

CITY OF DAYTON  
COUNCIL MEETING  
APRIL 19, 2022

A regular meeting of Dayton City Council was held on Tuesday, April 19, 2022, in the board meeting room of the Dayton Independent Schools Administration Building, Third & Clay Street. Dayton, KY.

Mayor Baker opened the meeting with a silent prayer and led the Pledge of Allegiance.

ROLL CALL:

Mayor Baker	Aye	Member Lovins	Aye
Member Volter	Aye	Member Beseler	Aye
Member Neary	Aye	City Adm. Fossett	Aye
Member Nyman	Aye	City Att. Edmondson	Absent
Member Kelly	Aye		

Mayor's Report:

The work is almost complete on the community meeting center, 625 Second Avenue. The plans are to hold council meetings, and all city board meetings at this location. We also have plans to hold community events there, use some of the space for storage and possibly make the space available for people to rent. Thanks to Public Works, City Adm. Fossett, and Member Neary for all their work. We plan to hold the May or June meeting at this location.

Motion by Member Volter, seconded by Member Nyman to approve the minutes from the March 1 and March 15 council meeting. Motion carried—so ordered.

Mayor Baker presented Tom Dilts with a "Good Neighbor Award". From a Facebook post Mr. Dilts noticed a missing person. He stayed with this person until she could be reunited with her family. Thank you, Mr. Dilts!

Mayor Baker recognized Jude Susanne Cetrulto. Ms. Cetrulto is running again for Judge for the Court of Appeals.

The City's auditor, John Chamberlin, Chamberlin Owen, gave a slide presentation on the 2020/2021 audit. Mr. Chamberlin thanked City Adm. Fossett and City Clerk/Treas., Donna Leger for the assistance they gave to his staff during the audit. Mr. Chamberlin said the city has an outstanding cash position. In 2021 there was a gain of \$113,000. The city's fund balance is well over three million dollars. The city is in a good solid financial position.

Ordinances & Orders:

CITY OF DAYTON, KENTUCKY ORDINANCE NO. 2022#4

**AN ORDINANCE AMENDING SUBSECTION 10.16 OF THE CITY OF DAYTON, KENTUCKY, ZONING CODE, CODIFIED IN CHAPTER 154 OF THE DAYTON CODE OF ORDINANCES TO MODERNIZE USE, DIMENSIONS, AND DEVELOPMENT CONTROLS WITHIN THE INDUSTRIAL ONE (I-1) ZONE.**

**WHEREAS**, the City of Dayton has adopted a Zoning Ordinance (“Zoning Code”), Zoning Map, and Subdivision Regulations (collectively, “Zoning Regulations”) within the City of Dayton, Kentucky (“City”); and

**WHEREAS**, the Dayton Planning & Zoning Commission (“P&Z Commission”) serves as the planning unit related to Zoning Regulations in the City and makes recommendations to the Dayton City Council (“City Council”) regarding these regulations; and

**WHEREAS**, the City Council requested that P&Z Commission review and act upon a request to add a new section of the Zoning Ordinance to regulate residential infill development in the city (“Infill Development Regulations”); and

**WHEREAS**, the Dayton Planning & Zoning Commission held a public hearing, pursuant to advertised legal notice in accordance with KRS Chapters 100 and 424, on January 5, 2022, in Dayton, Kentucky, to review and recommend modifications related to the Industrial One (I-1) Zone and after due consideration recommends the changes within Chapter 154 of the Zoning Code; and

**WHEREAS**, at this public hearing and after due consideration of the evidence and testimony presented there, the Planning & Zoning Commission voted to recommend approval of a text amendment to to the Industrial One (I-1) Zone of the Zoning Code ; and,

**WHEREAS**, the Dayton City Council, having reviewed the proposed text amendment to the Zoning Code, hereby concurs with the recommendation of the Dayton Planning & Zoning Commission to approve this text amendment;

**NOW, THEREFORE, BE IT ORDAINED BY THE DAYTON CITY COUNCIL AS FOLLOWS:**

Section I

That the City of Dayton Zoning Code is hereby amended as follows, with words being deleted being ~~lined through~~ and words being added underlined as follows:

**SECTION 10.16 I-1 INDUSTRIAL ONE ZONE:**

A. PERMITTED USES: The following uses are permitted providing ~~all~~ these uses ~~comply~~ are ~~in compliance~~ with the performance standards as set forth in Article XV of this ordinance.

1. The manufacturing, compounding, processing, packing, or assembling Except for those uses that decompose by detonation, the manufacturing, compounding, processing, and assembling of the following products:
  - a. Food and beverage products, including bottling, packaging and canning.
  - b. Tobacco and smoking products.
  - c. Cosmetics, pharmaceuticals and toiletries.
  - d. Household appliances.
  - e. Electrical machinery, equipment and supplies.
  - f. Furniture and fixtures.
  - g. Office equipment.
  - h. Instruments for professional, scientific, or artistic use.
  - i. Metal products, finishing, welding, and stamps, excluding the use of blast furnaces or drop forges.
  - j. Toys, novelties, jewelry, household wares,
  - k. Pottery, glass, or ceramics, using kilns fired with electric or gas.
  - l. Textile and leather products.  
  - a. ~~Candy and confectionery products, food and beverage products except the rendering or refining of fats and oils and excluding poultry and animal slaughtering and dressing.~~
  - b. ~~Cigars, cigarettes, and chewing tobacco.~~
  - c. ~~Cosmetics, pharmaceuticals and toiletries.~~
  - d. ~~Animated or illuminated billboards and other commercial advertising structures.~~
  - e. ~~Electric appliances, television sets, phonographs, household appliances.~~
  - f. ~~Electrical and electronic machinery, equipment and supplies.~~
  - g. ~~Fountain and beverage dispensing equipment.~~
  - h. ~~Furniture and fixtures~~
  - i. ~~Instruments for professional, scientific, photographic and optical use.~~
  - j. ~~Metal products and metal finishing, excluding the use of blast furnaces or drop forges.~~
  - k. ~~Musical instruments, toys, novelties, jewelry, rubber or metal stamps.~~

- ~~l. Office equipment.~~
- ~~m. Pottery and figurines.~~
- ~~n. Products from the following previously prepared materials: paper, glass, cellophane, leather, feathers, fur, precious or semi-precious metals, hair, horn, shell, tin, steel, wood, plastics, rubber, bone, cork, felt, fibers, yarn, wool, tobacco, stone, and clay~~
- ~~o. Textile products including asbestos products, canvas and burlap, clothing, cotton products, hosiery and knitting mills, rope, and twine.~~
- ~~2. Bottling and canning works.~~
- ~~3. Body shops, service and repair of vehicles.~~
- ~~42. Engineering, laboratories and related offices. Industrial engineering consultant offices.~~
- ~~5. Laboratories, offices, and other facilities in research, both basic and applied, conducted by or for and industrial organization or concern, whether public or private.~~
- ~~63. Laundries and dry-cleaning plants, involving laundering and dry cleaning of articles delivered to the premises by commercial vehicles.~~
- ~~74. Machine shops.~~
- ~~85. Printing, engraving, and related reproduction processes.~~
- ~~6. Government offices, maintenance shops or garages, including police and fire stations.~~
- ~~7. Technical or trade schools.~~
- ~~8. Electronics, including hardware and software development~~
- ~~9. Public utilities right-of-way and pertinent structures.~~
- ~~10. Publishing and distribution of books, newspapers, and other printed materials.~~

A. ACCESSORY USES:

- 1. Customary accessory buildings and uses, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use, such as maintenance shops, power plants, and machine shops.
- ~~2. Uses, as listed below, including within and entered from within any use permitted in this zone as a convenience to the occupants thereof, and their customers, providing such accessory uses shall not exceed 10% of the gross floor area of the permitted uses in the building and no exterior advertising displays shall be visible from outside the building.~~

- ~~a. Cafeterias~~
- ~~b. Coffee shops or refreshment stands~~
- ~~c. Soda or dairy bars~~

- ~~32.~~ Fences and walls, as regulated by Article XI of this ordinance.
- ~~43.~~ Signs, as regulated by Article XIV of this ordinance.

B. ~~CONDITIONAL USES:~~ The following uses or any customary accessory buildings or uses subject to the approval of the Board of Adjustment, as set forth in Article IX, Section 9.14 and Article XVIII of this ordinance:

- 1. Churches.
- 2. Public utility stations.

D. ~~AREA AND HEIGHT REGULATIONS, GENERAL:~~ Any site proposed for development in this zone must have access to an approved “industrial street” (internal or collector) as provided for in Figure 1a. In addition, all development must conform to the following:

- ~~1. Minimum tract for industrial development. Three acres, except that development of a smaller tract adjacent to an existing three-acre tract may be permitted.~~
- 12. Minimum Lot area within minimum tract: - ~~one-quarter acre~~ 11,000 square feet
- 23. Minimum lot width at building setback lines - 80 feet
- 34. Minimum front Yard depth - ~~40~~ 5 feet
- 45. Minimum side Yard width on each side of lot - ~~40~~ 5 feet
- 56. Minimum rear yard depth: ~~40~~ 5 feet, ~~except that where the flood levee right-of-way forms the rear property line, no rear yard setback is required.~~
- 67. Maximum Building Height - 40 feet or three stories.

~~E. AREA AND HEIGHT REGULATIONS, SMALL BUSINESSES:~~ The Planning and Zoning Commission may designate a contiguous area not greater than 10% of the entire I-1 (Industrial One) Zone for Small Businesses. Any site proposed for development in this zone must have access to an approved “industrial street” (internal or collector) as provided for in Figure 1a. In addition, all development must conform to the following:

- ~~1. Minimum lot area within minimum tract: 6,000 square feet~~
- ~~2. Minimum lot width at building setback line: 60 feet~~
- ~~3. Minimum front yard depth: 10 feet~~

4. ~~Minimum side yard width on each side of lot: 10 feet~~
5. ~~Minimum rear yard depth: 10 feet, except that where the flood levee right-of-way forms the rear property line, no rear yard setback is required~~
6. ~~Maximum building height: 40 feet or three stories~~

~~FE.~~ OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading or unloading shall be provided in accordance with Article XI of this ordinance.
2. No lighting shall be permitted which would glare from this zone onto any street or into any adjacent property.
3. ~~Where any yard of any use permitted use in this zone abuts a residential zone, a minimum yard requirement of 30 of 15 feet is required from the abutting residential property. Rear and side yards that abut a residential property shall have Class 5 fencing as regulated in Article XIII. shall be provided, with a screening area, as regulated by Article IX, Section 9.17 of this ordinance. For purposes of this subsection, the term "residential zone" shall not include any zone with the designation "Phased Industrial One [(P)I-1]~~
4. A site plan as regulated by Article IX, Section 9.19 of this ordinance shall be required for any permitted use, substantial external modification or addition in this zone.
5. All vehicles, equipment, materials, and supplies used in connection with or repaired or worked as a component of the operation of the business must be parked or stored on the premises of the business, or in accordance with Article XI of this ordinance. Vehicles, equipment, materials, and supplies shall not be parked or stored on city streets, sidewalks, public property, or public rights-of-way.
5. ~~When exterior modifications or additions are proposed in the I-1 Zone, a site plan shall be submitted to the Planning Commission for their review, who shall make a determination whether or not the proposed improvements (new construction, an addition to existing development, accessory uses, parking and the like) are in general conformance with the requirements for section Article X, Section 10.16 of this ordinance. If it is determined that the proposed improvements are in general conformance with section Article X, Section 10.16 of this ordinance, and all other applicable requirements of this chapter are met, the Planning Commission shall approve the plan and authorize the City Inspector/Zoning Administrator to issue a zoning permit for the proposal. Landscaping as approved by the Planning Commission shall be required within the minimum front yard.~~
6. ~~Where development is proposed that abuts an existing street right-of-way, that has not been adequately or clearly recorded, the site plan for such development shall be required to indicate the dedication (or rededication) of the adequate width for said right-of-way.~~

- ~~7. Where any streets or alleys are closed (as illustrated on Figure 1a) easements for utilities shall be provided, where applicable.~~
6. Uses that include the rendering or refining of fats and oils on site are prohibited.
7. Uses that include animal or poultry slaughtering and/or dressing on site are prohibited.
8. Uses involving the storage and/or distribution of materials or products not manufactured on the premises (i.e., warehousing and distribution uses) are prohibited unless these materials or products are used by the business in an on-premises manufacturing process.
9. Uses must comply with all local, state, and federal regulatory standards for performance, including, but not limited to, noise, vibration and air quality.

## 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: March 15, 2022  
 Second Reading: April 19, 2022

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

ATTEST:

\_\_\_\_\_  
 DONNA LEGER  
 CITY CLERK/TREASURER

Motion by Member Volter, seconded by Member Beseler to approve 2022#4 as read:

ROLL CALL:

Member Volter	Aye	Member Kelly	Aye
Member Neary	Aye	Member Lovins	Aye
Member Nyman	Aye	Member Beseler	Aye

Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY  
ORDINANCE # 2022#5**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DAYTON, KENTUCKY, TO REZONE 23 PARCELS OF PROPERTY LOCATED IN THE CITY THAT IS BORDERED BY MAIN STREET, BENHAM STREET, THIRD AVENUE, AND FOURTH AVENUE FROM THE INDUSTRIAL ONE (I-1) ZONE TO THE RESIDENTIAL ONE JJ (R-1JJ) ZONE.**

**WHEREAS**, the City of Dayton has adopted a Zoning Ordinance, Zoning Map, and Subdivision Regulations (“Zoning Regulations”) within the City of Dayton, Kentucky (“City”); and

**WHEREAS**, the Dayton Planning & Zoning Commission (“P&Z Commission”) serves as the planning unit related to the Zoning Regulations in the City and makes recommendations to the Dayton City Council (“City Council”) regarding these regulations; and

**WHEREAS**, the City Council requested that P&Z Commission review and act upon a request to rezone properties on 4<sup>th</sup> Avenue, Main Street, and Boone Street from the Industrial One (I-1) Zone to the Residential One JJ (“R-1JJ”) Zone; and

**WHEREAS**, the Dayton Planning & Zoning Commission held a public hearing, pursuant to advertised legal notice in accordance with KRS Chapters 100 and 424, on January 5, 2022, in Dayton, Kentucky; and

**WHEREAS**, at this public hearing and after due consideration of the evidence and testimony presented there, the Planning & Zoning Commission voted in favor of approving the requested map amendment to include the subject parcels identified below; and

**WHEREAS**, the Dayton City Council, having reviewed the proposed zoning map amendment, hereby concurs with the recommendation of the Dayton Planning & Zoning Commission to approve this zone change request;

**NOW, THEREFORE**, BE IT ORDAINED BY THE DAYTON CITY COUNCIL AS FOLLOWS:

Section I

That the official zoning map for Dayton, Campbell County, Kentucky, is hereby amended to rezone the parcels identified below from the Industrial One (I-1) Zone to the Residential One JJ (“R-1JJ”) Zone, as depicted in the map depicted after the 23 street addresses below:



- 311 MAIN STREET (999-99-10-283.00)
- 901 4TH AVE (999-99-09-250.00)
- 905 4TH AVE (999-99-09-295.00)
- 907 4TH AVE (999-99-09-901.00)
- 909 4TH AVE (999-99-09-838.00)
- 911 4TH AVE (999-99-10-091.00)
- 915 4TH AVE (999-99-10-068.00)
- 917 4TH AVE (999-99-10-263.00)
- 921 4TH AVE (999-99-09-904.00)
- 923 4TH AVE (999-99-08-826.00)
- 925 4TH AVE (999-99-09-408.00)
- 927 4TH AVE (999-99-10-365.00)



- 929 4TH AVE (999-99-09-234.00)
- 311 BOONE ST (999-99-09-414.00)
- 1001 4TH AVE (999-99-09-090.00)
- 1007 4TH AVE (999-99-09-546.00)
- 1009 4TH AVE (999-99-08-965.00)
- 1011 4TH AVE (999-99-10-321.00)
- 1017 4TH AVE (999-99-08-477.00)
- 1019 4TH AVE (999-99-09-888.00)
- 1023 4TH AVE (999-99-09-887.00)
- 1025 4TH AVE (999-99-08-420.00)
- 1027 4TH AVE (999-99-08-514.00)

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: March 15, 2022  
Second Reading: April 19, 2022

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

ATTEST:

\_\_\_\_\_  
DONNA LEGER  
CITY CLERK/TREASURER

Motion by Member Neary, seconded by Member Beseler to approve 2022#5 as read.

ROLL CALL:

Member Neary	Aye	Member Lovins	Aye
Member Nyman	Aye	Member Beseler	Aye
Member Kelly	Aye	Member Volter	Aye

Motion carried—so ordered.

**CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2022#6**

**AN ORDINANCE AMENDING THE CITY OF DAYTON, KENTUCKY'S ANNUAL BUDGET FOR FISCAL YEAR JULY 1, 2021, THROUGH JUNE 30, 2022, & ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE CITY TO THE FULL EXTENT AUTHORIZED BY KRS 82.082 AND INTERPRETATIVE CASE LAW.**

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

Section I: That the annual budget for the fiscal year beginning July 1, 2021, and ending June 30, 2022, to estimate revenues and resources and appropriate funds for the City to the full extent authorized by KRS 82.082 and interpretative case law, is hereby adopted as follows:

Resource Available	General Fund	Municipal Road Aid	Parks
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<b>Fund Balance Forward</b>	<del>735,768</del> <b><u>2,380,511</u></b>	195,157	84,911
<b>ESTIMATED REVENUES:</b>			
Transfers from other Accounts/Funds			
<del>Property Taxes</del>	2,050,957		125,000
Licenses and Permits	1,488,100		
Intergovernmental	81,602	103,000	
Fines & Penalties	84,250		
Charges for Services	387,305		
Other	<del>2,228,087</del> <b><u>2,250,887</u></b>		<del>2,000</del> <b><u>92,000</u></b>
Interest	1,700	300	75
<b>Total Estimated Revenue</b>	<del>6,322,001</del> <b><u>6,344,801</u></b>	103,300	127,075
<b>Total Resources Available for Appropriation</b>			
	<del>7,039,210</del> <b><u>8,725,312</u></b>	298,457	<del>211,986</del> <b><u>301,986</u></b>
<b>APPROPRIATIONS:</b>			
General Government	<del>692,998</del> <b><u>725,998</u></b>		
Police Department	1,624,476		
Fire Department	1,237,689		
Public Works	538,230	30,000	65,000
Building Services	99,564		
Waste Collection	269,905		
Professional Services/Grants/Misc.	<del>2,522,407</del> <b><u>2,830,017</u></b>	268,957	
Capital Outlay	53,941		
<b>Parks</b>			<del>65,200</del> <b><u>175,200</u></b>
<b>Total Appropriations</b>	<del>7,039,210</del> <b><u>7,379,820</u></b>	298,457	<del>130,200</del> <b><u>240,200</u></b>
<b>Excess of resources over/under appropriations</b>			
	<del>0</del> <b><u>1,345,492</u></b>	0	<del>81,786</del> <b><u>61,786</u></b>
Transfers to other funds	0	0	
<b>Estimated fund balances</b>	<del>0</del> <b><u>1,345,492</u></b>	0	<del>81,786</del> <b><u>61,786</u></b>

Resource Available	Economic Development	Sargeant Park Trust Fund	TIF
<b>Fund Balance Forward</b>	749,007	30,000	1,500

<b>ESTIMATED REVENUES:</b>			
Transfers from other Accounts/Funds			
Transfers from Reserves			
Charges for Services			
Land Sale Payment			
Other (Taxes/Interest)	1,000		350,000
Intergovernmental	0		
<b>Total Estimated Revenue</b>	1,000		350,000
<b>Total Resources Available for Appropriation</b>	750,007	30,000	351,500
<b>APPROPRIATIONS:</b>			
Capital Improvements	100,000		
CCAP	35,000		
Demolition	50,000		
Grant(s) Match			
Equipment			
Bonds			
TIF Payment			280,000
<b>Total Appropriations</b>	185,000		280,000
<b>Excess of resources over/under appropriations</b>	565,007	30,000	71,500
Transfers to other funds			
<b>Estimated fund balances</b>	565,007	30,000	71,500

Section II. This ordinance shall be signed by the Mayor, attested by the City Clerk, recorded, and published and become law at the earliest possible time.

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

First Reading: 3/15/2022

Second Reading:

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

ATTEST:

\_\_\_\_\_  
DONNA LEGER

Motion by Member Nyman, seconded by Member Kelly to approve 2022#6 as read.

ROLL CALL:

Member Nyman

Aye

Member Beseler

Aye

Member Kelly	Aye	Member Volter	Aye
Member Lovins	Aye	Member Neary	Aye

Comments: Asst. City Adm. Barks gave a brief report on some of the changes. The revenues had to be increased to show the 20% match the city will owe on various grants. The Recreational Trails Grant was added. The \$30,000 for Sargeant Park will be moved from the General Fund into a CD, and \$3,000 was added to the miscellaneous account in administration. The Tif money was separated from the General Fund. This budget will be more transparent. We're moving restricted money out of the General Fund operating account.

Motion carried—so ordered.

First Reading:

CITY OF DAYTON, KENTUCKY

ORDINANCE 2022#7

**AN ORDINANCE CREATING A NEW SECTION  
CHAPTER 158, "REASONABLE ACCOMMODATIONS IN  
RESIDENTIAL NEIGHBORHOODS," UNDER TITLE XV  
OF THE CITY OF DAYTON CODE OF ORDINANCES TO  
ESTABLISH CRITERIA AND PROCEDURES FOR  
DETERMINING REASONABLE ACCOMMODATIONS  
FOR SOBER-LIVING FACILITIES IN THE CITY  
ACCORDANCE WITH FAIR HOUSING LAWS AND  
OTHER LAWS AND CODES.**

**WHEREAS**, the City of Dayton, Kentucky ("City") desires to comply with state and federal law related to housing regulations and provide a stable living environment for the citizens of the City; and

**WHEREAS**, Title VIII of the Civil Rights Act of 1968, as amended by the Federal Fair Housing Amendments Act of 1988 ("FHA"), imposes an affirmative duty on local governments to make reasonable accommodations (modifications or exceptions) in their rules, policies, practices, or services related to building, land use, and zoning regulations when such accommodation may be necessary to afford an individual with a recognized disability an equal opportunity to use and enjoy housing; and

**WHEREAS**, codification of a formal procedure for individuals with recognized disabilities seeking equal access to housing to request reasonable accommodation in the application of the City's building, land use, and zoning regulations, standards, policies, and procedures and establishment of relevant criteria to be used when considering such requests will ensure prompt, fair, and efficient handling of such requests in accordance with the statutory mandates, including the reasonable accommodation mandates of the FHA; and

**WHEREAS**, the City has been granted broad police powers to preserve single- family characteristics of its single-family neighborhoods; and

**WHEREAS**, the City has the right to regulate both the number of persons who may reside in a single-family home and the manner in which it is used so long as such regulations do not unfairly discriminate or impair an individual's rights of privacy and association; and

**WHEREAS**, many individuals and families who purchase houses in single-family neighborhoods do so with the expectation of establishing close and long-standing ties with their neighbors and the neighborhood; and

**WHEREAS**, along with these expectations, individuals and families commit to making, for the most part, the single largest financial and emotional investments of their lives in purchasing a single-family home in a residential neighborhood; and

**WHEREAS**, the FHA prohibits enforcement of building, land-use, and zoning regulations that would have the effect of discriminating against equal housing opportunities for the disabled; and

**WHEREAS**, the FHA requires the City provide reasonable accommodations to its building, land-use, zoning, and other regulations if such accommodations are necessary to afford an individual with recognized disabilities an equal opportunity to use and enjoy a dwelling; and

**WHEREAS**, the City desires to strike a balance between preserving the single-family characteristics of its residential neighborhoods and providing opportunities for the disabled to reside within its residential zones; and

**WHEREAS**, the City has been notified of an increase in the number of single-family houses being utilized as alcohol and drug recovery facilities (sober-living facilities) for unrelated individuals; and

**WHEREAS**, the increase has generated community concerns and complaints from residents near these facilities, including, but not limited to overcrowding, clustering of sober living facilities in close proximity to each other, late-night activities at these homes, the expanded use of limited city right-of-way for parking, increased police-call activities, and property-value diminution; and

**WHEREAS**, the purpose of a sober-living facility is to provide a comfortable living environment for persons with alcohol or drug addictions where they can remain clean and sober and can participate in a recovery program within a residential community environment so that they have the opportunity to reside in the single-family neighborhood of their choice; and

**WHEREAS**, recognizing that recovering alcoholics and drug addicts, who are not currently using alcohol or drugs, are considered disabled individuals under the FHA; and

**WHEREAS**, the concentration of sober-living facilities and the placement of large numbers of recovering addicts in a single dwelling can undermine the benefits of home ownership in single-family neighborhoods for those residing nearby, which in turn can undermine the single-family characteristics of neighborhoods; and

**WHEREAS**, the City has determined that most operators of sober-living facilities have taken the stance that the FHA prohibits the City from regulating them in any fashion; that they are free to house as many recovering addicts in a single-family dwelling as they desire; and that they are not required to make any showing to obtain an accommodation from the City's building, land-use, and zoning regulations; and

**WHEREAS**, the City is concerned that some operators may be driven more by a motivation to profit rather than to provide a safe and comfortable living environment in which recovering addicts have a realistic potential for recovery or to provide a living environment that resemble the manner in which non-disabled individuals use and enjoy a dwelling; and

**WHEREAS**, this ordinance provides a mechanism for a sober-living facility to seek accommodation upon making a showing that such accommodation is reasonably necessary to afford an individual with recognized disabilities the right to use and enjoy a single-family dwelling in a manner similar to that enjoyed by the non-disabled; and

**WHEREAS**, permitting six or fewer residents in a sober-living facility and establishing distance requirements and other criteria is reasonable and non-discriminatory and not only helps

preserve the single-family characteristics of single-family neighborhoods but also furthers the purpose for which sober-living facilities are established; and

**WHEREAS**, because of their extremely transient nature and the high number of unrelated individuals/adults who reside in a single-family dwelling, and the lack of regulations for these facilities, sober-living facilities present problems not typically associated with more traditional single-family uses, including, but not limited to, the housing of large numbers of unrelated individuals/adults who may or may not be supervised in the facility; disproportionate number of vehicles associated with a single-family dwelling, which causes disproportionate traffic and utilization of on street parking in a residential area; creating neighbors who have little to no idea who resides in the dwelling with little to no interaction and a disregard for the impact with and upon the neighborhood; the disproportional impact upon City services; and the potential influx of individuals with criminal records; and the potential for excessive noise, particularly at night, as well as outdoor smoking and partying, the potential for littering, and other disruptions that may interfere with the use and enjoyment of neighboring properties;

**WHEREAS**, in seeking a balance within the urban residential neighborhood characteristics of the City, 1000-foot distance requirement between sober-living facilities provides a reasonable market for the purchase and operation of these facilities; and

**WHEREAS**, the City recognizes that while they are not in character with single-family neighborhoods, when operated responsibly, sober-living facilities provide a societal benefit by providing those individuals with this recognized disabled the opportunity to live in single-family neighborhoods as well as provide recovery programs for these individuals who attempting to overcome their addiction; and

**WHEREAS**, without some regulation, the City cannot ensure that individuals seeking to live into sober-living facilities are recognized as disabled individuals who are entitled to reasonable accommodation; and

**WHEREAS**, a need exists for implementing criteria to determine and establish reasonable accommodations within the City's building, land-use, and zoning regulations that formalizes procedures related to such accommodation; and

**WHEREAS**, this ordinance has been reviewed for compliance with state and federal laws and regulations.

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

A new section of the Dayton Code of Ordinances is added as Title XV, Chapter 158, of the Code as follows:

Section I

REASONABLE ACCOMMODATIONS IN RESIDENTIAL NEIGHBORHOODS

SECTION 158.01 DEFINITIONS:

For the purposes of this Article, the following terms are defined as follows:

**FAIR HOUSING LAWS.** The Federal Fair Housing Amendments Act of 1988 ("FHA") and the provisions of KRS 344.600 et seq., as may be amended from time to time (collectively, "fair housing laws").

GROUP HOME. A residential facility for the care of seven or fewer unrelated individuals living in a single housekeeping unit and recognized as disabled individuals under the Fair Housing Act and American with Disabilities Act, or even fewer residents based on maximum occupancy restrictions established by the International Property Maintenance Code. A sober-living facility shall be considered as a Group Home for all purposes consistent herewith.

DISABLED. A person with disabilities. For purposes of this ordinance, the term “disabled” shall have the same meaning as set forth in the federal Fair Housing Act and the American with Disabilities Act, i.e., is an individual who has a physical or mental impairment that limits one or more of the major life activities of such individual, is regarded as having such impairment, or has a record of impairment. While a person recovering from substance abuse is considered a person with a disability under 42 U.S.C. § 3602(h), a person who is currently engaged in illegal use of a controlled substance is not.

OPERATOR. An individual or business entity, whether for profit or non-profit, which provides residential services at a group home.

REASONABLE ACCOMMODATION. The act of making a dwelling unit or housing facility(ies) readily accessible to and usable by a person with disabilities, through the removal of constraints in the city’s building, zoning, land-use, permit, and processing procedures. All accommodations may not be reasonable, and the reasonableness of a request will be determined by the City.

SOBER-LIVING FACILITY. A single-family dwelling unit used by individuals recovering from a drug and/or alcohol addiction, considered as a disabled individual under state or federal law. A sober-living facility shall not provide on-site supportive services to residents, including the following: mental-health services; clinical rehabilitation services; social services; medical, dental, nutritional or other healthcare services; financial management services; legal services; vocational services; and other similar supportive services. See GROUP HOME.

#### SECTION 158.02 PURPOSE:

A. Fair housing laws impose an affirmative duty on local governments to make reasonable accommodation in their building, land-use, and zoning regulations and practices when such accommodation may be necessary to afford disabled individuals an equal opportunity for housing.

B. In furtherance of the purposes of the fair housing laws, this ordinance is intended to preserve the residential character of single-family residential neighborhoods; ensure that group homes, including sober-living facilities, are actually entitled to reasonable accommodation; limit the secondary impacts of group homes, including sober-living facilities, by reducing noise and traffic; preserve safety and provide adequate on-street parking in residential areas; provide an accommodation for disabled individuals that is reasonable and actually bears some resemblance to the opportunities afforded non-disabled individuals to use and enjoy a dwelling in a residential neighborhood; and to provide a living environment that will enhance the opportunity for the disabled to be successful in their programs. Pursuant to fair housing laws, this ordinance also is created to provide disabled individuals with reasonable accommodation in rules, policies, practices, and procedures to ensure equal access to housing and to facilitate the development of housing for individuals with such recognized disabilities when these disabilities may act as a barrier to fair-housing opportunities.



C. This ordinance establishes a procedure for making requests for reasonable accommodation in building, land-use, and zoning regulations, policies, practices, and procedures to comply fully with the intent and purpose of fair housing laws. Unless a group home has been granted reasonable accommodation as provided in this ordinance, group homes shall comply with all building, land-use, and zoning regulations, policies, practices, and procedures applicable to the zoning classification in which they are located.

#### SECTION 158.03 APPLICABILITY:

Reasonable accommodation within the context of land-use and zoning regulations means providing individuals with recognized disabilities some flexibility in the application of land-use and zoning regulations, policies, practices, and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

#### SECTION 158.04 NOTICE TO THE PUBLIC OF AVAILABILITY OF ACCOMMODATING PROCESS:

Notice of the availability of reasonable accommodation shall be prominently displayed and provided to requesting individuals, advising the public of the availability of the procedure for eligible applicants.

#### SECTION 158.05 APPLICATION FOR REQUESTING REASONABLE ACCOMMODATION:

A. Forms for requesting reasonable accommodation shall be available in the Dayton Code Enforcement Department.

B. An application for reasonable accommodation may be made by any disabled individual or his or her representative; the owner of the real property intended for use as a group home; or, the owner/operator of an entity providing residential services at the location.

C. Requests for reasonable accommodation shall be in writing and provide the following information:

1. Name, address, phone number, and email address of the applicant requesting reasonable accommodation;
2. Name, address, phone number, and email address of the house manager who is responsible for the day-to-day operation of the facility, if any;
3. Address of the property for which accommodation is requested;

4. Name, address, phone number, and email address of the property owner(s), if not the applicant;
5. If the operator is not the property owner, then the operator must provide a copy of any lease agreement between applicant and owner as well as written approval from the property owner to operate a group home at the property location;
6. Detailed description of the requested accommodation with reference to any known regulation, policy, or procedure from which relief is sought;
7. Reason that the requested accommodation may be necessary for disabled individual(s) to use the dwelling;
8. Copy of the group home rules and regulations, including intake procedures and relapse policy;
9. Blank copy of all forms that residents or potential residents are required to complete;
10. An affirmation by the applicant or owner/operator that only disabled residents shall reside at the group home; and
11. Copy of any agreement between applicant and/or owner/operator and/or property owner setting forth or concerning any fee arrangement or financial reimbursement applicable to each resident of the group home.
12. The applicant or owner/operator shall be responsible for filing with the city within thirty (30) days, any updates or changes to policies, procedures, ownership, or operating entity.
13. Any information obtained by the City shall be considered confidential, shall be retained in a manner so as to respect the privacy rights of the applicant, and shall not be made available for public inspection unless otherwise required by law.
14. A request for reasonable accommodation to the regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation shall not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.
15. If an applicant needs assistance in making the request for reasonable accommodation, it shall be provided to ensure that the process is properly undertaken.
16. An applicant may seek relief from the strict application of the provisions of this article by submitting such request in writing to the Code Enforcement Director (hereafter "Director") setting forth specific reasons as to why accommodation over and above the provisions set forth herein is necessary.

17. No fee will be charged for an application to obtain a reasonable accommodation under this ordinance.

#### SECTION 158.06 GROUNDS FOR REASONABLE ACCOMMODATION:

In determining whether to grant a reasonable accommodation, the Director shall consider the totality of the following factors:

- A. The property will be used by an individual with a recognized disability protected under the fair housing laws;
- B. Special needs created by the recognized disability;
- C. Potential benefit that can be accomplished by the requested modification;
- D. Potential impact on properties within the vicinity;
- E. Physical attributes of the property and dwelling structure;
- F. Alternate accommodations that may provide an equivalent level of benefit;
- G. Whether the requested accommodation would impose an undue financial or administrative burden on the city;
- H. Whether the requested accommodation would require a fundamental alteration in the nature of a City function or service; and
- I. Whether granting the request would be consistent with the city's Comprehensive Plan.

#### SECTION 158.07 DISTANCE REQUIREMENT:

No group home shall be located within 650 feet, as measured from the closest property lines, of any other group home.

#### SECTION 158.08 INSURANCE AND MORTGAGE NOTIFICATION REQUIREMENT:

- A. The owner or operator of any group home shall be required to maintain and provide proof to the City of liability insurance coverage in the amount of \$300,000 per person and \$1,000,000 per occurrence, for personal injury to persons or property damage.
- B. The owner or operator shall be required to provide proof to the City that any mortgage lien holder on the subject property has been notified of the use of the premises as a group home.

SECTION 158.09 REVIEWING AUTHORITY:

A. Upon proper application made, requests for reasonable accommodation shall be reviewed by the Director of Code Enforcement using the criteria set forth herein.

B. The Director shall issue a written decision on a request for reasonable accommodation within 30 days of the date of the application, and he or she may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set forth below.

C. If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the 30-day period to issue a decision shall be stayed until the applicant responds to the request.

SECTION 158.10 REQUIRED FINDINGS:

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors.

A. Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with a recognized disability as defined herein and protected under fair housing laws.

B. Whether the requested accommodation is necessary to make housing available to an individual with a recognized disability protected under the fair housing laws.

C. Whether the requested accommodation would impose an undue financial or administrative burden on the city.

D. Whether the requested accommodation would require a fundamental alteration in the nature of the City's land use or zoning regulations, building codes, or related programs adopted by the City, including but not limited to Section 404.4, "Bedroom and living room requirements," and Section 404.5, "Overcrowding," of the International Property Maintenance Code.

E. The requested accommodation will not result in a direct threat to the health, safety or welfare of other individuals or cause physical damage to the property of others.

F. Whether the requested accommodation is necessary to make facilities of a similar nature economically viable in light of the particularities of the relevant market and market participants.

G. Whether the existing supply of facilities of a similar nature and operation in the community is already sufficient to provide individuals with a recognized disability an equal opportunity to live in a residential setting.

H. The city shall consider the following factors upon any request for accommodation:

1. Whether the requested accommodation would fundamentally alter the character of the neighborhood;
2. Whether the requested accommodation would result in a substantial increase in traffic or congestion in the neighborhood, create insufficient on-street parking, or increase noise in the neighborhood,
3. Whether granting the requested accommodation would substantially undermine any express purpose of the city's Comprehensive Plan; and
4. Whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

SECTION 158.11 WRITTEN DECISION ON THE REQUEST FOR REASONABLE ACCOMMODATION:

A. The Director shall render a written decision on the request for reasonable accommodation within thirty (30) days of receipt. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Director's findings on the criteria set forth herein. The written decision shall give notice of the applicant's right to appeal and request reasonable accommodation in the appeals process, as set forth below. The notice of decision shall be sent to the applicant by certified mail.

B. The written decision of the Director shall be deemed final unless an applicant appeals the decision to the Board of Adjustment within the prescribed time period.

C. In the event the Director fails to render a written decision within the prescribed period of time, the request shall be advanced to the City Manager for final determination, who shall make such written determination within ten days thereof. In the event a written determination is not issued within forty 40 days of the request, it shall automatically be deemed as granted.

D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

E. The Director shall be required to maintain records of requests for reasonable accommodation or modification and the response thereto, including final written decisions.

SECTION 158.12 APPEALS:

A. Within 30 days of the date of the Director's written decision, an applicant may appeal an adverse decision. Appeals from the adverse decision shall be made in writing to the Board of Adjustment within the prescribed period of time.

B. If an applicant timely requests assistance in filing an appeal, the city will assist the applicant to ensure that the applicant properly undertakes the appeals process.

C. All appeals shall contain a statement of the grounds for the appeal.

D. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

Section II

**Severability.** If any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council for the City of Dayton hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

First Reading: April 19, 2022

Second Reading:

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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

ATTEST:

\_\_\_\_\_  
DONNA LEGER  
CITY CLERK/TREASURER

Comments: City Adm. Fossett said there is one sober-living facility in our community. The city must make reasonable accommodations, and they must follow the rules put forth by the city.

First Reading:

**CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2022-#8**

**AN ORDINANCE CLOSING AND VACATING A PORTION  
OF DODD DRIVE WITHIN THE MANHATTAN  
HARBOUR DEVELOPMENT AREA IN THE CITY OF  
DAYTON, KENTUCKY.**

**WHEREAS**, pursuant to KRS 82.405, the City of Dayton, Kentucky (“City”), has decided to close a portion of Dodd Drive in the City, as more fully described in the Exhibits of this Ordinance; and

**WHEREAS**, the City has identified all property owners in or abutting this public way to be closed (“Property Owners”) and has provided written notice of the proposed closing to the Property Owners; and

**WHEREAS**, the City received written, notarized consent of the proposed closing and vacation of the street from the Property Owners as well as a waiver and disclaimer of interest (“Consent”), which Consent and exhibits thereto are attached to this Ordinance and incorporated by reference herein.

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

Section I. That a portion of Dodd Drive, as depicted in the map/plat attached hereto as Exhibit B of the Consent and made a part hereof by reference pursuant to KRS 83A.060(9), is hereby ordered closed and vacated without further action. This public way is described in narrative form in the legal description as Exhibit A of the Consent, which is attached hereto and incorporated herein.

Section II. Having made the above-referenced findings, this portion of Dodd Drive and any associated rights-of-way are deemed closed and vacated without further action pursuant to KRS 82.405(2). Also, pursuant to KRS 82.405(2), the City Attorney is directed and authorized to record a copy of this Ordinance with all its attachments, including the Consent, map/plat, and legal description, with the Campbell County Clerk’s office.

Section III. Once this Ordinance closing and vacating this right-of-way is recorded, the City shall convey the whole unimproved street to the appropriate parties, as determined by law, so that this property may be developed in accordance with the Manhattan Harbour Development Agreement, including any subsequent amendments thereto.

Section IV. Once this Ordinance closing and vacating this right-of-way is recorded, all plats and maps of the City of Dayton, Kentucky, including the official zoning map and all maps of the comprehensive plan of the City shall be considered amended to reflect this street closing and vacation.

Section V. This Ordinance shall be signed by the Mayor, attested by the City Clerk, recorded, published, and shall be in effect at the earliest time provided by law.

First Reading: April 19, 2022  
Second Reading: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
DONNA LEGER  
CITY CLERK/TREASURER

This ordinance will close the last section of Dodd Drive.

First Reading:

CITY OF DAYTON, KENTUCKY

ORDINANCE 2022#9

AN ORDINANCE AMENDING SECTION 37.15 AND SECTION 99.99  
OF THE CITY OF DAYTON CODE OF ORDINANCES TO  
ESTABLISH CIVIL PENALTIES UNDER THESE CODE SECTIONS.

BE IT ORDAINED BY THE CITY OF DAYTON, CAMPBELL COUNTY,  
KENTUCKY:

Section 38.15 of the City of Dayton Code of Ordinances is hereby repealed, and a new Section 38.15 is hereby enacted as follows:

**§ 38.15 CIVIL PENALTIES.**

(A) Any person, firm, corporation, or titled owner who violates a provision of this ordinance, including the City's International Property Maintenance Code, as set forth in Chapter 150 of the Code, and/or the City's Nuisance Code, as set forth in Chapter 99 of the Code, 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 if 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).

(B) 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 citation. A Code Enforcement Officer may suspend daily fines if a property owner submits documentation or provides other substantial evidence showing it has taken action to remediate the code violation(s). If so, the Code Enforcement Officer shall enter a written notation in the case file outlining the remediation efforts undertaken and the date on which the daily fines were suspended. This



Officer may revoke the suspension if, in his or her opinion, remediation efforts at the property have discontinued; this revocation also shall be recorded in the case file.

(C) If the property owner timely appeals the violation(s) to the Code Enforcement Board, the Board may waive the fines accrued under this section if the property owner can show an attempt to remediate the code violation(s) in a timely fashion or that a financial hardship prevented the property owner from remediating the violation(s).

(D) The City of Dayton shall possess a lien on property for all fines, penalties, charges, attorney's fees, and other reasonable costs associated with enforcing the Code and may place a lien on this parcel of real property pursuant to the Code and Kentucky law. The lien shall be superior to and have priority over all other subsequently filed liens, except state, county, school board, and city taxes.

Section 99.99 of the City of Dayton Code of Ordinances is hereby repealed, and a new Section 99.99 is hereby enacted as follows:

### § 99.99 CIVIL PENALTIES.

(A) Any person, firm, corporation, or titled owner who 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 a violation is not corrected, and thereafter, a civil fine of not less than \$100 per day, per violation, but not more than \$250 per day, per violation, until a violation is corrected, and costs incurred by the City of Dayton to abate the violation(s). Each date a violation of this ordinance continues after due notice has been served shall be deemed a separate offense, up to a maximum of \$5,000 per citation.

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

First Reading: April 19, 2022

Second Reading:

CITY OF DAYTON, KENTUCKY

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

ATTEST:

\_\_\_\_\_  
Donna Leger, City Clerk

City Adm. Fossett said this will help with code enforcement. A code violation will be a separate offense every day. First a notice of violation is mailed, a second notice of violation is mailed, then a citation. Once they receive a citation they can appeal to the code board. Cassie Patterson, Codes Director, said most people notify her when they get the first violation. If they need more time or are having a financial hardship the city will work with them. The focus is on

the absent landlord, and absent homeowners. The city will also create a fund to loan money at a low interest rate to low-income families so they can do repairs that are necessary. Fifty thousand will come from the ARPA Funds and fifty thousand dollars from the Housing Authority. Most of the issues are out of state property owners who have never even seen the property, or people that just ignore the issues. One bad property brings the entire block down and creates crime. This only applies to about 10% of our community. Our current process takes a long time. Examples are 701 and 705 Boone Street. These properties have been vacant for years. The main goal is to get properties fixed.

First Reading:

**CITY OF DAYTON, KENTUCKY  
ORDINANCE 2022#10**

**AN ORDINANCE AMENDING THE TEXT OF THE ZONING CODE OF THE CITY OF DAYTON, KENTUCKY, TO AMEND THE TEXT OF THE R-1JJ (RESIDENTIAL ONE-JJ) ZONE TO ALLOW PROFESSIONAL OFFICES AS A PERMITTED USE IN THIS ZONE.**

**WHEREAS**, the City of Dayton has adopted a Zoning Ordinance (“Zoning Code”), Zoning Map, and Subdivision Regulations (collectively, “Zoning Regulations”) within the City of Dayton, Kentucky (“City”); and

**WHEREAS**, the Dayton Planning & Zoning Commission (“P&Z Commission”) serves as the planning unit related to Zoning Regulations in the City and makes recommendations to the Dayton City Council (“City Council”) regarding these regulations; and

**WHEREAS**, the City Council requested that P&Z Commission review and act upon a request to add a new section of the Zoning Ordinance to regulate residential infill development in the city (“Infill Development Regulations”); and

**WHEREAS**, the Dayton Planning & Zoning Commission held a public hearing, pursuant to advertised legal notice in accordance with KRS Chapters 100 and 424, on March 24, 2022, in Dayton, Kentucky; and

**WHEREAS**, at this public hearing and after due consideration of the evidence and testimony presented there, the Planning & Zoning Commission voted in favor of the approval of a text amendment to establish Infill Development Regulations in the Zoning Code ; and,

**WHEREAS**, the Dayton City Council, having reviewed the proposed text amendment to the Zoning Code, hereby concurs with the recommendation of the Dayton Planning & Zoning Commission to approve this text amendment;

**NOW, THEREFORE, BE IT ORDAINED BY THE DAYTON CITY COUNCIL AS FOLLOWS:**

Section I

That the City of Dayton Zoning Code is hereby amended as follows, with words being deleted being ~~lined through~~ and words being added underlined:

**ARTICLE X  
ZONE REGULATIONS  
SECTION 10.8 R-1JJ (RESIDENTIAL ONE-JJ) ZONE.**

Article VII, Definitions, of the Zoning Code is hereby amended by adding the following definition:

**Office:** A facility for a firm or organization that primarily provides professional, executive, management, or administrative services. This definition shall exclude medical offices with more than two licensed healthcare professionals, banks, savings and loan associations, and offices that are incidental to retail, production, storage, or other activities.

Article X, Zones, Section 10.8, R-1JJ Zone, of the Zoning Code is hereby amended as follows:

A. Permitted Uses

\* \* \*

3. Professional Office, excluding clinics, with the following restrictions:

- a. The Professional Office shall be an adaptive reuse of a building or structure constructed prior to January 1, 2022;
- b. No exterior alterations and/or additions shall be permitted for the purpose of increasing the building capacity;
- c. Gross floor area of building shall be four thousand (4,000) square feet or greater;
- d. May be included within and entered from within any use permitted in this zone; and
- e. On-site parking shall be provided if the number of employees on the shift of largest employment exceeds three (3).

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

First Reading: April 19, 2022

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

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

ATTEST:

\_\_\_\_\_  
DONNA LEGER  
CITY CLERK/TREASURER

First Reading:

CITY OF DAYTON, KENTUCKY

ORDINANCE 2022#11

**AN ORDINANCE AMENDING CHAPTER 110 OF THE CITY OF DAYTON CODE OF ORDINANCES TO CHANGE THE OCCUPATIONAL LICENSE FEE ASSESSED ON THE WAGES AND COMPENSATION OF EMPLOYEES WORKING THE CITY FROM 2.0 TO 2.5 PERCENT**

**WHEREAS**, pursuant to Kentucky Constitution Section 181 and Kentucky statutes, the City of Dayton (“City”) has the power to impose monetary charges on businesses and occupations, and the employees thereof, for the purpose of producing general revenue (“occupational license fees”); and

**WHEREAS**, the neighboring cities of Bellevue and Newport assess an occupational license fee on employees working in those cities in the amount of 2.5 percent and the City of Covington assesses this fee in the amount of 2.45 percent; and

**WHEREAS**, in recognition of the need to raise additional funding to cover additional costs and expenses in upcoming fiscal year and in future budget years, including, but not limited to, significant and sustained increases in contributions to the state retirement system, the City Council believes it is in the best interest of the citizens of Dayton to match the occupational license fee charged by neighboring cities.

**NOW, THEREFORE, BE IT ORDAINED BY THE DAYTON CITY COUNCIL AS FOLLOWS:**

Section I

That Chapter 110 of the City of Dayton Code of Ordinances is hereby amended as follows, with words being deleted being ~~lined through~~ and words being added underlined:

**ARTICLE XI: BUSINESS REGULATIONS  
CHAPTER 110: BUSINESS LICENSE TAXES  
SECTION 110.03 BUSINESS LICENSE FEE REQUIRED**

**CHAPTER 110: BUSINESS LICENSE TAXES**

\* \* \*

**§ 110.03 BUSINESS LICENSE FEE REQUIRED.**

Every person or business entity engaged in any business for profit and any person or business entity that makes a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an annual occupational license tax for the privilege of engaging in such activities within the

city unless exempt by KRS 92.281 or other applicable statutes. The amount of the annual occupational license tax shall be in both of the following amounts:

\* \* \*

(B) Based on the wages and compensation paid or payable in the City for work done or services performed or rendered in the city by every resident and nonresident who is an employee in an amount of two-and-one-half percent (.025) of said wages and compensation.

First Reading: April 19, 2022  
Second Reading:

CITY OF DAYTON, KENTUCKY

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

ATTEST:

\_\_\_\_\_  
Donna Leger, City Clerk

First Reading:

**CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2022#12**

**AN ORDINANCE AUTHORIZING PLACEMENT OF TABLES AND SEATING ON PUBLIC SIDEWALKS AND RIGHTS-OF-WAY IN THE CITY OF DAYTON, KENTUCKY, AND ESTABLISHING A LICENSING PROCESS AND RULES AND REGULATIONS FOR SUCH USE.**

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

**WHEREAS**, restaurants and taverns in the Central Business District (“CBD”) of the City of Dayton (“City”) have requested permission to place tables and chairs on public sidewalks and rights-of-way in the City to serve food and drink to customers at these tables outside of their premises; and

**WHEREAS**, the City regulates sidewalks and rights-of-way within the City, including within the CBD; and

**WHEREAS**, the City wishes to accommodate these businesses while at the same time ensuring that sidewalks and rights-of-way remain safe for their customers as well as the public at large who may travel on these sidewalks or who live near these establishments.

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

Section I

A new section of the Dayton Code of Ordinances is created as Title XI, Business Regulations, Chapter 126, as follows:

***TABLE AND SEATING PLACEMENT***

**§ 126.01 LICENSE REQUIRED.**

(A) No person or entity shall place tables, chairs, or other seating for tables (collectively “seating”) on the public rights-of-way, including public sidewalks and streets, unless that person first has obtained a license for these tables and seating from the City Administrator, or his or her designee ( “City Administrator”). A license must be obtained for all tables and seating placed on public sidewalks or streets (“the licensed premises”) and this license shall be automatically renewed on an annual basis upon the payment of the annual fee as set forth in Section 126.04 below. The licensee must follow the rules and regulations outlined in this ordinance and the City Administrator is authorized to promulgate other written regulations for this purpose in the future.

(B) Licenses for tables and seating shall only be issued for commercial properties located in the Central Business District (“CBD”).

(C) Licenses for tables and seating shall only be issued for tables and seating that are of a design, size and scale appropriate to the character of the neighborhood in which the tables are to be located. Picnic benches are not permitted. The City Administrator shall be empowered to enforce this provision, using the Historic Design Guidelines or other guidelines promulgated for this purpose.

(D) Licenses for tables and seating may only be permitted in locations on public sidewalks and rights-of-way that are deemed appropriate by the City Administrator, who may refuse to grant a license that he or she believes may be injurious to the health, safety and well-being of the pedestrians and the general public, is noncompliant with the Americans with Disabilities Act, blocks or inhibits vehicle sightlines, or creates a public nuisance. No license shall be issued to an applicant who is not current its obligations to the City, including any delinquency on taxes or loans and/or outstanding violations of building, property, or nuisance codes or other ordinances.

**§ 126.02 APPLICATION PROCESS.**

(A) A business that wishes to place tables and seating on public sidewalks or rights-of-way shall apply to the City and this application must include the following information:

(1) The name, address, phone number, and email address of the applicant, including identifying the type of organization that is applying, e.g., sole proprietorship, partnership, corporation, limited liability company, and the person within that organization who is the contact person and who is responsible for compliance with the terms of this ordinance.

(2) The number of tables and chairs and their specific location on the public sidewalk or right-of-way, including a map or diagram depicting where tables and seating will be located on the right-of-way. The map also shall illustrate the existing width of the public right-of-way, where the

tables and seating will be located in the right-of-way, and how much space will remain on the right-of-way after the tables and chairs are placed there.

(3) Photos or images of the tables and chairs that the applicant intends to place on the public sidewalks or rights-of way.

(4) An certification by the applicant that it will comply with the following provisions:

(a) Applicant will release and indemnify the city from personal injury and property damage liability resulting from the use of the tables and seating on public sidewalks or rights-of-way;

(b) Applicant will provide adequate trash receptacles outdoors for the tables and seating and will empty these receptacles at reasonable time intervals to ensure that the receptacles do not overflow with trash and debris;

(c) Applicant will clean the right-of-way on which tables and seating are placed, including sidewalks and abutting curbs and gutters, of all litter and debris each night after outdoor service is finished;

(d) Applicant will end outdoor service at 11 p.m. each night;

(e) All outdoor music on public rights-of-way, whether live or amplified by outdoor speakers, will cease at 10 p.m. This provision preempts city ordinances that may allow outdoor music to be played until a later time, except for special events and festivals approved by the City; and

(f) Applicant is the owner of the property abutting the sidewalk, or if a lessee of the property, has written permission of the owner of the property to use the public right-of-way for this purpose.

### § 126.03 LICENSE RULES AND REGULATIONS.

(A) Licensee shall not serve alcoholic beverages or allow patrons to consume alcoholic beverages on public sidewalks or other rights-of-way outside of their restaurant, tavern, or event facility business unless it has obtained a license for tables and chairs from the City and those areas are included in the “ABC licensed premises” under which the applicant has obtained a liquor license from the City Alcoholic Beverage Control Administrator and the State Department of Alcoholic Beverage Control, or as otherwise allowed by law. The table-and-seating-placement license issued by the City may be used by licensee to extend its ABC licensed premises into outside area set forth in licensee’s application and map.

(B) Licensee must maintain the licensed premises in orderly fashion, including requiring that all persons within the licensed premises behave in an orderly fashion and not generate excessive noise. This requirement will be strictly enforced.

(C) Licensee shall ensure that no part of the city’s right-of-way, including sidewalks and curbs, are damaged by outdoor tables and seating. The licensee further agrees that any damage caused to the City’s rights-of-way by the placement of tables or seating will be repaired by licensee or licensee will reimburse the City for any cost of any repairs.

(D) Upon payment of the annual license fee and issuance of a license the City, licensee may place tables and seating on the public sidewalks on a continuous basis from March 1 until October 31. Tables and seating may not be placed on public sidewalks from November 1 until February 28/29. Licensee shall maintain the right-of-way used for outdoor dining during the winter months (November through February) (“winter months”), including cleaning the paved surface and ensure that all tables and seating are removed from the public sidewalks and rights-of-way during winter months.

(E) Upon issuance of a license by the City, the licensee shall:

- (1) Place tables and seating only in the areas specifically designated in the license (“licensed area”);
- (2) Maintain comprehensive general liability insurance, at its sole expense, to protect against all claims for personal injury, death, or property damage occurring upon, in or about the licensed area resulting from the use of occupancy thereof, with a minimum of \$50,000 in coverage and limits acceptable to the city for the entire term of the license agreement and any extension thereof. The city shall be named in this policy as an additional insured entity in this insurance policy.
- (3) Maintain three feet of pedestrian access through the licensed area (“pedestrian easement”), which shall be shown on the map submitted in its application. Licensee shall not place or allow tables or seating to be placed in the pedestrian easement.
- (4) Provide service or allow consumption of food and/or beverages to only individuals seated in the licensed area. Tables and chairs may be moved together to allow patrons to sit together so long as the pedestrian easement in the licensed area is maintained. This requirement will be strictly enforced.

#### § 126.04 COST OF LICENSE; ASSIGNMENT; REVOCATION

(A) The cost of the license shall be \$10 per chair (i.e., \$20 per two-top table and \$40 per four-top table) annually for chairs and tables placed on public sidewalks or rights-of-way. Payment shall be made to the City Clerk by Feb. 15 of each year.

(B) Any license issued for placement of tables and seating on the public sidewalks shall not be assigned or transferred to third party without the prior written consent of the City Administrator.

(C) The City may revoke a license upon seven days’ written notice upon a finding by the City Administrator that the licensee has violated any terms of this ordinance, has failed to abide by the terms or conditions set forth in the application and license, or upon a finding the licensee has violated city ordinances or state or federal law. The City Administrator also may revoke a license if the business has received two citations for violating the city’s noise control ordinance within a 12-month period, or the licensee or an employee of the establishment has been convicted of serving alcohol to a minor. If a license is revoked, the licensee shall not be eligible to reapply for a license until one year has passed from the date of the license revocation. The licensee may appeal a license revocation to the Dayton City Council within seven days after notice of the revocation. If an appeal of the license revocation is not made within this time frame, the decision to revoke the license shall not be subject to further review.

#### § 96.999 PENALTY.

Any violation of any provision of this chapter is classified as a civil offense pursuant to the authority of KRS 65.8808. The Dayton Code Enforcement Board shall have power to issue remedial orders and impose civil fines to enforce this chapter. Enforcement of this chapter shall be made in accordance with the procedures outlined in the Code Enforcement Board guidelines located in Chapter 38 of the Dayton Code of Ordinances, including the penalties provision set forth §38.15.

#### 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: April 19, 2022

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

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

ATTEST:

\_\_\_\_\_  
DONNA LEGER  
CITY CLERK/TREASURER

2022#17R:

**CITY OF DAYTON, KENTUCKY  
ORDER-RESOLUTION 2022#17R**

AN ORDER-RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH ORLEANS DEVELOPMENT, LLC, TO REDEVELOP THE RAYMEE/BURTON BUILDING AT 635 SIXTH AVENUE AND PROVIDING A FORGIVEABLE LOAN TO THIS DEVELOPER IN EXCHANGE FOR THE DEVELOPER PROVIDING AFFORDABLE HOUSING IN THE DEVELOPMENT, PAYABLE FROM FEDERAL FUNDING UNDER THE AMERICAN RESCUE PROGRAM ACT.

**WHEREAS**, the Orleans Development, LLC (“Developer”) has purchased a historic building in City of Dayton (“City”) at 635 Sixth Avenue (“Property”), which is currently in a blighted and deteriorated condition, and the Developer has sought and received permission to place this structure on the National Register of Historic Places.

**WHEREAS**, the Property was built in 1884 on land owned by Burton Hazen, a Cincinnati steamboat builder and lumber-yard owner and one of the original founders of the City of Brooklyn, which merged with the City of Jamestown in 1867 to form the City of Dayton.

**WHEREAS**, the Property originally housed a post office, barbershop, store, and private

offices on the first floor, the Dayton City Hall at the back of the second floor, and a meeting hall and offices of the International Order of Odd Fellows on the front portion of the second floor and third and fourth floors.

**WHEREAS**, the Developer plans to rehabilitate the Property into a mixed-use project with commercial space on the first floor and residential units on the upper floors (“Project”).

**WHEREAS**, rehabilitation of this Property will be a transformational project for the City and will be instrumental in revitalizing its Central Business District, serving as a catalyst for further commercial redevelopment and residential living in downtown Dayton.

**WHEREAS**, the City has received or will receive federal funding under the American Rescue Program Act (“ARPA”), which may be used for affordable housing opportunities in the City under the regulations promulgated by the U.S. Treasury;

**WHEREAS**, the City seeks to increase affordable housing in Dayton and has reached an agreement with Developer to provide affordable housing in the Project through a forgivable loan funded by the City’s ARPA funding allocation.

**WHEREAS**, the City now wishes to enter into a development agreement with the Developer to memorialize the terms of this agreement;

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

The Board of the Dayton City Council authorizes the Mayor to enter into a development agreement with Orleans Development, LLC, and to execute other documents needed to carry out this agreement and facilitate the rehabilitation of the Property. Funds provided for this Project will be made in installments as the Project progresses and funding will come from ARPA allocations that have been or will be provided to the City from the federal government.

SO ORDERED and approved by the City Council of the City of Dayton, Kentucky, on this 19th day of April, 2022.

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

ATTEST:

\_\_\_\_\_  
DONNA LEGER  
CITY CLERK/TREASURER

Motion by Member Volter, seconded by Member Lovins to approve 2022#17R as read.  
Comments: City Adm. Fossett said the developer commits to have five units for five years as affordable housing. This will be low to moderate income. The developer will receive ARPA money. Construction should start in the next month or so.

ROLL CALL:

Member Kelly	Aye	Member Volter	Aye
Member Lovins	Aye	Member Neary	Aye
Member Beseler	Aye	Member Nyman	Aye

Motion carried—so ordered.

Department Reports:

Cassie Patterson, Code Director, submitted her report. The property at 705 Boone Street sold at auction. This property needs to be demolished. The property at 408 Dayton Avenue also sold at auction. The new owner is gutting and remodeling this property.

Chris Adkins, Fire Chief, submitted his report. The runs are up. This represents a 10.4% increase in EMS calls and an 8.9% overall increase this year compared to last year. The department is currently down two employees. The Fire Board Meeting is tomorrow night at the Callaghan Center in Bellevue.

Rick Lucas, Supt. Public Works, reported the city has hired a new laborer in his department. The new employee will start around May 9<sup>th</sup>. Public Works has been spending a lot of time getting the community center ready. Rick thanked City Adm. Fossett and Member Neary for their help. It took Rick and Jordon seven hours to cut Gil Lynn Park. The floodwall has not yet been cut.

David Halfhill, Police Chief, submitted his report. The city recently lost an officer to Highland Heights. We've advertised for a new Officer and received about 50-60 applications. The job has been offered to Anthony Keene. Mr. Keene is currently an officer in Falmouth, Kentucky and has three years of patrol experience. He has already started training. Kudos to Officer Marksberry for placing second in the Narcotics Division with our K-9, Kai.

City Administrator's Report:

This will be the summer of construction. The intersection at O'Fallon, Fifth Avenue and Manhattan Blvd. is completed except for the markings. The Sixth Avenue bump outs, Dayton Avenue, and Dayton Pike sidewalk projects should start in May.

The ADA ramps have been completed around town. There will also be repaving bids at the end of the month. The State will be resurfacing Sixth & Fourth Avenue (Route 8). We also have a stormwater project on Fourth Ave, and issues with the streets in Grant Park.

The second phase of the Riverfront Commons Project should start, and the Manhattan Blvd. Road should be completed.

Audience:

Kathy Gordon, 314 Fourth Ave., does not think the work at O'Fallon/Manhattan Blvd. will make much of a difference, but said she does appreciate the work that has been done there.

Unfinished Business:

How does everyone feel about the four-way stop at Sixth & Berry? Member Lovins said she loves it. Member Volter said the traffic flow is better. Mayor Baker said the cross street is better. Member Neary said the study will last through May 30<sup>th</sup>. City Adm. Fossett said KYTC will make the final decision, but we should make a recommendation. We should pass a resolution and ask the school board to pass one also. Member Kelly said she received positive feedback.

Member Lovins said the improvements to Riverside look very nice.

Member Kelly thanked the Civic Club & volunteers for putting on the Easter Egg Hunt.

Member Beseler announced the Dayton Community Garden still has a few spaces available for planting. The Mother's Day Garden Market flower sale is May 7<sup>th</sup> at the monument.

The final Friday is coming up and the City-Wide Yard Sale will be with Bellevue this year on June 11, 2022.

Adjournment:

Motion by Member Volter, seconded by Member Nyman to adjourn. Motion carried—so ordered.

Respectfully submitted,

Donna Leger  
Clerk/Treas.

ATTEST:

Ben Baker  
Mayor