

**CITY OF DAYTON, KENTUCKY  
ORDINANCE 2022#3**

**AN ORDINANCE AMENDING THE TEXT OF THE ZONING CODE OF THE CITY OF DAYTON, KENTUCKY, TO INCLUDE A NEW SECTION ESTABLISHING RESIDENTIAL INFILL DEVELOPMENT REGULATIONS AND RELATED SECTIONS AND AMENDING THE CONDITIONAL USE TEXT FOR EVENT FACILITIES IN THE R-1JJ (RESIDENTIAL ONE-JJ) 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 February 23, 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 IX**

**SECTION 9.13 EXCEPTIONS AND MODIFICATIONS:**

...

- D. In any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within the same block, when fifty-one percent (51%) or more of lots within that block are improved with residential buildings, whichever is greater.
- E. Infill development standards shall apply to properties meeting the applicability requirements as specified in Section 9.28.

**SECTION 9.28 RESIDENTIAL INFILL DEVELOPMENT REGULATIONS:** The Infill Development standards of this section are intended to encourage infill development and to ensure that such development is compatible with the physical character of the neighborhood in which it is located.

A. **Applicability**

- 1. The Infill Development standards of this section apply in all residential (R) zones to all new residential buildings located on blocks where 50 percent or more of the lots along both sides of the street are occupied by existing buildings.

B. **Compliance with Lot and Building Standards**

- 1. Residential infill development must comply with the area and height regulations for the zone in which it is located, unless otherwise expressly indicated.

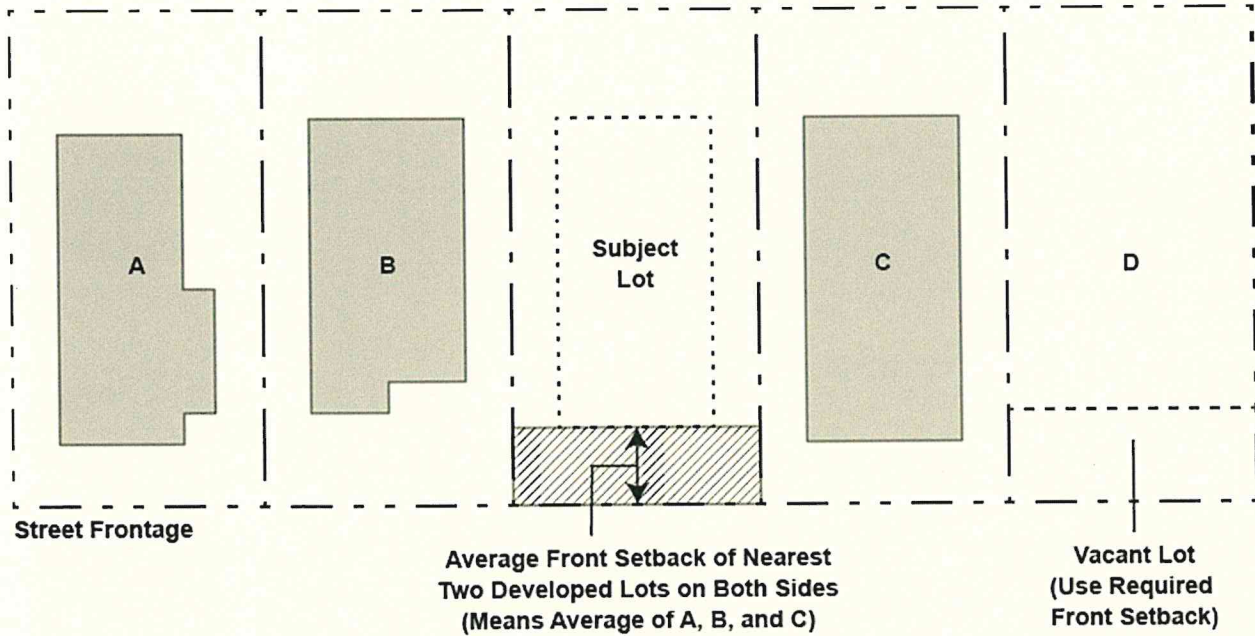
C. **Review Procedure**

- 1. Projects subject to the residential infill standards of this section must be reviewed according to the Building Permit procedure of Section 16.2. Waivers or modifications of residential infill development standards may be approved only through the Design Review procedures of Section 9.29

D. **Front Setbacks**

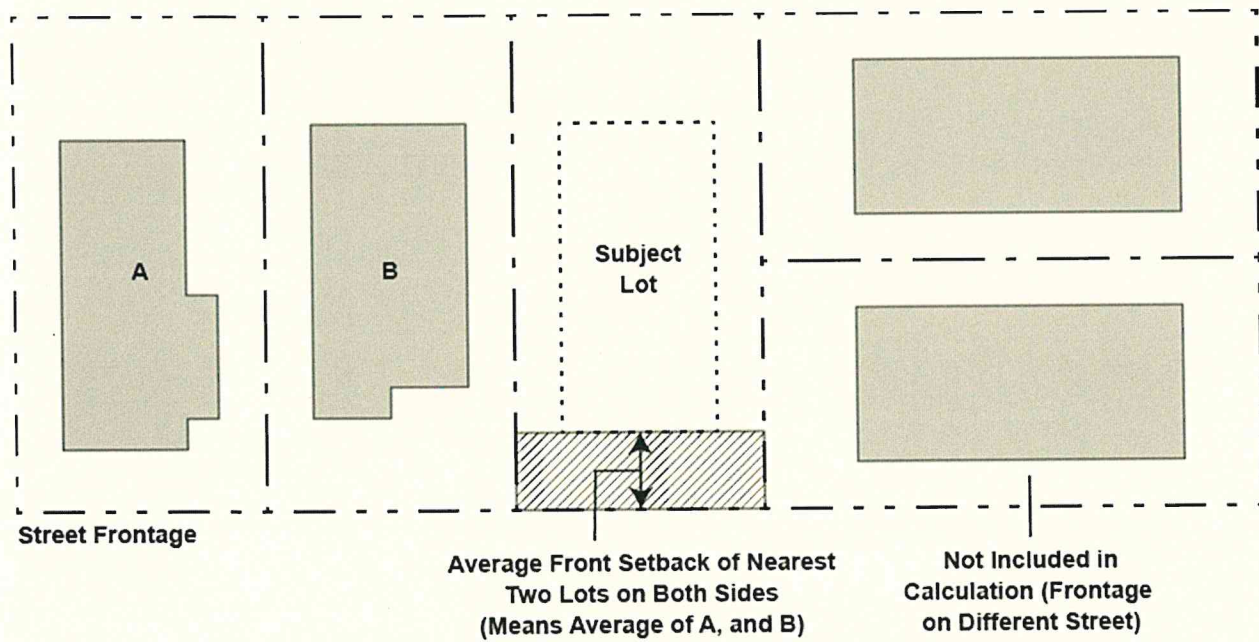
- 1. Buildings subject to these residential infill development standards must comply with the contextual front setback standards of this section.
- 2. Contextual front setbacks must be at least as deep as the average front setback that exists on the two lots on both sides of the subject lot, in accordance with the following rules:
  - a. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average (Figure 1);



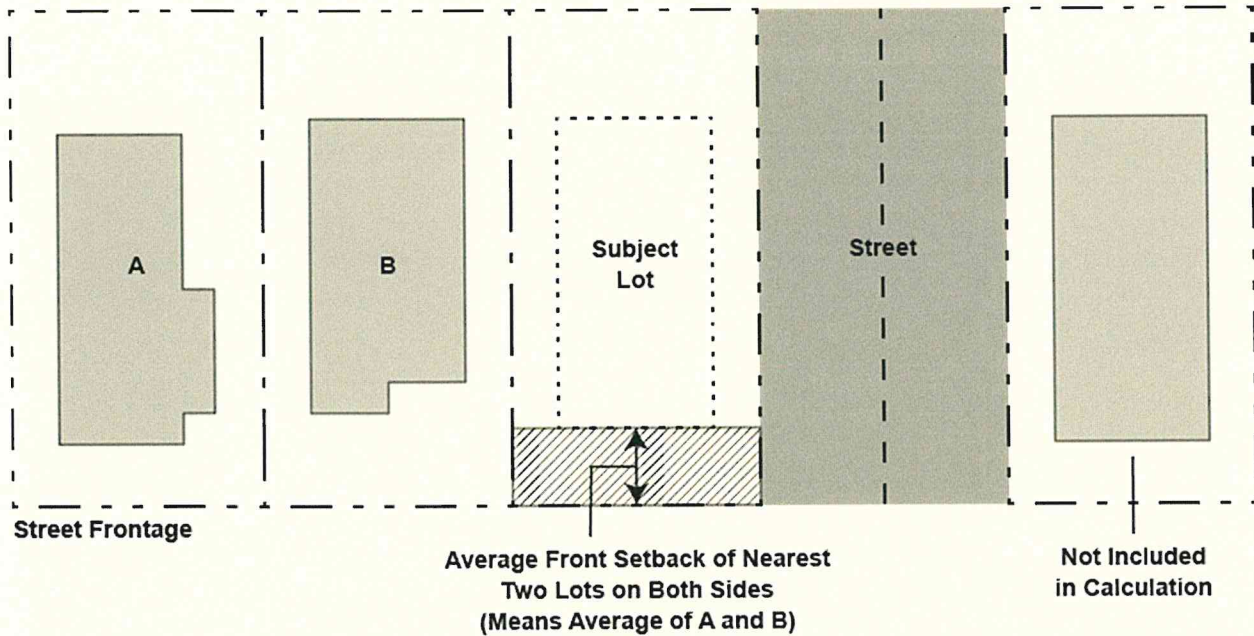


*Figure 1*

- b. When the subject lot is a corner lot, the average setback will be computed on the basis of the 2 nearest developed lots that front on the same street as the subject lot (Figure 2 and 3);

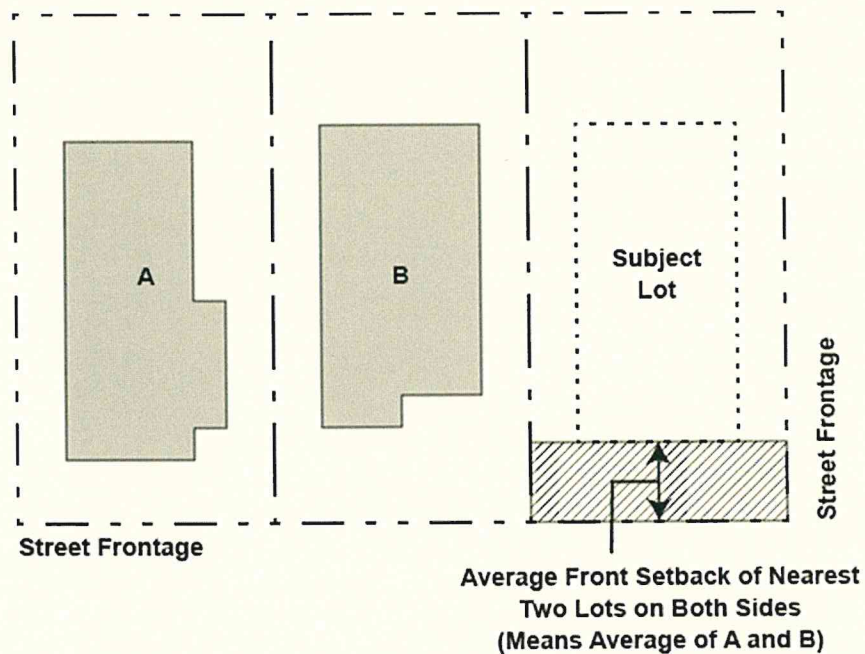


*Figure 2*



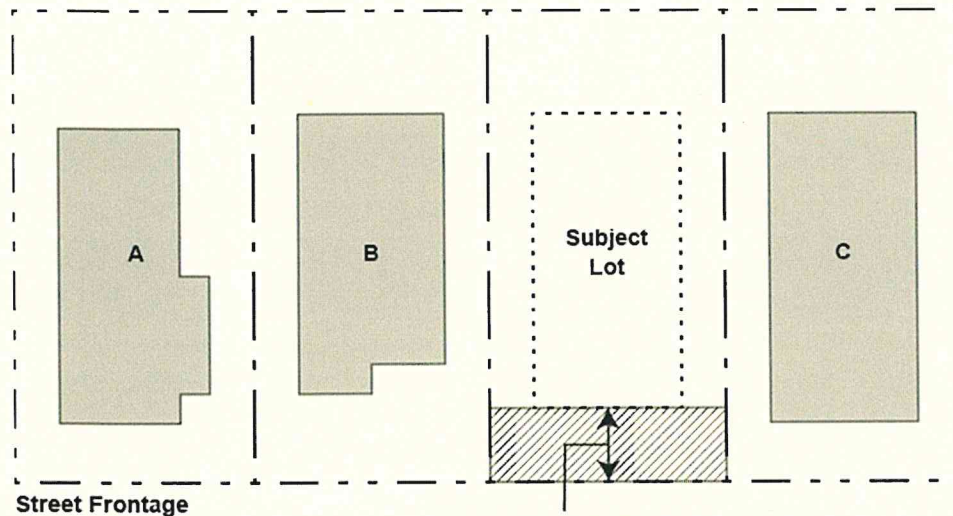
*Figure 3*

- c. When the subject lot abuts a corner lot fronting on the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest 2 lots that front on the same street as the subject lot (Figure 4); and



*Figure 4*

- d. The setback of vacant lots is assumed to be the front setback required by the area and height regulations of the locations respective zoning regulation in Article X (Figure 5).



*Figure 5*

E. **Height**

1. Buildings subject to these residential infill development standards are required to comply with the following contextual height standards.
2. Building heights may not exceed and may be no more than 15% less than the average height of buildings on 50 percent or more of the lots along same side of the street on the same block.
  - a. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average.
  - b. When the subject lot is a corner lot, the average height will be computed on the basis of buildings on the two nearest developed lots that front on the same street as the subject lot.
  - c. When the subject lot abuts a corner lot fronting on the same street, the average height will be computed on the basis of the building on the abutting corner lot and the buildings on the nearest two lots that front on the same street as the subject lot.

F. **Building Entrances**

1. At least one building entrance must face the street and be directly accessible from the sidewalk except on lots that are 25 feet or less in width.
2. Porches must be provided when 50 percent or more of existing buildings on the block face have porches.



3. On multi-unit buildings, entrances must be emphasized through architectural features, such as porches, transom and sidelight windows, decorative trim, and/or arches.

**G. Parking and Garages**

1. Parking and garages that are provided on-site shall meet the following requirements:
  - a. Lots with access to an improved alley must use the alley for vehicle access. No new curb cuts from the street or street-facing garages are permitted on lots that have access to an improved alley.
  - b. Street-facing garage doors may comprise no more than 40 percent of the width of the front facade of the building. All street-facing garage doors must be recessed at least five feet from the front facade of the building. The intent of these standards is to prevent garages from being the dominant visual feature on the front of the building.
  - c. When street-facing garages are allowed, they must be setback at least 20 feet from the front property line and at least five feet from the front facade of the building. Doublewide garages doors may not be used on street-facing garages. Two-car garages must use two single-side garage doors. Driveways leading from the street may not exceed 12 feet in width.
2. Parking that is provided off-site shall be approved only through the Design Review procedures of Section 9.29

**H. Windows and doors**

Windows and doors that allow views from the building to the street must comprise at least 15 percent of the street-facing facade of the building.

**SECTION 9.29 DESIGN REVIEW**

**A. APPLICABILITY**

Design review procedures are applicable to:

1. Applications for waivers or modifications of the Residential Infill Development Standards of Section 9.28.
2. Applications for demolition, erection, physical expansion, or exterior remodeling of building or premises, including accessory uses or appurtenances to the principal use, in Residential zones.

**B. APPLICATION**

1. An application for design review must be filed by the owner of the subject property or the owner's authorized agent.
2. Application must be filed with the Zoning Administrator.

**C. WAIVER OR MODIFICATION OF RESIDENTIAL INFILL DEVELOPMENT REGULATIONS**

1. Every application for waiver or modification of the residential infill development standards of Section 9.28 must be accompanied by drawings that contain sufficient information to enable the Infill Development Review Board to determine whether the plans meet the review and decision-making criteria of Section 9.29. These plans and drawings must indicate all proposed buildings and other site improvements. As used herein, "drawings" mean site plans, elevations, and/or perspectives drawn at a scale with sufficient detail to show the exterior appearance of proposed buildings and structures and location of existing and proposed improvements on the site. These drawings must include the following information:
  - a. Existing and proposed principal and accessory buildings, including location, dimensions, and height;
  - b. Front building elevations (facing the street), including dimensions and locations of doors, windows, garages, porches, and other architectural features.
  - c. Access points and off-street parking spaces;
  - d. Driveways, sidewalks, walkways, terraces, and other paved surfaces;
  - e. Accessory structures, including walls, fences, lighting, signs, and other site improvements;
  - f. Existing and proposed landscape areas and materials, if proposed to be altered.
  - g. All properties immediately adjacent to the site must also be included in the site plan; a site section and/or site elevations, including any adjacent properties, may be required.
2. An application for design review is not considered complete until all illustrative material necessary to adequately describe the proposed project has been submitted to the staff. The Infill Development Review Board may refuse to consider an application for design review if it judges that insufficient information has been provided by the applicant.
3. **INFILL DEVELOPMENT REVIEW BOARD ACTION**
  - a. The Infill Development Review Board must review complete applications for design review that have been received by the staff 10 or more business days prior to each regular meeting. The applicant must be informed of the time and place at which the Infill Development Review Board will consider the application and the applicant will be heard.
  - b. Following the Infill Development Review Board's review, it must take final action, by simple majority vote, on applications for design review, based on the review and decision-making criteria of Sec. 9.30



- c. In acting on an application for design review, the Infill Development Review Board is authorized to approve, approve with modifications or conditions, or disapprove the application. Where necessary, the Infill Development Review Board may recommend a variance be requested from the Board of Adjustment. Any recommendation by the Infill Development Review Board for approval that requires a variance from the Board of Adjustment must be conditioned on the granting of the variance to the applicant.
- d. If the Infill Development Review Board approves an application, it must be signed by the duly authorized representative on behalf of the Chairperson or Vice-Chairperson, and transferred to the office of the Zoning Administrator and Building Inspector. All prints and other documents approved by the Infill Development Review Board must be stamped accordingly. The Zoning Administrator or Building Inspector must thereupon process the application in the usual manner.
- e. If the Infill Development Review Board disapproves an application for a waiver or modification, it must state its reason for doing so and must transmit a record of such action and the reasons therefore in writing to the Zoning Administrator and Building Inspector and to the applicant. No further action may be taken by the Zoning Administrator or Building Inspector on the application. The applicant may modify the application to make it acceptable to the Infill Development Review Board and has the right to resubmit the application at any time.
- f. Any action taken by the Infill Development Review Board on applications must be forwarded as a written recommendation to the City Council within 14 days. The basis for the recommendation and any conditions thereto are to be included.
- g. The Infill Development Review Board must act within 60 days of receipt of a complete application. The failure of the Infill Development Review Board to approve or disapprove such application within such time, unless otherwise mutually agreed by the applicant and the Infill Development Review Board, will be deemed to constitute disapproval and the issue will be considered to have been resolved. The applicant has the right to resubmit another application at any time.
- h. Approval of an application for design review does not exempt the applicant from complying with all of the requirements of this Zoning Ordinance, the Building Code, the Housing Code, and other ordinances and regulations of the City.

### **SECTION 9.30 RESIDENTIAL INFILL DEVELOPMENT DECISION-MAKING AND REVIEW CRITERIA**

These guidelines and review criteria must be used by the Infill Development Review Board in considering all applications for design review:

- A. Whether the proposal respects the character of the neighborhood or business district, reinforcing its identity through design that is sympathetic to the architectural context of the



surrounding area in terms of massing, form, materials, texture, scale and architectural treatment;

- B. Whether the front building elevations (facing the street) and the overall massing of the building emphasize human scale and the pedestrian environment;
- C. Whether the proposed building has been designed to form part of a larger composition of the surrounding area by being of similar scale, height, architectural treatment, and orientation;
- D. Whether building silhouettes (scale and pitch of rooflines) are consistent with the context created by nearby buildings;
- E. Whether the proportion of windows, bays, and doorways is consistent with the context created by nearby buildings;
- F. Whether the proposed development uses lighting and related structures as an integrated element in landscaping, architectural treatment, and pedestrian environment;

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## **SECTION 10.2 R-1BC (RESIDENTIAL ONE-BC ) ZONE**

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### **D. OTHER DEVELOPMENT CONTROLS:**

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- 4. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

## **SECTION 10.3 R-1C (RESIDENTIAL ONE-C) ZONE**

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### **D. OTHER DEVELOPMENT CONTROLS:**

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- 4. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

## **SECTION 10.4 R-1D (RESIDENTIAL ONE-D) ZONE**

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### **D. OTHER DEVELOPMENT CONTROLS:**

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4. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

#### **SECTION 10.5 R-1E (RESIDENTIAL ONE-E) ZONE**

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##### **D. OTHER DEVELOPMENT CONTROLS:**

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4. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

#### **SECTION 10.6 R-1G (RESIDENTIAL ONE-G) ZONE**

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##### **D. OTHER DEVELOPMENT CONTROLS:**

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4. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

#### **SECTION 10.7 R-1H (RESIDENTIAL ONE-H) ZONE.**

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##### **E. OTHER DEVELOPMENT CONTROLS:**

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4. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context

#### **SECTION 10.8 R-1JJ (RESIDENTIAL ONE-JJ) ZONE**

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##### **F. OTHER DEVELOPMENT CONTROLS:**

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5. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

#### **SECTION 10.9 RMHP RESIDENTIAL MOBILE HOME PARK ZONE**



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D. OTHER DEVELOPMENT CONTROLS:

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12. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

**SECTION 10.10 R-2 (RESIDENTIAL TWO) ZONE**

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D. OTHER DEVELOPMENT CONTROLS:

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5. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

**SECTION 10.11 R-3 (RESIDENTIAL THREE) ZONE**

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D. OTHER DEVELOPMENT CONTROLS:

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6. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

**SECTION 10.12 R-4 (RESIDENTIAL FOUR) ZONE**

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E. OTHER DEVELOPMENT CONTROLS:

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5. Special infill development standards apply in built-up areas to help ensure that new development is compatible with the surrounding context.

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**ARTICLE XVIII**

**~~BOARD OF ADJUSTMENT~~**

**BOARD OF ADJUSTMENT AND INFILL DEVELOPMENT BOARDS**

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### **SECTION 18.9 ACTIONS OF THE BOARD TO BE FURNISHED TO NKAPC**

~~Pursuant to KRS 147.705, the Board of Adjustment shall, after final approval of any dimensional variance, change from one nonconforming use to another, conditional use permits, and other appeals, furnish or cause to be furnished, within 60 days after approval, a copy of same to the Northern Kentucky Area Planning Commission.~~

### **SECTION 18.409 CIVIL OFFENSE**

- A. Violation of any provision of Article IX, General Regulations of this ordinance is declared to be a civil offense. Any person violating any provision shall be fined not more than two hundred dollars (\$200.00). Any person electing not to contest citation for said offense shall be fined two hundred dollars (\$200.00). Each day of violation shall constitute a separate offense.
- B. Violation of any provision of Article IX, Section 9.15 Building Regulations; Water and Sanitary Sewer Service and Section 9.16 Moving Buildings of this ordinance is declared to be a civil offense. Any person violating any provision shall be fined not more than five hundred dollars (\$500.00). Any person electing not to contest citation for said offense shall be fined five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

### **SECTION 18.410 PENALTY**

Any person or entity who violates any of the provisions of this chapter for which no other penalty has been specifically provided shall upon conviction be fined not less than ten dollars (\$10.00) but no more than five hundred dollars (\$500.00) for each conviction. Each day of violation shall constitute a separate offense.

### **SECTION 18.11 POWERS AND DUTIES OF INFILL DEVELOPMENT BOARD**

- 1. The Board shall have the following duties and powers:
  - a. To recommend to City Council written guidelines for undertaking new infill development;
  - b. To regulate infill development;
  - c. To work with and advise the federal, state, and county governments and other parts of city government on its area of expertise;
  - d. To advise and assist property owners and other persons and groups, including neighborhood organizations who are interested in infill development;
  - e. To conduct educational programs, including the preparation of publications;
  - f. To take any and all other actions which may be assigned to it by the Mayor and/or City Council.
- 2. The Board shall recommend to City Council plans for infill development.
- 3. The Board shall prepare comments on the relationship between Dayton's existing and historic buildings and plans for redevelopment projects. These comments shall include



suggestions on how to link the new and old buildings.

4. The Board shall adopt and make public rules for the transaction of its business and comply with the Kentucky Open Meetings Act, KRS 61.805. A simple majority of the membership shall constitute a quorum for decisions involving historic buildings and areas.
5. The Board shall prepare and keep on file, available for public inspection, a written annual report of the activities, cases, decisions, and other work.
6. The Board, in addition to any appropriations made by the City of Dayton, shall have the right to recommend to City Council applications for grants and special funding which it may legally receive from any and every source both in and out of the Commonwealth of Kentucky for the purpose of carrying out its duties.
7. The Board shall receive regular assistance in the performance of its responsibilities from a city staff member. In addition, the city may, by contract, obtain assistance on infill development matters from a professional with expertise in infill development or a closely related field. Other city staff members may be asked to assist the Board by providing technical advice or helping in the administration of this chapter

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#### **INFILL DEVELOPMENT REVIEW BOARD BYLAWS**

1. There is hereby established the Dayton Infill Development Review Board. The Board shall consist of five (5) members appointed by the Mayor and approved by the City Council. The members of the Board shall be the City Administrator or his or her designee, a member of the City of Dayton Board of Architectural Review, two (2) citizen members with an interest in infill development, and one member with training or experience in a related profession: architecture, history, architectural history, planning, real estate, or related fields. When a professional member is not available, the Mayor may appoint a person interested in infill development to serve. When the Board reviews an issue that is normally evaluated by a professional member and that field is not represented on the Board, the Board shall seek expert advice before rendering its decision. Members of the Board shall serve without compensation.
2. The terms of office of the members shall be four (4) years, except the terms of two (2) members of the original Board shall expire after one (1) year and one (1) member of the original Board shall expire after two (2) years and one (1) member of the original Board shall expire after three (3) years. Each member shall serve until the appointment and qualification of that member's successor. When a vacancy occurs during a term of office, it shall be filled within sixty (60) days, and the person selected shall be appointed for the unexpired portion of the term.
3. The Boards shall each year elect members to serve as Chair, Vice Chair and Secretary. The Chair shall preside at the meetings of the Board and shall be the spokesperson for the Board. In the Chair's absence, the Vice Chair shall perform these duties. The Secretary shall prepare the minutes of the Board's meetings which shall be available for public inspection.

4. No member of the Board shall vote on any matter that may affect the property, income or business interest of that member

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

C. 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 §§ 9.14 and 18.7:

\* \* \*

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,~~ may be permitted only if food is served at the event.

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 1, 2022

Second Reading: March 15, 2022

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

ATTEST:

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