

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 handicap an equal opportunity to use and enjoy housing; and

**WHEREAS**, codification of a formal procedure for individuals with recognized handicaps 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 handicapped; 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 handicaps 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 handicapped 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 handicapped 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 handicaps the right to use and enjoy a single-family dwelling in a manner similar to that enjoyed by the non-handicapped; 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 handicapped 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 handicapped 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 handicapped 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.

**HANDICAPPED.** A person with disabilities. For purposes of this ordinance, the term “handicapped” 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 handicapped 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 handicapped 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

handicapped individuals that is reasonable and actually bears some resemblance to the opportunities afforded non-handicapped individuals to use and enjoy a dwelling in a residential neighborhood; and to provide a living environment that will enhance the opportunity for the handicapped to be successful in their programs. Pursuant to fair housing laws, this ordinance also is created to provide handicapped 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 handicaps when these handicaps 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 handicaps 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 handicapped 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 handicapped 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 handicapped 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 handicap protected under the fair housing laws;
- B. Special needs created by the recognized handicap;
- 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 handicap 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 handicap 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 handicap 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

**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

**CONSENT TO CLOSE AND VACATE ROAD AND RIGHT-OF-WAY  
IN THE CITY OF DAYTON, KENTUCKY  
AND WAIVER AND DISCLAIMER OF INTEREST**

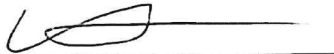
The undersigned hereby acknowledges receipt of written Notice from the City of Dayton, Kentucky ("City") proposing to close and vacate an unimproved portion of Dodd Drive, more particularly described as set forth in the attached exhibits, which are made a part hereof and incorporated by reference herein and are undertaken by agreement of the parties in furtherance of the Manhattan Harbour development project in the City.

The undersigned hereby waives and disclaims any interest it may have in this right-of-way to be closed by virtue of passage of an ordinance by the City to such effect. As the abutting property owners thereto, the undersigned hereby give written consent to the closing this unimproved portion of Dodd Drive and the right-of-way thereto within the City.

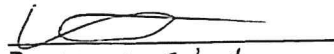
This consent and acknowledgment of receipt of Notice is given pursuant to the provisions of KRS 82.405(2)(b) and (c).

The undersigned acknowledges he has full authority to execute this Consent by and on behalf of MBS Development Co., Ltd., and MBS Marina, LLC, respectively, as duly licensed organizations under Kentucky law.

MBS Development Co., Ltd.

  
By: Mark Stark  
Title: Member

MBS Marina, LLC by MBS Development  
Co., Ltd., its Manager

  
By: Mark Stark  
Title: Member

STATE OF KENTUCKY )  
 )  
COUNTY OF CAMPBELL )

Signed, acknowledged, and sworn to by Mark Stark, Member  
of MBS Development Co., Ltd., before me, a Notary Public, on April, 1, 2022.



Notary Public

My Commission Expires: Nov. 23, 2025

# KYNP 39576

STATE OF KENTUCKY )  
 )  
COUNTY OF CAMPBELL )

Signed, acknowledged, and sworn to by Mark Stark, Member  
of MBS Marina, LLC, before me, a Notary Public, on April, 1, 2022.

MBS Development Co. Ltd.  
as Manager of MBS Marina, LLC



Notary Public

My Commission Expires: Nov. 23, 2025

KYNP 39576

EXHIBIT A

**VACATION OF A PORTION OF DODD DRIVE, DAYTON, KY.**

Situated in the City of Dayton, Campbell County, Kentucky, and being part of the Dodd Drive right of way as shown on Plat E, Slide 140B, more particularly described as follows:

Commencing at the south corner of Parcel B of Manhattan Yacht Club, LLC (D.B. 764 PG. 292)

Thence leaving said south corner and following the former northern right of way of Dodd Drive previously vacated by City of Dayton Ordinance #7-17-18 South 62°02'47" East a distance of 206.66 feet to a point at the terminus of Dodd Drive vacated by City of Dayton Ordinance #7-17-18, the Point of Beginning of this description;

Thence with said north line of Dodd Drive the following two (2) calls:

Along a curve to the right with a radius of 537.08 feet ( $\Delta=62^{\circ}24'27''$ , Chord Bearing = South 30°50'34" East a chord distance of 556.50 feet) an arc distance of 585.00 feet to a point;  
South 00°21'40" West a distance of 304.82 feet to a point in the north extension of Fourth Ave.;

Thence with said north extension, North 83°32'39" West a distance of 65.29 feet to a point in the West line of Dodd Drive;

Thence with said line the following two (2) calls:

North 03°13'45" East a distance of 298.26 feet to a point;  
Along a curve to the left with a radius of 487.08 feet ( $\Delta=62^{\circ}24'27''$ , Chord Bearing = North 30°50'34" West a chord distance of 504.70 feet) an arc distance of 530.54 feet to a point;

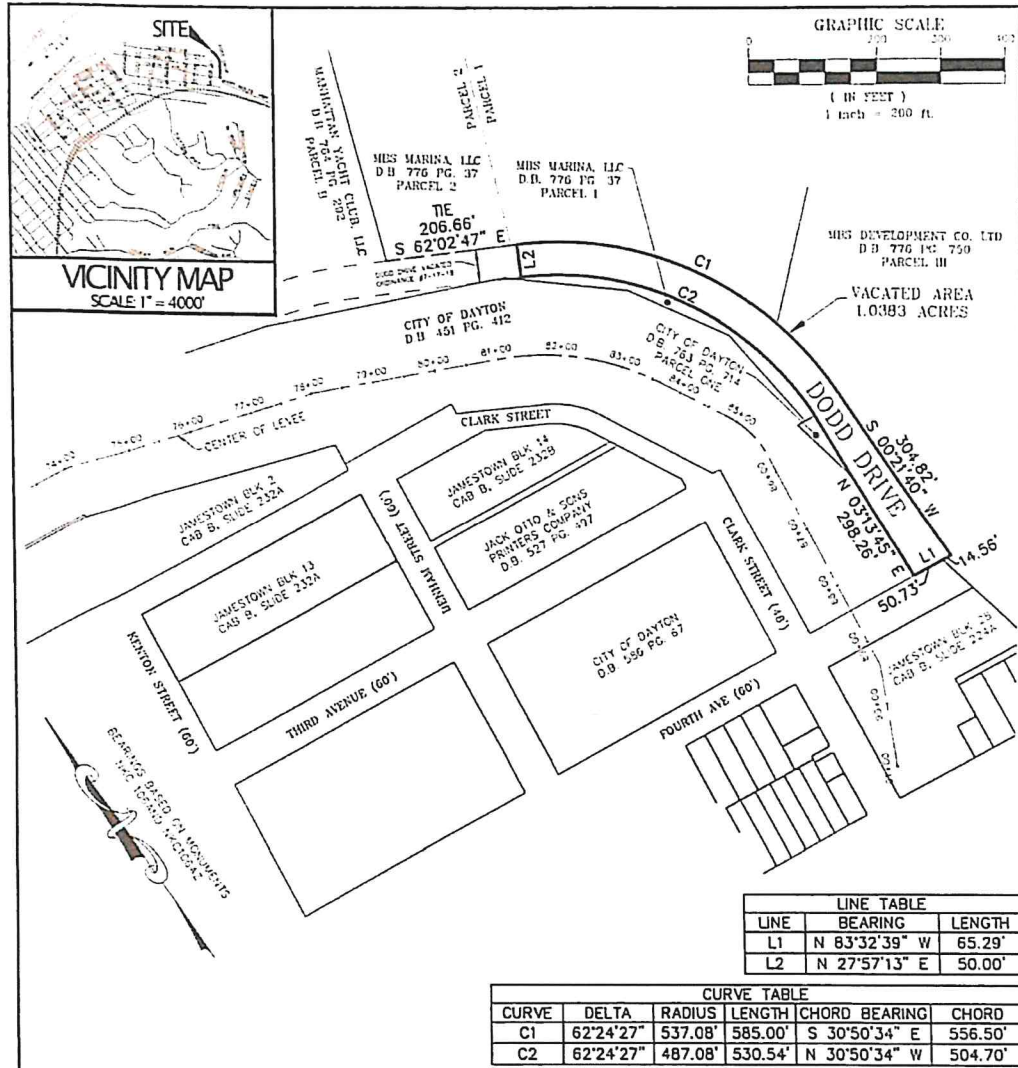
Thence leaving said south line and through the right of way of said Dodd Drive, North 27°57'13" East a distance of 50.00 feet to the POINT OF BEGINNING;

Said parcel contains 1.0383 acres

Being part of Dodd Drive as shown on Plat E Slide 140B and recorded at the Campbell County Clerk's records at Newport, Kentucky. Said herein description being the result of a field survey in November of 2017 by Cardinal Engineering Corporation under the direct supervision of Joseph G. Kramer, PLS #3663. The basis of bearings for this description are based on NKAPC control monuments NKC106 and NKC106AZ.

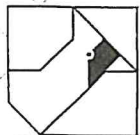


**EXHIBIT B**



LINE	BEARING	LENGTH
L1	N 83°32'39" W	65.29'
L2	N 27°57'13" E	50.00'

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	62°24'27"	537.08'	585.00'	S 30°50'34" E	556.50'
C2	62°24'27"	487.08'	530.54'	N 30°50'34" W	504.70'



**CARDINAL**  
ENGINEERING  
LAND SURVEYING

**DODD DRIVE VACATION PLAT  
FOR  
MBS DEVELOPMENT CO.  
817 SQUIRE HILL DRIVE  
CRESCENT SPRINGS KY 41017**

ONE MOOCK ROAD  
WILDER, KENTUCKY  
41071 (859) 581-9600

PROJECT MANAGER	JCK
DRAWN BY:	RZM
DATE	03-24-22
SCALE	1" = 200'
FILE NO.	06-004-15

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 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

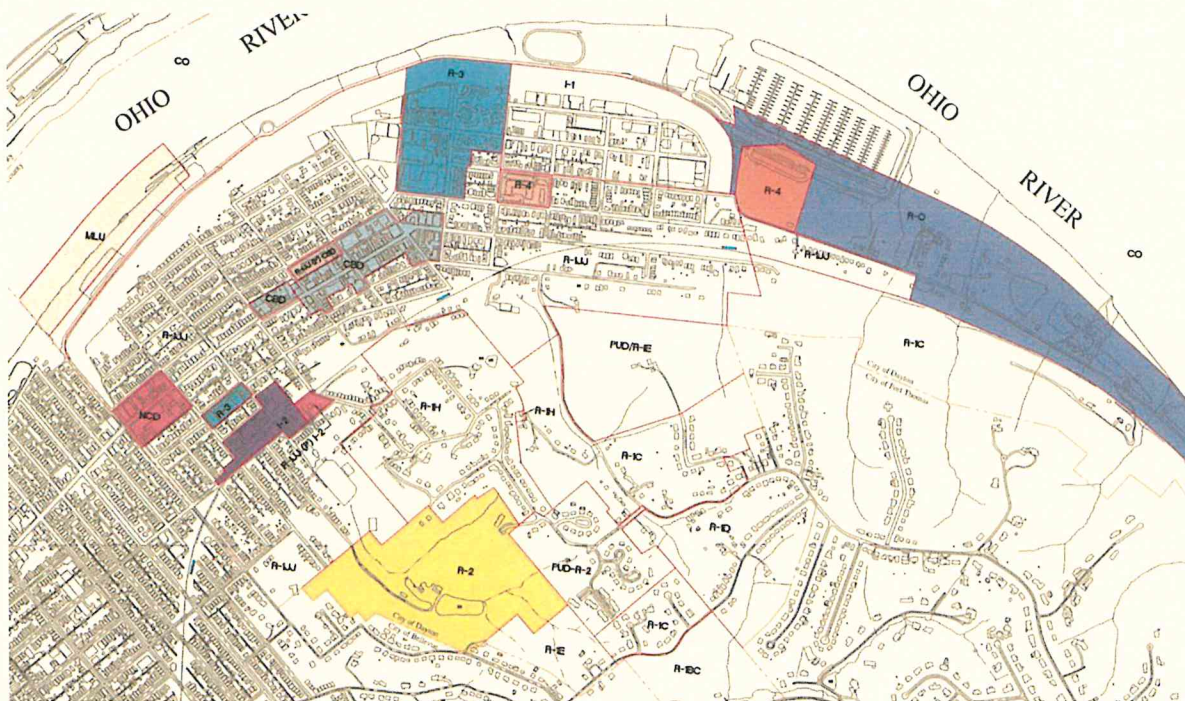
March 14, 2022

## Dayton Planning & Zoning Commission

Staff Comments, Findings, and Recommendations

The Dayton Planning & Zoning Commission will hold a special public hearing on Thursday, March 24, 7:00 P.M. 625 2<sup>nd</sup> Ave. Dayton, KY. for the purpose of hearing testimony for the following case:

**File Number:** PZ-22-010  
**Applicant:** CITY OF DAYTON, KY  
**Request:** Zoning Text Revisions in Relation to Professional Office Uses Within The R-1JJ Zone



### Background

The R-1JJ (Residential-One JJ) zones cover a large portion of the Dayton's urban core. These zones are comprised of many historic buildings following the city's 19<sup>th</sup> century development pattern. The fabric of the city is comprised of more mixed land uses than the zoning allows, with many uses grandfathered in. The 2020 Dayton Comprehensive plan, in addition to recent changes to the Dayton Zoning Ordinance within the R-1JJ zones, reflects the city's desire to embrace its mixed-use, traditional neighborhood design. Currently, professional offices in the R-1JJ zone are limited to intersections of 6<sup>th</sup> Avenue within the Historic District (HD) overlay.

### Considerations

The current uses in the R-1JJ Zone (§10.8) are as follows:

A. Permitted Uses

1. Single-family residential dwellings, detached.
2. Within the Historic District (HP) Overlay Zone, retail sales and service businesses located within one hundred (100) feet of an intersection with 6th Avenue, as listed below:
  - a. Apparel shops;
  - b. Artisan/craft studios;
  - c. Art studios;
  - d. Bakeries and bakery goods stores where the products are sold exclusively on the premises;
  - e. Barber shops/hair salons;
  - f. Book, stationary, and gift shops;
  - g. Candy, soda fountain and ice cream stores;
  - h. Coffee shops;
  - i. Delicatessens;
  - j. Florist shops;
  - k. Personal trainer/small group fitness;
  - l. Small professional offices (such as realtors, private consulting firms, medical, dental, legal);
  - m. Off-street parking lots and parking garages;
  - n. Professional teaching studios on any form of fine arts, photography, music, drama or dance;
  - o. Sporting goods.

B. Accessory uses:

1. Customary accessory buildings and uses.
2. Fences and walls, as regulated by §§ 13.0 through 13.10.
3. Signs, as regulated by §§ 14.0 through 14.7.
4. Home occupations, subject to the restrictions and limitations established in § 9.11.

C. Conditional uses:

1. Churches and other buildings for the purpose of religious worship, provided they are located adjacent to an arterial or collector street.
2. Fire and police stations.
3. Governmental offices, including city buildings and city garages.
4. Institutions for higher education, providing they are located adjacent to an arterial street.
5. Clinics, sanitariums, nursing homes, and homes for the aged, provided they are located adjacent to an arterial street.
6. Nursery schools, daycare or family care facilities that comply with item 13.b. of this section.
7. Public and parochial schools.
8. Publicly owned or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries.

9. Recreational uses other than those publicly owned or operated, inclusive of swimming pools, but not including private swimming pools associated with a permitted use in this zone.
10. Funeral homes, provided they are located adjacent to an arterial street.
11. Art studio, art instruction, retail sales of art supplies or retail sales of art work.
12. Bed and breakfast, with the following restrictions:
  - a. The total number of guest units plus the owner's unit shall not exceed the existing, lawful nonconforming use in the total number of residential units;
  - b. The resident on-site manager shall live in the dwelling unit and operate the bed and breakfast establishment;
  - c. Food service may be provided for resident guests only;
  - d. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms/units;
13. Family child-care home, with the following restrictions:
  - a. Any portions of the building used for other than child care shall not interfere with the day care program;
  - b. The facility shall meet all state requirements and be certified as a family home child care center by the Kentucky Cabinet for Health and Family Services or its successor agency.
14. Child-care center, with the following restrictions:
  - a. Any portions of the building used for other than child care shall not interfere with the day-care program;
  - b. The facility shall meet all state requirements and be licensed as a Type I or Type II Child Care Facility by the Kentucky Cabinet for Health and Family Services or its successor agency.
15. Event facility, with the following restrictions:
  - a. The event facility shall be an adaptive reuse of a building or structure constructed prior to January 1, 2020;
  - b. No exterior alterations and/or additions shall be permitted for the purpose of increasing the building capacity;
  - c. May be included within and entered from within any use permitted in this zone;
  - d. The sale of alcoholic beverages is prohibited on the premises.

As stated in § 10.8, Home Occupations are permitted and regulated by § 9.11. Those regulations are as follows:

Home occupations shall include the use of the premises for services rendered other than by direct contact with customers at that location (for example, where the bulk of the business is by telephone and actual work is performed in home and customer is contacted in other than that location). The following requirements shall apply to home occupations when permitted herein:

- a. No persons other than members of the family residing in the premises shall be engaged in the operation.



- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 25% of the gross floor area of any one floor of the dwelling unit (including the basement or cellar) shall be used in the conduct of the home occupation.
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling unit, except that a name plate as regulated by §§ 14.0 through 14.7, shall be permitted.
- d. No home occupation shall be conducted in any accessory building, nor shall there be any exterior storage of any materials on the premises.
- e. There shall be no commodity sold upon the premises in connection with the home occupation.
- f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
- g. No equipment or process, which creates noise, vibration, flare, fumes, odors, or electrical interference detectable to the normal senses off the lot, shall be used in such home occupation. In the case of electrical interference, no equipment or process, which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises, shall be used.

## **Proposed Text Amendments**

### **Article VII: Definitions**

**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 health care professionals, banks, savings and loan associations, and offices that are incidental to retail, production, storage or other activities.

### **Article X: Zones**

#### 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;
  - e. On-site parking shall be provided if the number of employees on the shift of largest employment exceeds three (3).

Specific changes are noted in Attachment A.

**Recommendation:**

To adopt the revised text changes related to the professional offices in the R-1JJ Zone in the City of Dayton Zoning Ordinance and to forward the recommended text revisions to the City for consideration.

**Bases for Staff Recommendation:**

1. Per Kentucky Revised Statutes KRS 100.207 and KRS 100.211, the Planning Commission has the authority to recommend the adoption of text changes to the City.
2. Pursuant to the Dayton Zoning Ordinance Article XVII: Amendment Procedure, the Planning and Zoning Commission has the authority to amend the zoning ordinance.
3. Proper notice of the public hearing has been given in accordance with KRS 424 and Article XVII Amendment Procedure.
4. The proposed text changes are consistent Comprehensive Plan Update. The changes are consistent with the Land Use section, particularly within the goal to "Encourage redevelopment or adaptive reuse of vacant or underutilized buildings and sites" (page 25).
5. The proposed text changes are consistent with City of Dayton's Code of Ordinances Title XV: Land Usage, Chapter 155: Subdivision Regulations.

If you have any questions concerning this report, please feel free to contact me. Thank you.

Respectfully submitted,



Kirk Hunter, AICP  
Principal Planner

Attachments

## Attachment A

Proposed Text Amendments to Dayton Zoning Ordinance

Words to be **deleted** are ~~lined through~~

Words to be **added** are underlined

### **Article VII Definitions**

**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 health care professionals, banks, savings and loan associations, and offices that are incidental to retail, production, storage or other activities.

### **Article X Zones**

#### 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;
- e. On-site parking shall be provided if the number of employees on the shift of largest employment exceeds three (3).

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

**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

**CITY OF DAYTON, KENTUCKY  
ORDINANCE NO. 2022#13**

**AN ORDINANCE ADOPTING THE CITY OF DAYTON,  
KENTUCKY'S ANNUAL BUDGET FOR THE FISCAL YEAR  
RUNNING FROM JULY 1, 2022, THROUGH JUNE 30, 2023,  
AND ESTIMATING REVENUES AND RESOURCES AND  
APPROPRIATING FUNDS FOR THE CITY TO THE FULL  
EXTENT AUTHORIZED BY KRS 82.082 AND  
INTERPRETATIVE CASE LAW.**

**WHEREAS**, a proposed annual operating budget has been prepared and delivered to the City Council of the City of Dayton, Kentucky; and,

**WHEREAS**, the City Council, having reviewed and discussed the proposed budget, desires to adopt it for Fiscal Year 2023.

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

1. The Annual Operating Budget for the Fiscal Year beginning July 1, 2022, and ending June 30, 2023, including all sources of estimated revenues and appropriations for all City funds as set forth in Exhibit 1, which is attached and made by reference a part hereof, is hereby adopted.
2. All encumbrances outstanding on June 30, 2022, for goods not yet provided or services not yet rendered are hereby reappropriated to conform with generally accepted accounting principles for the Fiscal Year beginning July 1, 2022 and ending June 30, 2023.
3. The balance of all capital construction, renovation, improvement projects and grants currently approved and/or nearing completion are hereby approved for reappropriation and carry over for the Fiscal Year beginning July 1, 2022 and ending June 30, 2023.
4. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase, or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.
5. All prior Municipal Order/Resolutions and/or or Ordinances or parts of any thereof that are in conflict with this Ordinance are hereby repealed.
6. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on May 3, 2022, and given final reading on June 7, 2022, and this Ordinance shall be in full force and effect upon signature, recordation, and publication in summary pursuant to KRS Chapter 424.

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

First Reading: May 3, 2022

Second Reading: June 7, 2022

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MAYOR BEN BAKER

ATTEST:

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DONNA LEGER  
CITY CLERK/TREASURER

**CITY OF DAYTON, KENTUCKY**  
ORDINANCE 2022#14

**AN ORDINANCE AMENDING SECTION 32.21 OF THE DAYTON  
CODE OF ORDINANCES TO CHANGE THE LOCATION OF  
CITY COUNCIL MEETINGS FROM 200 CLAY STREET TO 625  
SECOND AVENUE, DAYTON, KY.**

**WHEREAS**, Dayton City Council has regularly scheduled meetings on the first and third Tuesdays of the month;

**WHEREAS**, for the past several years, Dayton City Council has held these meeting in the boardroom of the Dayton Independent School District at 200 Clay Street, Dayton, Ky.;

**WHEREAS**, the Dayton City Council now wishes to change the location of its meetings to a newly renovated Dayton Community and Meeting Center located at 625 Second Avenue; and

**WHEREAS**, KRS Chapter 83A requires cities to fix the times and places of the city's regular meetings by ordinance.

**NOW, THEREFORE**, THE DAYTON CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Chapter 32 of the City of Dayton Code of Ordinances, titled "City Council," is hereby amended as follows, with words being deleted being ~~lined through~~ and words being added underlined:

**ARTICLE III: ADMINISTRATION  
CHAPTER 32: CITY COUNCIL  
SECTION 32.21 MEETINGS**

**CHAPTER 110: CITY COUNCIL**

\* \* \*

**§ 32.21 MEETINGS.**

(A) Regular meetings of the Council shall be held on the first and third Tuesdays of each and every month, with the time of commencement of the meetings to be at 7:00 p.m., prevailing local time. If the regularly scheduled meeting should occur on a holiday, then the meeting shall be held on the next succeeding workday the time stated herein. Meetings shall be held at the ~~board meeting room of the Dayton Independent Schools Administration Building, 3rd and Clay Streets~~ Dayton Community and Meeting Center, 625 Second Avenue, Dayton, Kentucky. The Council may, from time to time and for reasons of emergency, access or for any other reason, designate by order, resolution or motion, a change of venue with adequate notice to the public.

(B) Special meetings of the Council may be called by the Mayor or upon written request of a majority of the Council. In the call, the Mayor or Council shall designate the purpose, time, and

place of the special meeting with sufficient notice for the attendance of Council members and for compliance with KRS Chapter 61

(C) At a special meeting no business may be considered other than that set forth in the designation of purpose.

(D) The minutes of every meeting shall be signed by the City Clerk/Treasurer and by the officer presiding at the meeting.

First Reading: May 3, 2022

Second Reading:

CITY OF DAYTON, KENTUCKY

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

Mayor Ben Baker

ATTEST:

\_\_\_\_\_

Donna Leger, City Clerk