable at the Office of the City Clerk by November 30, 2022 and shall become delinquent the day immediately following if not paid. Taxes paid during the first three days after they become delinquent will be assessed a 1% penalty. Any taxes not paid more than three days after they become delinquent shall be subject to a penalty of 10% and shall accrue interest at a rate of twelve percent (12%) per annum until paid. The delinquent taxpayer shall also pay all costs, attorney's fees, and other expenses incidental to any action taken by the city for collection of the delinquent tax bill.

#### **SECTION 7. Effective Date and Use Thereof.**

This Ordinance shall be effective immediately upon publication and applies to the 2022 calendar year tax assessment and all receipts shall be used for city purposes and accounted for the 2022-2023 fiscal year and subsequent fiscal years in reference to delinquent collections.

**PASSED** by City Council of the City of Dayton, Campbell County, Kentucky, assembled in regular session.

First Reading: September 6, 2022

Second Reading: \_\_\_\_\_

\_\_\_\_\_  
MAYOR BEN BAKER

ATTEST:

\_\_\_\_\_  
TIFFANY MYERS  
INTERIM CITY CLERK



CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2022#23

AN ORDINANCE CREATING SECTION 150.04, A NEW SECTION OF CHAPTER 150 OF THE DAYTON CODE OF ORDINANCES, TO ADOPT THE NFPA 1 FIRE CODE, NFPA 101 LIFE-SAFETY CODE, AND NFPA 70 NATIONAL ELECTRIC CODE.

NOW, THEREFORE, THE CITY OF DAYTON, CAMPBELL COUNTY, KENTUCKY, HEREBY ORDAINS AS FOLLOWS:

Section I

A new Section 150.04 of Chapter 150 of the City of Dayton Code of Ordinances is adopted as follows:

**§150.04 Adoption of NFPA 1 Fire Code, NFPA 101 Life Safety Code, and NFPA 70 National Electric Code.**

Fire and life-safety regulations promulgated by National Fire Protection Association – specifically the 2018 edition of “NFPA 1 Fire Code,” the 2018 edition “NFPA 101 Life Safety Code,” and the 2017 edition “NFPA 70 National Electric Code,” and future amendments to these codes -- are hereby adopted for use in and application to all buildings and structures in the City of Dayton, Kentucky.

Section II

This ordinance shall be in full force and effect from and after its adoption, approval and publication as is required by law.

**PASSED** by City Council of the City of Dayton, Campbell County, Kentucky assembled in regular session.

First Reading: Sept. 6, 2022

Second Reading: \_\_\_\_\_

\_\_\_\_\_  
MAYOR BEN BAKER

ATTEST:

\_\_\_\_\_  
TIFFANY MYERS  
INTERIM CITY CLERK

CITY OF DAYTON, KENTUCKY  
ORDER-RESOLUTION NO. 2022-27R

AN ORDER-RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AID CO-OP PROGRAM CONTRACT BETWEEN THE CITY OF DAYTON, KENTUCKY, AND THE COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF RURAL AND MUNICIPAL AID FOR THE FISCAL YEAR BEGINNING JULY 1, 2022, AS PROVIDED IN THE KENTUCKY REVISED STATUTES, AND ACCEPTING ALL STREETS REFERRED TO THEREIN AS BEING STREETS WHICH ARE A PART OF THE INCORPORATED CITY.

**NOW, THEREFORE, BE IT ORDERED BY THE CITY OF DAYTON, KENTUCKY, AS FOLLOWS:**

The Dayton City Council (“City Council”) does hereby accept all streets referred to in the attached Contract as being city streets, which are a part of the City of Dayton, Kentucky (“City”); and

The City Council does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in this Contract and does hereby accept the Contract, and by such acceptance, agrees to all the terms and conditions therein stated; and

The Mayor of Dayton is hereby authorized and directed to sign said Contract as set forth on behalf of City Council and the Dayton Clerk is hereby authorized and directed to certify thereto.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 6th day of September 2022.

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MAYOR BEN BAKER

ATTEST:

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TIFFANY MYERS  
INTERIM CITY CLERK/TREASURER

COMMONWEALTH OF KENTUCKY :

CITY OF DAYTON, KENTUCKY :

I, Tiffany Myers, Interim City Clerk for the City of Dayton, Kentucky, certify that the foregoing is a true copy of the Order-Resolution above. Given under my hand and seal of office this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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DAYTON CITY CLERK

**MUNICIPAL ROAD AID COOPERATIVE  
PROGRAM AGREEMENT**

THIS AGREEMENT, entered into as of the date of the signature below of the Secretary of the Transportation Cabinet, is made by and between the Commonwealth of Kentucky, Transportation Cabinet, Department of Rural and Municipal Aid (“the Department”), and the Legislative Body of the Incorporated City of **DAYTON**, Kentucky (the “City”).

WHEREAS, Kentucky Revised Statutes (KRS) § 177.365(1) provides that 7.7% of revenue resulting from the imposition of motor fuel taxes on taxpayers pursuant to KRS § 138.220(1)(2), KRS § 138.660(1)(2), and KRS § 234.320 shall be set aside by the Finance and Administration Cabinet for the construction, reconstruction, and maintenance of urban roads and streets, and for no other purpose (“Municipal Road Aid Funds”), and

WHEREAS, the City has accepted an invitation from the Department to allow it to participate in a cooperative program to aid the City in the construction, reconstruction, and maintenance of certain roads and bridges using its share of the Municipal Road Aid Funds apportioned to it by the Department as provided below (the “Cooperative Program”), and

NOW THEREFORE, in consideration of the terms and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Department and the City agree as follows:

1. Apportionment of Municipal Road Aid Funds. The City’s apportionment of Municipal Road Aid Funds shall be based on revenue estimates supplied by the Office of State Budget Director. For the Fiscal Year beginning July 1, 2022, this amount is **\$118,351.50** (the “Apportionment”). The above referenced estimate is based on the most recent available data and

is subject to change according to available revenue. The Apportionment shall be distributed by the Department to the City in accordance with the terms of this Agreement.

2. Assignment of the Apportionment. The City hereby assigns all of its right, title and interest in and to the Apportionment to the Transportation Cabinet’s Division of Accounts for Fiscal Year 2022.

3. Distribution of Municipal Road Aid Funds. The City and the Department agree that the Apportionment shall be distributed by the Department to the City as follows:

a. First Distribution. The Department shall initially distribute to the City sixty percent (60%) of the Apportionment, less three percent (3%) of the Apportionment set aside for the emergency fund below. This initial amount is **\$68,881.00**.

b. Second Distribution. The Department shall distribute up to and including an additional thirty percent (30%) of the Apportionment to the City, less three percent (3%) of the Apportionment set aside for the emergency fund below. The amount of the second distribution will depend on how actual revenues compare to revenue estimates.

c. Final Distribution. The Department shall allocate and distribute the remaining balance of the Apportionment, less three percent (3%) set aside for the emergency fund below. The Final Distribution shall be based on actual revenues tabulated after the end of the fiscal year (June 30).

4. Emergency Fund. The City agrees that three percent (3%) of the Apportionment shall be withheld by the Department in an emergency fund (the “Emergency Fund”). The Emergency Fund shall include three percent (3%) of the total apportionments of all participants in the Cooperative Program, plus any remaining balances from previous fiscal years. The Department, upon written application from a duly authorized representative of the City, may

disburse these funds to the City for the purpose of it using said funds for emergency roadway and bridge projects designated by the City and lying within city limits. The Department may disburse up to fifty percent (50%) of the approved funds to the City for the purpose of it using said funds for emergency roadway and bridge projects designated by the City. Following the completion of the project, after final cost documentation has been submitted and processed, the Department will then distribute the determined remaining amount. If the actual cost of an emergency project is less than the amount of Emergency Funds disbursed by the Department, then the City shall reimburse the difference to the Department.

5. Disbursement of Funds. Upon execution of this Agreement, the Department will disburse the foregoing allocated funds directly to the City to pay for materials, labor and equipment necessary for the City to accomplish construction, reconstruction, and maintenance on streets designated by the City and lying within city limits. This assistance is extended insofar as funds are available from the Apportionment. The City shall be responsible for all costs associated with the construction, reconstruction and maintenance of roadways and bridges in excess of the amount of the Apportionment allocated and disbursed by the Department to the City. The Department may assist the City in fulfilling its needs by disbursing funds to the City for materials and work performed by contract, for materials obtained by contract and for the rental or purchase of road maintenance and construction equipment. Any rental rates shall be based on current edition of the "Blue Book for Rental of Equipment" or the Department's official rental rates. The Department may also disburse funds to the City for the hourly rate for personnel who perform the work. This rate may include employee fringe benefits such as leave overlay, retirement, social security, insurance, etc.

6. Use of Municipal Road Aid Funds. The City agrees and certifies that the Apportionment will be expended by the City solely for the purpose of construction, reconstruction, and maintenance of city streets as defined in KRS § 177.365(4).

7. Rights of Way. The City, if required under applicable law, will acquire any rights-of-way contemplated under this Agreement and assumes responsibility for any claims for damages arising from such acquisitions.

8. Indemnification. The City shall fully indemnify, hold harmless and defend the Department from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney's fees and costs), whether or not involving a third party claim, which arise out of, relate to or result from (a) any breach of any representation or warranty of the City contained in this Agreement, (b) any breach of any covenant or other obligation or duty of the City under this Agreement or under applicable law, in each case whether or not caused by the negligence of the Department and whether or not the relevant claim has merit.

9. Reimbursement of Losses. The City will reimburse the Department for losses it may sustain arising out of performance of this Agreement. Such loss as sustained by the Department may be charged to the Apportionment in this or future fiscal years.

10. Termination of Agreement. The Department reserves the right to cancel this Agreement at any time deemed to be in the best interest of the Department by giving thirty (30) days written notice of such cancellation to the City. If this Agreement is canceled under this provision, then the City will receive any unpaid portion of the Apportionment from the Finance and Administration Cabinet.

11. Access to Records. The City acknowledges and agrees that pursuant to KRS § 177.369(3) it shall retain all records of the expenditures of the Apportionment for a period of five (5) years and said records, including any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement [records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent and shall be exempt from disclosure as provided in KRS 61.878(1)(c)], shall be subject to audit by the Finance and Administration Cabinet or its duly authorized agent and made accessible by the City to the Finance and Administration Cabinet or its duly authorized agent for said period of time in order to determine the proper expenditure of said money for the purposes required by KRS § 177.365(1). The City also recognizes that any books, documents, papers, records, or other evidence received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS § 61.870 to KRS § 61.884.

12. Authorization. The Legislative Body of the City shall pass a resolution adopting and approving the terms of this Agreement in the form of the resolution attached to this Agreement and made a part hereof. The Chief Executive Officer of the City, and the Commissioner of the Department, or their authorized representatives, insofar as their actions are in accord with the laws of the Commonwealth of Kentucky, shall act for their respective parties on all matters arising under this Agreement.

13. Choice of Law and Venue. All questions as to the execution, validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this Agreement shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.



IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the dates listed below.

**CITY OF DAYTON, KENTUCKY**

BY: \_\_\_\_\_

Mayor Ben Baker

---

(For Kentucky Transportation Cabinet use only)

**DEPARTMENT OF RURAL AND MUNICIPAL AID OFFICE OF RURAL & SECONDARY ROADS**

BY: \_\_\_\_\_

Commissioner

**APPROVED AS TO FORM AND LEGALITY:**

BY: \_\_\_\_\_

Office of Legal Services

**COMMONWEALTH OF KENTUCKY TRANSPORTATION CABINET**

BY: \_\_\_\_\_

Secretary

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF DAYTON, KENTUCKY  
ORDER-RESOLUTION NO. 2022#28R**

AN ORDER-RESOLUTION AUTHORIZING  
THE MAYOR TO ENTER INTO AN  
INTERLOCAL AGREEMENT WITH THE  
NORTHERN KENTUCKY INDEPENDENT  
DISTRICT BOARD OF HEALTH REGARDING  
ENFORCEMENT OF THE SMOKE-FREE  
ORDINANCE IN THE CITY OF DAYTON,  
KENTUCKY.

WHEREAS, the City of Dayton, Kentucky (“City”), has adopted a smoke-free air ordinance (“Ordinance”) for the purpose of protecting the public health and welfare of the general population in and about the city by prohibiting smoking in public places and places of employment; and,

WHEREAS, the City of Dayton desires to partner with the Northern Kentucky Independent District Health Department (“NKIDHD”) so that the NKIDHD can provide limited enforcement of the Ordinance’s requirements vis-a-vis public places, such as bars, restaurants, other venues that are normally subject to routine and regular inspections by the NKIDHD or as otherwise mandated by state and federal laws, and within places of employment;

**NOW, THEREFORE, BE IT ORDERED BY THE CITY OF DAYTON,  
KENTUCKY, AS FOLLOWS:**

The Board of Council authorizes the Mayor to enter into an Interlocal Agreement with the Northern Kentucky Independent District Health Department regarding enforcement of the Ordinance, the terms of which are outlined in more detail in the attached agreement between NKIDHD and the City, which is incorporated by reference herein.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 6<sup>th</sup> day of September, 2022.

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MAYOR BEN BAKER

ATTEST:

---

TIFFANY MYERS  
INTERIM CITY CLERK

**KRS 65.240 INTERLOCAL AGREEMENT  
BETWEEN THE NORTHERN KENTUCKY INDEPENDENT DISTRICT BOARD OF HEALTH  
AND THE CITY OF DAYTON FOR LIMITED ENFORCEMENT ACTIVITIES RELATED TO  
THE DAYTON SMOKEFREE AIR ORDINANCE OF 2022**

This Agreement is by and between the Northern Kentucky Independent District Board of Health (“BOH”) and the City of Dayton, Ky. (“City”):

**WHEREAS**, the City of Dayton has adopted a smoke-free air ordinance (“Ordinance”) for the purpose of protecting the public health and welfare of the general population in and about the city by prohibiting smoking in public places and places of employment; and,

**WHEREAS**, the City of Dayton desires to partner with the Northern Kentucky Independent District Health Department (“NKIDHD” or “agency”) so that the NKIDHD can provide limited enforcement of the Ordinance’s requirements vis-a-vis public places, such as bars, restaurants, other venues that are normally subject to routine and regular inspections by the NKIDHD, or as otherwise mandated by state and federal laws, and within places of employment;

**NOW THEREFORE**, in consideration of the mutual and reciprocal covenants herein, the NKIDHD and the City hereby agree as follows:

**SECTION 1.0: ENFORCEMENT**

1.1 Enforcement of the Ordinance shall be the responsibility of the City of Dayton and may be enforced by employees and agents of the City, including but not limited to police officers and code enforcement officers, and by NKIDHD serving as a designee of the City when the agency enforces the Ordinance in the City. It shall be the responsibility of the City to initiate or respond to any and all court action resulting from this Ordinance or enforcement of it, including court action to secure penalty payments from violators.

1.2 NKIDHD’s enforcement shall be limited to enclosed public places, enclosed public places of employment while staff and patrons are in a publicly accessed or accessible building or establishment that is undergoing otherwise mandated inspections for compliance with state or federal environmental laws; or investigations of complaints received by NKIDHD regarding violation(s) of the Ordinance within these enclosed establishments or within enclosed places of employment (buildings).

1.3 Inspectors employed by the NKIDHD may take enforcement action for noncompliance, including issuance of oral or written warnings, notices, or citations to any owner or operator of an establishment found to be in violation of the Ordinance.

1.4 Any citizen who desires to register a complaint for noncompliance by a public establishment or place of employment regarding items NKIDHD agrees to enforce

may do so by contacting NKIDHD by means designated by NKIDHD. Complaints regarding items/issues outside this Agreement will be referred to the City.

1.5 Any person or establishment aggrieved by the NKIDHD's enforcement action may appeal that action to the City through its established procedures.

1.6 Persons who smoke in an area where smoking is prohibited and who refuse to extinguish their smoking material when asked shall be required to leave the premises, and may be subject to prosecution for criminal trespass if they do not leave when asked. If necessary, the owner, manager, operator, or employee may contact a local law enforcement agency for assistance. The NKIDHD is not responsible for intervening in such circumstances.

1.7 The NKIDHD shall not undertake responsibility to forcibly remove any person from a premises who is smoking; or to remove any smoking device from that person; or to compel the individual smoker's compliance with the Ordinance. To the extent that the Ordinance provides for enforcement actions against individual smokers, those actions are the sole responsibility of the City, and not the NKIDHD.

1.8 The NKIDHD shall not undertake responsibility for enforcement of those provisions of the Ordinance pertaining to private clubs or outdoor smoking, if applicable, unless and only to the extent that any of these are already subject to routine and regular inspections by the NKIDHD for compliance with state and federal environmental control laws. Otherwise, the City shall be responsible for enforcement of the Ordinance involving these areas and any other areas not already addressed by this section.

1.9 The NKIDHD shall not be responsible for enforcement of the posting of signs, removal of ashtrays, and the nonretaliation provisions of the Ordinance.

1.10 In the event that the City amends, modifies, or repeals the Ordinance, within ten (10) business days of doing so, it shall notify the NKIDHD of this amendment, modification, or repeal of the Ordinance. In the event of a repeal of the Ordinance, the obligations of the parties under this Agreement shall cease, and the Agreement shall terminate. In the event of an amendment or modification of the Ordinance, the Parties shall, if necessary, enter into a written amendment to this Agreement to reflect any changes in the Ordinance.

## **SECTION 2. EDUCATION AND SIGNAGE**

2.1 The City shall remain solely responsible for production, manufacture, purchase, and/or dissemination of any and all materials or signs designed to educate the public about the provisions of the Ordinance and/or the public health hazards of smoking and secondhand smoke.

2.2 The NKIDHD, at its sole discretion, may provide support to the City by providing information, resources, or materials to the City and/or directing it to other

sources and references to assist the City with its efforts to educate the public as to the purposes and requirements of the Ordinance.

### **SECTION 3. FUNDING OF NKIDHD**

3.1 The City shall remit the proceeds of all fines, including penalties and interest, collected under the Ordinance to the NKIDHD through its enforcement activities as payment for the NKIDHD providing these services. The NKIDHD also maintains the right to request additional funding from the City to cover expenses related to enforcement of the Ordinance and associated activities.

### **SECTION 4. TERM OF AGREEMENT AND TERMINATION**

4.1 The term of this Agreement is for one year, commencing on \_\_\_\_\_ (Date). Thereafter, the Agreement shall automatically renew for an additional one-year term, unless and until it is terminated by one or both of the parties.

4.2 This Agreement may be terminated by either party for any reason, or no reason, through written notification of the party's intention to terminate the Agreement being delivered to the other party at least thirty (30) days prior to the termination date.

4.3 In the event the City repeals the Ordinance, it shall communicate the repeal to the NKIDHD, and this repeal shall automatically terminate this Agreement and all NKIDHD's enforcement obligations under this Agreement.

### **SECTION 5. INDEMNIFICATION AND HOLD HARMLESS**

5.1 The City of Dayton shall defend, indemnify, and hold harmless the NKIDHD, its Board, officers, administrators, employees, agents, and assigns from any all complaints, claims, demands for damages, demands for injunctive relief, brought by any person or entity as a result of NKIDHD's actions or decisions relative to enforcement of the City's Ordinance.

5.2 Neither party waives any immunity defenses afforded to them under State and Federal laws for enforcement decisions, actions, or omissions arising, occurring, or undertaken under this Agreement.

### **SECTION 6. NOTICES**

6.1 All notices under this Agreement shall be sent via U.S. registered mail, to the following addresses:

- For NKIDHD: District Director of Health, 8001 Veterans Memorial Drive, Florence, KY. 41042
- For City: City Administrator, City of Dayton, Ky., 514 Sixth Avenue, Dayton, KY. 41074

**SECTION 7. AMENDMENTS OR MODIFICATIONS**

7.1 Any and all amendments and modifications to this Agreement must be in writing, signed, and executed by both parties.

7.2 Amendments or modifications to this Agreement must be consistent with the terms of the Ordinance and/or its updates, and the policies and procedures of the NKIDHD.

**SECTION 8. JURISDICTION**

8.1 This Agreement shall at all times be governed under the laws of Kentucky. Venue to enforce the terms of this Agreement shall lie with the Campbell County Circuit Court.

8.2 In the event that parts of this Agreement and/or Ordinance are found to be invalid, void, or illegal by a Court of Law, the remaining parts, not in conflict with those parts found to be invalid, void, or illegal, shall remain in full force and effect.

**SECTION 9. KENTUCKY ATTORNEY GENERAL APPROVAL**

9.1 This Agreement shall not be effective until it has been approved by the Kentucky Attorney General. A copy of the signed, executed Agreement shall be filed with the Campbell County Clerk’s Office, and the Kentucky Secretary of State.

**CITY OF DAYTON:**

**NORTHERN KENTUCKY  
INDEPENDENT DISTRICT HEALTH  
DEPARTMENT:**

\_\_\_\_\_  
City of Dayton, Kentucky  
Mayor

\_\_\_\_\_  
Northern Kentucky Independent District  
Board of Health  
By: Steven Divine, RS, REHS  
Interim District Director of Health

**KENTUCKY ATTORNEY GENERAL:**

Approved: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_



**CITY OF DAYTON, KENTUCKY  
ORDER-RESOLUTION NO. 2022-29R**

AN ORDER-RESOLUTION AUTHORIZING  
THE MAYOR TO ENTER INTO AN  
INTERLOCAL AGREEMENT WITH THE  
CAMPBELL COUNTY FISCAL COURT TO  
PROVIDE ANIMAL-CONTROL SERVICES TO  
THE CITY OF DAYTON.

WHEREAS, the City of Dayton, Kentucky (“City”), along with other Campbell County cities, previously participated in an interlocal agreement that established the Northern Kentucky Animal Control Board to cooperatively provide animal-control services in those cities through the hiring of personnel or contracting for these services; and

WHEREAS, the City and these other cities desire to dissolve the Northern Kentucky Animal Control Board and enter into a new interlocal agreement with the Campbell County Fiscal Court whereby the cities will separately contract with the County to provide animal-control services in their jurisdictions.

**NOW, THEREFORE, BE IT ORDERED BY THE CITY OF DAYTON,  
KENTUCKY, AS FOLLOWS:**

The Board of Council authorizes the Mayor to enter into an Interlocal Agreement with the Campbell County Fiscal Court to provide animal-control services in the City of Dayton, the terms of which are outlined in more detail in the attached agreement between the Fiscal Court and the City, which is incorporated by reference herein.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 6<sup>th</sup> day of September 2022.

\_\_\_\_\_  
MAYOR BEN BAKER

ATTEST:

\_\_\_\_\_  
TIFFANY MYERS  
INTERIM CITY CLERK

## INTERLOCAL AGREEMENT

### ANIMAL CONTROL SERVICES

This Agreement, entered into this 1st day of October 2022, at Campbell County, Kentucky, by and between the following parties: Alexandria, Bellevue, Cold Spring, Dayton, Fort Thomas, Highland Heights, Melbourne, Silver Grove, Southgate, Wilder, Woodlawn, and the Campbell County Fiscal Court.

WITNESSETH:

WHEREAS, the parties hereto are local government units within Campbell County, Kentucky; and

WHEREAS, the parties determine that it would be efficient to cooperate in providing for the control of animals, and therefore desire to form an agreement pursuant to the provisions of KRS 65.210 through 65.300, et. seq.

IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

#### SECTION ONE – BASIC AGREEMENT

The cities of Alexandria, Bellevue, Cold Spring, Dayton, Fort Thomas, Highland Heights, Melbourne, Silver Grove, Southgate, Wilder, Woodlawn, and the Campbell County Fiscal Court had previously participated in an interlocal agreement which established the Northern Kentucky Animal Control Board to cooperatively provide animal control services through the hiring of personnel or contracting for services. The Cities and County now desire to dissolve the Northern Kentucky Animal Control Board and enter into a new interlocal agreement whereby the cities separately contract with the County to provide animal control services with the cities paying for such service on a per capita basis.

The County agrees to provide Animal Control services to all Cities that are a party to this interlocal agreement pursuant to the terms and provisions hereof. The organization, duties, number, compensation and benefits of Animal Control employees shall be determined by the County.

#### SECTION TWO – ANIMAL CONTROL OFFICER DUTIES AND REPORTING

Animal Control Officers (ACOs) shall provide enforcement of all animal regulations in both the unincorporated areas of the County and the areas of those cities participating in this agreement. ACOs shall respond to specific complaints and reported violations of animal regulations. Services under this agreement will not include patrolling for stray animals. Moreover, ACOs will not be responsible for enforcing breed specific City Ordinances. ACOs, as well as the Campbell County Animal Shelter staff, shall assist in the civil and criminal

prosecution of those persons in violation of animal regulations. The county will provide a summary report by case type of animal control response on a monthly basis.

### SECTION THREE – FINES AND FEES

Each party to this Agreement shall be required to adopt uniform animal citation penalties. All such fees will be kept by the County to offset impound expenses. The fees are as follows:

Animal Running at Large not spayed or neutered:

1<sup>st</sup> Offense - \$100

2<sup>nd</sup> Offense - \$125

The above fines will be reduced to \$85 for a first offense or \$100 for a second offense if the owner grants permission to the Campbell County Animal shelter to spay or neuter the animal prior to reclaiming the animal.

The Running at Large fees for animals already spayed or neutered will be:

1<sup>st</sup> Offense - \$85

2<sup>nd</sup> Offense - \$100

If a city that is a party to this interlocal agreement does not adopt uniform animal citation penalties within 60 days of passage of this agreement, animal control services may be suspended to that city until such uniform animal citation penalties are adopted. The Animal Control Officer shall be vested with specific and consistent enforcement guidelines as it related to stray animals, abandoned animals and animals running at large. An animal delivered to the Campbell County Animal Shelter shall be processed in accordance with policies developed by the County.

Records will be maintained on the disposition of each animal collected by the Animal Control Officer.

### SECTION FOUR –ANIMAL CONTROL FUNDING

As compensation for Animal Control Services, the participating Cities of this agreement agree to reimburse the County for the employment cost of one Animal Control Officer. The employment cost shall include the wages based on 2,080 hours paid per year, benefits (health insurance, pension contributions, etc.), employer portion of any applicable taxes, unemployment & worker's compensation insurance, and other similar direct employment costs. The County will be responsible for overtime wages, uniforms & supplies, equipment and animal shelter overhead.

The County will calculate the annual cost on April 1<sup>st</sup> of each year and allocate the cost to each participating City on a per capita basis using the most recent US Census population. The County will invoice each participating City on or near July 1<sup>st</sup> of each year, with payment due

August 1<sup>st</sup> of each year. Non-payment will result in suspension of animal control services.

SECTION FIVE – TERM OF AGREEMENT

This agreement shall continue in full force and effect for an unspecified period of time. The agreement may be amended by mutual consent of the parties, in accordance with statutory provisions. Any party may withdraw from this Agreement on July 1<sup>st</sup> of each year, provided that notice is given to the County by March 1<sup>st</sup>. Any withdrawing party that terminates participation under this agreement shall receive no reimbursement.

SECTION SIX - MISCELLANIOUS PROVISIONS

This agreement supersedes all other agreements between the parties and this agreement contains all the covenants and agreements between the parties with respect to this contract. This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. This agreement may be amended by the mutual agreement of the parties in writing and attached to and incorporated into this agreement.

In witness whereof, each party hereto, through its duly authorized agent pursuant to affirmative action from each respective legislative body.

CITY OF DAYTON:

BY \_\_\_\_\_  
Mayor Ben Baker

\_\_\_\_\_  
Date

CAMPBELL COUNTY FISCAL COURT

BY \_\_\_\_\_  
Judge/Executive

\_\_\_\_\_  
Date

**CITY OF DAYTON, KENTUCKY  
ORDER/RESOLUTION NO. 2022-30R**

AN ORDER/RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY, AUTHORIZING THE MAYOR TO EXECUTE AND DELIVER CERTAIN INSTRUMENTS AND AGREEMENTS TO FACILITATE A PARTIAL ASSIGNMENT OF THE MANHATTAN HARBOUR DEVELOPMENT AGREEMENT FROM MANHATTAN HARBOUR PROJECT, LLC TO S & S HIGH POINT, LLC, INCLUDING A QUITCLAIM DEED AND AN ACKNOWLEDGEMENT TO COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT; AND FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF A MUTUAL RELEASE OF DEVELOPMENT AGREEMENT AND AUTHORIZING SUCH OTHER ACTIONS AS MAY BE REQUIRED IN FURTHERANCE OF THE FOREGOING.

WHEREAS, on November 15, 2005, the City of Dayton, Kentucky (the “City”) entered into a Development Agreement (the “Original Development Agreement”) with DCI Properties-DKY, LLC (“DCI”) providing for the development of certain land in the City located along the riverfront of the Ohio River known as the “Manhattan Harbour Project”; and

WHEREAS, the Original Development Agreement was subsequently amended and restated by an Amended and Restated Development Agreement, dated as of June 1, 2009, recorded at Miscellaneous Book 600, Page 852 of the Campbell County Clerk’s records in Newport, Kentucky, as amended by that certain First Amendment to the Amended and Restated Development Agreement dated as of December 1, 2012, recorded at Miscellaneous Book 600, page 837, aforesaid records, and as further amended by that certain Second Amendment to the Restated Development Agreement dated September 5, 2017 (the “Second Amendment”) and adopted by the City as part of Resolution No. 2017-13R dated September 5, 2017 (collectively, as amended, the “Development Agreement”); and

WHEREAS, pursuant to the Second Amendment, DCI assigned and transferred all of its rights, title, interests and obligations in and to the Development Agreement to Manhattan Harbour Project, LLC (“MHP”), and MHP accepted and agreed to assume and perform all of the same; and

WHEREAS, pursuant Section XXVIII of the Development Agreement, MHP in such capacity as “Developer,” has the right to assign its interest in all or portions of the “City Property” under the Development Agreement to one or more third-parties; and

WHEREAS, MHP and S & S High Point, LLC, a Kentucky limited liability company (“S&S”) presented the City with a Partial Assignment of Development Agreement (Section 8, Manhattan Harbour Parcels H, I and J) (the “Partial Assignment”) pursuant to which MHP will agree to assign to S&S all of MHP’s rights, title and interest under the Development Agreement to certain real property more particularly described on Exhibit A attached hereto and incorporated herein by reference (the “Assigned Property”); and

WHEREAS, to facilitate the Partial Assignment and the sale and transfer of the interests in the Assigned Property from MHP to S&S, the City has agreed to execute and deliver a Quitclaim Deed with a springing executory interest in favor of S & S with respect to Parcels H and I of the Assigned Property together with an acknowledgment to Collateral Assignment of Development Agreement; and

WHEREAS, in furtherance of the Riverfront Commons trail development, the City and S & S have further agreed to execute a Mutual Release of Development Agreement (the “Mutual Release”) to release “Parcel J” of the Assigned Property from the terms and conditions of the Development Agreement to ensure the City’s compliance with certain provisions of the funding agreements pertaining to the trail project;

**NOW, THEREFORE, BE IT ORDERED BY THE CITY OF DAYTON, KENTUCKY, AS FOLLOWS:**

Section 1. Assignment Documents. That the Mayor is hereby authorized and empowered to execute and deliver a Quitclaim Deed and an acknowledgement to Collateral Assignment of Development Agreement (collectively, the “Assignment Documents”) and other related documents as may be reasonably required to facilitate the Partial Assignment, each in the form currently on file with the City Clerk with such changes as may be approved by special counsel to the City. Further provided that the release of the Assignment Documents from escrow shall be expressly contingent upon the delivery of a fully executed Partial Assignment by MHP and S&S.

Section 2. Mutual Release of Development Agreement. That in furtherance of the City’s Riverfront Commons trail project, the Mayor is hereby further authorized and empowered to execute and deliver the Mutual Release providing for the release of “Parcel J” from the terms and conditions of the Development Agreement, including the obligation of the City to convey fee simple title to S&S.

Section 3. Special Counsel. The customary and reasonable fees of the City’s special counsel in conjunction with the review of the Assignment Documents and the Mutual Release, together all other customary costs and expenses of the City in conjunction with the Assignment, shall be paid from the proceeds of the closing of the Partial Assignment or other funds available to S&S.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 6<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
MAYOR BEN BAKER

ATTEST:

\_\_\_\_\_  
TIFFANY MYERS  
INTERIM CITY CLERK

**CERTIFICATE**

I, Tiffany Myers, Interim City Clerk of the City of Dayton, Kentucky, do hereby certify that the above is a true copy of Order/Resolution No. \_\_\_\_\_ as first adopted by City Council at a regular meeting held on September 6, 2022, whereat a quorum was present and voting, all as shown by the records of said City in my office.

SIGNED:

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Tiffany Myers, Interim City Clerk



# QUITCLAIM DEED

## KNOW ALL MEN BY THESE PRESENTS:

That the Grantor, City of Dayton, Kentucky, a Kentucky city of the Home Rule Class, in consideration of \$1.00 to it paid by the Grantee herein, the receipt of which is acknowledged, does bargain, sell, release, quit claim and convey to Grantee, City of Dayton, Kentucky, a Kentucky city of the Home Rule Class, its successors and assigns, a fee simple estate in the real property described herein commonly labeled as “Parcel H,” “Parcel I” and “Parcel J,” inclusively, of Section 8 of the Manhattan Harbour development in the City of Dayton, County of Campbell and Commonwealth of Kentucky and with respect to “Parcel H” and “Parcel I” (together, the “Property”) subject to a Springing Executory Future Interest in favor of S&S High Point, LLC, a Kentucky limited liability company (the “Sub-Developer”), by virtue of that Partial Assignment of Development Agreement made by and between Manhattan Harbour Project, LLC, a Kentucky limited liability company (“Master Developer”) and Sub-Developer, on condition that Sub-Developer perform the obligations and conditions precedent to the transfer of the Property as set forth under that certain Amended and Restated Development Agreement dated June 1, 2009, recorded in Miscellaneous Book 600, page 837 of the Campbell County Clerk’s records in Newport, Kentucky, as amended by that certain First Amendment to the Amended and Restated Development Agreement dated as of December 1, 2012, recorded at Miscellaneous Book 600, page 837, aforesaid records, and as further amended by that certain Second Amendment to the Amended and Restated Development Agreement dated September 5, 2017 and adopted by the City as part of Resolution No. 2017-13R dated September 5, 2017. The real property commonly labeled as “Parcel H,” “Parcel I,” and “Parcel J,” inclusively of Section 8 of the Manhattan Harbour development is more specifically described in the legal description below:

**Group No:** \_\_\_\_\_

**PARCEL H PIDN: 999-99-33-462.69**

**PARCEL I PIDN: 999-99-33-462.70**

**PARCEL J PIDN: 999-99-33-462.71**

All those tracts or parcels of land lying and being in the City of Dayton, County of Campbell, Kentucky, being known as “Parcel H,” “Parcel I,” and “Parcel J” with reference to that certain plat of survey entitled “MANHATTAN HARBOUR SECTION 8” dated August \_\_\_\_\_, 2022, certified by Daniel K. York, P.L.S. 3581, recorded in Cabinet \_\_\_\_\_, Pages \_\_\_\_\_ in the real estate records of Campbell County, Kentucky, located at Newport, Kentucky (the “Plat”), which said Plat is incorporated herein by reference, being a portion of that certain real property conveyed to the City of Dayton, Kentucky by Urban Renewal and Community Development Agency on July 25, 1978, via deed recorded in Deed Book 451, Page 412,

Being part of the same property conveyed by grantor herein by deed recorded in Deed Book 451, Page 412 of the Campbell County Clerk’s Records at Newport, Kentucky.

TO HAVE AND TO HOLD the same, together with all appurtenances thereunto belonging, unto the Grantee in the fashion and manner stated in the conveying clause.

IN WITNESS WHEREOF, the said Grantor, **City of Dayton, Kentucky, a Kentucky city of the Home Rule Class, by and through its Mayor Ben Baker**, who hereunto affixes his signature this \_\_\_\_ Day of September, 2022.

**GRANTOR:**

By: \_\_\_\_\_  
Name: Ben Baker  
Title: Mayor

STATE OF KENTUCKY            )  
  )ss  
COUNTY OF CAMPBELL        )

The foregoing instrument was acknowledged before me by Grantor Ben Baker as Mayor for the City of Dayton, Kentucky as his free and voluntary act, this \_\_\_\_ day of September, 2022.

\_\_\_\_\_  
Notary Public, Kentucky at Large  
Notary ID #: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**CERTIFICATE OF CONSIDERATION**

The City of Dayton, Kentucky, a duly formed municipal corporation in the Commonwealth of Kentucky as Grantor and Grantee, hereby certifies pursuant to KRS 142.050(7)(b) that the real estate herein being transferred is exempt from transfer tax as a deed of gift or deed with nominal consideration to a city within the Commonwealth of Kentucky. Grantee joins in this Deed for the sole purpose of making this certificate about the consideration.

Sworn to this \_\_\_\_ day of September, 2022.

**GRANTOR:**

**GRANTEE:**

\_\_\_\_\_  
CITY OF DAYTON, KENTUCKY  
BY: Ben Baker  
Address: 514 Sixth Avenue  
Dayton, Kentucky 41074

\_\_\_\_\_  
CITY OF DAYTON, KENTUCKY  
BY: Ben Baker  
Address: 514 Sixth Avenue  
Dayton, Kentucky 41074  
MAIL TAX BILL TO ABOVE ADDRESS  
TAX EXEMPT MUNICIPALITY

STATE OF KENTUCKY            )  
  )ss  
COUNTY OF CAMPBELL        )

The foregoing instrument was acknowledged before me by Grantor Ben Baker as Mayor for the City of Dayton, Kentucky as his free and voluntary act, this \_\_\_\_ day of September, 2022.

\_\_\_\_\_  
Notary Public, Kentucky at Large  
Notary ID #: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF KENTUCKY            )  
  )ss  
COUNTY OF CAMPBELL        )

The foregoing instrument was acknowledged before me by Grantee Ben Baker as Mayor for the City of Dayton, Kentucky as his free and voluntary act, this \_\_\_\_ day of September, 2022.

\_\_\_\_\_  
Notary Public, Kentucky at Large  
Notary ID #: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**PREPARED WITHOUT EXAMINATION OF TITLE BY:**

\_\_\_\_\_  
Donald L. Warner, III, Esq. (#96556)  
Frost Brown Todd LLC  
7310 Turfway Road, Suite 210  
Florence, Kentucky 41042  
(513) 651-6939