

CITY OF DAYTON, KENTUCKY ORDINANCE NO. 2023#3

AN ORDINANCE AMENDING CHAPTER 110 OF THE CITY OF DAYTON, KENTUCKY, CODE OF ORDINANCES, INCLUDING THE SCHEDULE OCCUPATIONAL LICENSE FEES BUSINESSES OWE TO THE ON TOTAL GROSS RECEIPTS.

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

Chapter 110, Business License Taxes, in Title XI, Business Regulations, of the City of Dayton Code of Ordinances is hereby repealed in its entirety and replaced with a new Chapter 100, which is hereby enacted as follows:

OCCUPATIONAL LICENSE FEES

§ 110.01 DEFINITIONS.

For the purposes of this chapter, the following words and phrases have the meanings indicated unless the context clearly indicates or requires a different meaning. All definitions are intended to be consistent with KRS 67.750 to 67.790.

“BUSINESS ENTITY.” Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

“BUSINESS.” Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit, specifically including any activity within the meaning, scope and context of KRS 92.280, KRS 92.281 and § 181 of the Kentucky Constitution. “BUSINESS” shall also specifically but not exclusively include the rental offering of any property, real or personal, having a site in the city and providing goods and/or services in the city.

“CALENDAR QUARTER.” Any quarter of a calendar year ending on March 31, June 30, September 30 or December 31 thereof.

“CITY.” The City of Dayton, Kentucky.

“COMPENSATION.” Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted to include the following:

(1) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary-to-salary reduction arrangements under §§ 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(2) Include any amounts contributed by an employee to any welfare benefit, fringe benefit or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to §§ 125 and 132 of the Internal Revenue Code.

"CONCLUSION OF THE FEDERAL AUDIT." The date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable.

"EMPLOYEE." Any person who renders services to another person or any business entity for compensation, including an officer of a corporation any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, of any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an "EMPLOYEE."

"EMPLOYER." The person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

(1) If the person for whom the individual performs or performed any services does not have control of the payment of the wages for such service, the term "EMPLOYER" means the person having control of the payment of such wages; and

(2) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "EMPLOYER" means such person.

"FINAL DETERMINATION OF THE FEDERAL AUDIT." The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

"FISCAL YEAR." An accounting period of 12 months ending on the last day of any month other than December.

"GROSS RECEIPTS." All revenues or proceeds derived from the sale, lease or rental of goods or services, or property by a business entity reduced only by the following:

- (1) Sales and excise taxes paid;
- (2) Returned goods and allowances; and
- (3) Exempt licensed sales of alcoholic beverages under the laws of the Commonwealth of Kentucky.

"INTERNAL REVENUE CODE." The "INTERNAL REVENUE CODE" in effect on December 31 of the year in which the tax is due, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, of the year in which the tax is due, that would otherwise terminate.

"LICENSEE." Any person required to file a return or to apply for or obtain an occupational license under this chapter.

"PERSON." Every natural person, whether a resident or non-resident of the city, partnership, fiduciary, association, or corporation. Whenever the word "PERSON" is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

"REAL PROPERTY." All types of real estate, including residential property, commercial property, industrial property, and farm property.

"RENTAL PROPERTY." Real property that is rented, leased, or otherwise made available to third parties or is intended to be rented, leased, or otherwise made available to third parties for any purpose.

"RENTAL PROPERTY OWNER." Any person who alone, jointly, or severally with others owns rental property in the city, including, but not limited to any premises, building, commercial space, industrial space, or residential dwelling unit, where:

- a) The owner has legal title to real property, with or without accompanying actual possession thereof, including property for which the owner has granted or has attempted to grant an

equitable interest to a lessor, tenant, or occupant, whether by land contract, trust, or other legal document; or

(b) The owner is in charge, care, or control of any property, premises, or building as an owner, including, but not limited to, as an agent of the owner, or as an executor, contractor, vendor, administrator, trustee, or guardian of the estate of the owner.

“REGULATORY BUSINESS LICENSE.” A license required by the City of Dayton, pursuant to the police power thereof, for the purpose of regulating business activities and operations within the City of Dayton.

“RETURN” or “REPORT.” Any properly completed, and if required, signed form, statement, certification, declaration, or any other document permitting or required to be submitted or filed with the city or by written request for information to the business entity by the city.

“SALES REVENUE.” Receipts from the sale, lease or rental of goods, services, or property.

“TAXABLE GROSS RECEIPTS.” In case of a business entity have payroll or sales revenues only within the city means “GROSS RECEIPTS” as defined above.

“TAXABLE YEAR.” The calendar year or fiscal year ending during the calendar year, upon the basis of which gross receipts are computed.

“TAX DISTRICT.” Any city of the first through fifth class, county, urban county, charter county, consolidated local government, school district, special taxing district or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license fees to ensure that the applicant is following all regulatory requirements of the City or other applicable subdivisions of the Commonwealth of Kentucky.

§ 110.02 PURPOSE.

The purpose of this chapter is to impose an Occupational License fee on those persons engaged in franchises, trades, occupations, professions, and other businesses in the city and provide the necessary regulations for enforcement and administration.

§ 110.03 LEVY AND IMPOSITION.

Subject to the provisions of KRS 67.750 and 67.795, and except as otherwise provided herein, an Occupational License Fee is hereby levied and imposed upon all persons and business entities engaged in any franchise, trade, occupation, profession, or other business operating in the city, for the privilege of that engagement (“Occupational License”).

§ 110.04 OCCUPATIONAL LICENSE APPLICATION AND LICENSE REQUIRED.

(A) Every person and business entity operating or engaged in any business, franchise, trade, occupation, or profession in the city and every employer required by this chapter or statute to withhold the payroll fee specified herein shall apply for and obtain an occupational license before commencing business or work activity in the city.

(B) Each applicant shall complete the city’s application for an Occupational License and pay an application fee of \$60 (“application fee”) before operating or engaging in any business in the city. No application for an Occupational License shall be accepted by the Clerk/Treasurer without payment of this application fee, and the payment of any other Occupational License fee or business regulatory license fee otherwise due from the applicant at that time. After payment of the application fee, the Licensee shall annually pay the Occupational License fees as outlined in § 110.06. If a person fails to apply and pay the \$60 fee before operating or engaging in any business in the city, the application fee will double to \$120.

(C) Licensees shall notify the city of any changes in address, cessation of business, or other changes rendering the information previously supplied to the city on the Occupational License application inaccurate.

(D) The form and content of the annual Occupational License required by this chapter and the application for it shall be determined by the City Clerk/Treasurer.

(E) All applications for an Occupational License or other regulatory business license shall be reviewed by the City Clerk/Treasurer and may be referred to the City Administrative Officer or other city employees or officers.

§ 110.05 PROHIBITIONS.

Nobody shall conspire, cause, permit, promote, allow, aid, assist, encourage, or engage in any franchise, trade, occupation, profession, or other business in the city for which the annual Occupational License has not been issued.

§ 110.06 OCCUPATIONAL LICENSE FEE PAYMENT REQUIRED AND LICENSE FEE SCHEDULE.

(A) Every person or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an Occupational License fee for the privilege of engaging in such activities within the city. The Occupational License fee shall be measured as follows:

(1) The Occupational License fee for employees shall be 2.50% of all wages and compensation paid or payable for work done or services performed or rendered in the city by every resident and nonresident who is an employee;

(2) Every business shall pay an Occupational License fee on its gross receipts or sales in the city. Persons shall submit federal tax forms (i.e., Forms 1120 and 1120-S or 1040 Schedule C or a certified affidavit if no federal tax return is filed) that show gross receipts or sales for the previous tax year.

(B) Computation of the gross receipts of all businesses, trades, professions, or occupations from activities conducted within the city during the preceding calendar shall be made upon forms provided by the City Clerk/Treasurer in the amount as outlined in the following table except as excluded herein:

<i>Total Gross Receipts (Dollars)</i>	<i>Amount of Tax (Dollars)</i>
\$ 0 – 2,500	\$ 25.00
\$ 2,501 - 5,000	\$ 60.00
\$ 5,001 - 10,000	\$ 100.00
\$ 10,001 - 25,000	\$ 150.00
\$ 25,001 - 50,000	\$ 200.00
\$ 50,001- 100,000	\$ 250.00
\$ 100,001 - 200,000	\$ 350.00
\$ 200,001 - 300,000	\$ 450.00
\$ 300,001 - 400,000	\$ 550.00
\$ 400,001 - 500,000	\$ 700.00

\$ 500,001 - 600,000	\$ 850.00
\$ 600,001 - 700,000	\$ 1,000.00
\$ 700,001 - 800,000	\$ 1,150.00
\$ 800,001 - 900,000	\$ 1,300.00
\$ 900,001 - 1,000,000	\$ 1,450.00
\$ 1,000,001 - 2,000,000	\$ 1,600.00
\$ 2,000,001 - 3,000,000	\$ 1,750.00
\$ 3,000,001 - 4,000,000	\$ 2,500.00
\$ 4,000,001 - 5,000,000	\$ 3,500.00
\$ 5,000,001 - 10,000,000	\$ 4,500.00
\$ 10,000,001 and above	\$ 6,000.00

(C) A rental property owner engaged in the business of leasing real property, including, but not limited to, residential, commercial, or industrial properties, shall pay an annual license tax to the city in the amount of .01 times the rental property owner's gross receipts but not less than the amount of one hundred dollars (\$100.00) instead of the amounts listed in the table above. Rental property owners are required to submit applicable federal tax forms with their return, including but not limited to a 1040 Schedule E, with their return and payment of this fee.

(D) Every person engaged in the business of selling fireworks shall pay an annual license tax to the city in the amount of one thousand dollars (\$1,000.00) instead of the amounts listed in the table above.

(E) If any business entity dissolves, ceases to operate, or withdraws from the city during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any Occupational License fee for the period of that taxable year during which the business entity had business activity in the city.

§ 110.07 APPORTIONMENT OF GROSS RECEIPTS IN CALCULATING FEE DUE.

(A) Except as provided in division (D) below, gross receipts shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the gross receipts by a fraction, the numerator of which is the payroll factor, described in division (B) below, plus the sales factor, described in division (C) below, and the denominator of which shall be two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the gross receipts by the sales factor as set forth in division (C) below.

(3) For the purpose of divisions (A) through (E) of this section, the business entity shall file an apportionment form provided by the city.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the city during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the city based on the time the individual's service is performed within the city.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the city during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sale, lease, or rental of tangible personal property is in the city if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the city regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the city and the purchaser is the United States government.

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the city based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the city and the denominator of which is the total time spent performing that income-producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the city, the business entity may petition the city or the city may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the city; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of gross receipts. The city must approve any alternate apportionment method prior to its implementation by the business entity. Once an alternate apportionment method is approved by the city, the business entity must apply such apportionment scheme in all future tax years, unless otherwise directed by the city.

(E) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the city, the license fee shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the city. The license fee shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the city bears to the total wages and compensation paid or payable. In order for the city to verify the accuracy of a taxpayer's reported percentages under this division, the taxpayer shall maintain adequate records.

(F) All partnerships, S corporations, and all other entities where income is "passed through" to the owners are subject to this chapter. The Occupational License fee imposed in this chapter is assessed against gross receipts before it is "passed through" these entities to the owners.

(G) If a business entity makes, or is required to make, a federal income tax return, the Occupational License fee shall be computed for the purposes of this chapter on the basis of the same calendar or fiscal year required by the federal government and shall employ the same methods of accounting required for federal income tax purposes.

(H) If any business entity dissolves, ceases to operate or withdraws from the city during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation or business, withdrawal, or loss or surrender of charter shall not defeat or excuse the requirement to file returns nor the assessment and collection any Occupational License fee for the period of that taxable year during which the business entity had business activity in the city.

§ 110.08 EMPLOYERS SHALL WITHHOLD FEE.

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an Occupational License fee calculated under § 110.06.

(B) Every employer required to deduct and withhold a fee under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the city, and pay to the city, the fee required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city.

(C) Every employer who fails to withhold or pay to the city any sums required by this subchapter to be withheld and paid shall be personally and individually liable to the city for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this section. If the employer withholds, but fails to pay, the amounts withheld to the city, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.

(E) Every employer required to deduct and withhold a fee under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the city a reconciliation of the Occupational License fee withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the city, shall be submitted.

(F) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and Occupational License fee deducted by the employer from the compensation paid to the employee for payment to the city during the preceding calendar year.

(G) An employer shall be liable for the payment of the fee required to be deducted and withheld under this section.

(H) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally, for any fee required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the city, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the fee becomes or became obligated.

(I) Notwithstanding divisions (H) and (I) above, every employee receiving compensation in the city subject to the fee imposed under § 110.06 shall be personally liable for any amount due. In all cases where the employer does not withhold the fee levied under this chapter from the employee, such employee or employees shall be responsible for filing with the city each quarter in the same manner as if they were the employer.

§ 110.09 GROSS RECEIPT RETURNS REQUIRED.

(A) Unless otherwise specified in this chapter, every business entity and employer required to have an Occupational License from the city shall provide to the city all information necessary to assess the appropriate Occupational License fee. All business entity returns made for the preceding taxable year shall be made not later than April 15, except returns made on the basis of a fiscal year,

which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. The returns shall be made on the forms available from the office of the City Clerk/Treasurer.

(B) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its Occupational License Return with the city. Whenever, at the discretion of the city, it is necessary to examine the federal income tax return of any business entity to audit the return, the city may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The city may also require copies of reports or adjustments made by the federal government and/or other financial documents maintained by the business entity.

(C) Every business entity subject to an Occupational License fee governed by the provisions of this chapter shall keep records, render under oath statements, make returns, and comply with rules and regulations as the city from time to time may prescribe. Whenever the city deems it necessary, the city may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the city deems sufficient to determine the fee liability of the business entity.

(D) The city may require, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge of the business entity or on the premises.

(E) The full amount of the unpaid fee payable by any person or business entity, as appears from the face of the return and without regard to any extension of time for filing the return, shall be paid to the city at the time the Occupational License fee return is filed with the city.

(F) Every business entity making payments of \$600 or more to persons other than employees for services performed within the city are responsible for maintaining records of those payments and for completing Form 1099 SF, Statement of Non-Employee Compensation, on or before February 28 of the year following the close of the calendar year in which such compensation was paid. Persons or business entities that not required to remit a Form 1099 remain liable to the city to remit equivalent information for compensation made to any persons or business entities that are not employees.

(G) If the time for filing a return is extended, the business entity shall pay, as part of the fee, an amount equal to 12% per annum simple interest on the fee shown due on the return, but not previously paid, from the time the fee was due until the return is actually filed and the fee paid to the city. Any fraction of a month shall count as an entire month.

§ 110.10 EXTENSIONS OF FILING TIME.

The city may grant any business entity an extension of not more than six months for filing its return unless a longer extension has been granted by the Internal Revenue Service or a longer extension is agreed to by the city and the business entity. An extension may only be granted if the business entity, on or before the date prescribed for payment of the Occupational License fee, requests the extension and pays the amount properly estimated as its fee. All requests for an extension shall be made in writing.

§ 110.11 REFUND PROCEDURES.

(A) Where an overpayment of fee due is made under § 110.06, a refund or credit shall be made to the employer, but only to the extent of the overpayment and only if a written application for refund or credit is received by the city within two years from the date the overpayment was originally made.

(B) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, whose employer has withheld and remitted to this city the Occupational License fee on the compensation attributable to activities performed outside the city may file for a refund within two years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the city may confirm with the employer the percentage of time spent outside the city and the amount of compensation attributable to activities performed outside the city prior to approval of the refund.

(C) Where there has been an overpayment of fee under § 110.06, a refund or credit shall be made to any person or business entity to the extent of the overpayment only if a written application for refund or credit is received by the city from the person or business entity within two years from the date the overpayment was made. No refund shall be made of any fee paid unless a complete return is filed as required by § 110.09.

§ 110.12 AUDIT PROVISIONS.

(A) As soon as practicable after each return is received, the city may examine and audit the return. If the amount of fee computed by the city is greater than the amount returned by the business entity, the additional fee shall be assessed and a notice of assessment mailed to the business entity by the city within five years from the date the return was filed, except as otherwise provided in this section.

(1) In case of a failure to file a return or of a fraudulent return, the city may assess the additional fee at any time and there shall be no time limitations for bringing an action under this chapter.

(2) In the case of a return where a business entity understates gross receipts, or omits an amount properly includable in gross receipts, or both, which understatement or omission, or both, is in excess of 25% of the amount of gross receipts stated in the return, the additional fee may be assessed at any time within six years after the return was filed.

(3) In the case of an assessment of additional fee relating directly to adjustments resulting from a final determination of a federal audit, the additional fee may be assessed before the expiration of the times provided in this subsection, or six months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

(4) The times provided in this division may be extended by agreement between the business entity and the city. For the purposes of this division, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) In addition to all other remedies available to the city, the city may initiate a civil action for the collection of any additional unpaid fee within the times prescribed in division(A) above.

§ 110.13 ADMINISTRATIVE PROVISIONS.

(A) The City Clerk/Treasurer or any employee or agent designated thereby is authorized to examine the books, papers, and records of any employer or supposed employer, person, or of any business entity or supposed business entity to determine the accuracy of the any return made, or if no return was made, to ascertain the amount of Occupational License due under the terms of this chapter. Each such employer or supposed employer or business entity or supposed business entity shall give to the Clerk/Treasurer or his or her duly authorized agent or employee the means, facilities, and opportunities of the making of such examination and investigation. The

Clerk/Treasurer is hereby authorized to examine any person under oath concerning any compensation or gross receipts that are shown or should have been shown in a return and may compel the production of books, papers, records, and the attendance of all persons, whether as parties or as witnesses, whom he or she believes to have knowledge of such gross receipts or compensation to the extent that any officer empowered to administer oaths in this Commonwealth is permitted to so order.

(B) No suit shall be maintained in any court to restrain or delay the collection or payment of the fee levied by this chapter.

(C) Any fee collected pursuant to the provisions of this chapter may be refunded or credited within two years of the date prescribed by law for the filing of a return or the date the money was paid to the city, whichever is the later, except that:

(1) In any case, where the assessment period contained in § 110.10 has been extended by an agreement between the business entity and the city, the limitation contained in this division shall be extended accordingly.

(2) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six months from the conclusion of the federal audit, whichever is later.

(D) For the purposes of division (E) below, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(E) The authority to refund or credit overpayments of fees collected pursuant to this chapter is vested exclusively in the city.

(F) To reduce administrative costs and to minimize paperwork for employers, employees, and business entities, this chapter shall be administered in conjunction any of the city's business regulations or police powers as maybe deemed necessary and efficient.

§ 110.14 ENFORCEMENT.

The City Clerk/Treasurer is charged with the enforcement of the provisions of this chapter and is empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including but not limited to provisions for the re-examination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the rules and regulations promulgated by it shall be binding on all licensees and employers affected. It shall be the duty of the City Clerk/Treasurer to collect and receive all license fees imposed by this subchapter and to keep records showing the amounts received by him from each employer. The city may contract by inter-local agreement to have any other governmental entity administer and collect the Occupational License fee due under this chapter.

§ 110.15 FINANCIAL INFORMATION SHALL REMAIN CONFIDENTIAL.

(A) No present or former employee of the city shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax scheduled, returns, or reports required to be filed with the city or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax law, or in any way made a matter for public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the city from testifying in any court or by deposition, or from introducing as evidence returns or reports

filed with the city, in an action for violation of a tax or fee law of the city or other tax district or in any action challenging the city's tax or fee laws or in any action in which the income of the business entity is a relevant issue at trial.

(B) The city reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the city if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the city the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Furthermore, that the city may publish statistics based on such information in such a manner as not to reveal data respecting gross receipts or compensation of any person or business entity.

(C) In addition, the city is empowered to execute similar reciprocity agreements as described in division (B) above with any other taxing entity should there be a need for exchange of information to effect diligent enforcement of this section or the ordinances of the other taxing entity.

§ 110.16 USE OF OCCUPATIONAL LICENSE FEE.

All money derived from the Occupational License fees under the provisions of this chapter shall be paid to the City Clerk/Treasurer, placed to the credit of the General Fund of the city, and be used and expended in defraying the current, general, and incidental expenses of the city.

§ 110.17 OTHER TAXES AND FEES TO BE PAID.

The Occupational License fee prescribed in this chapter is not in lieu of, but are in addition to, any taxes and fees required to be paid under any other ordinance of the city.

§ 110.18 REGULATORY BUSINESS AND OCCUPATIONAL REGISTRATION AND REGULATION.

(A) Any person or business entity engaged in any franchise, trade, occupation profession or other business in the city shall file an Occupational License application with the city Clerk-Treasurer and must first obtain an annual license before commencing or continuing business in the city.

(B) This section shall be administered by the City Clerk/Treasurer, under the direction of the Mayor. The City Clerk/Treasurer with the approval of the Mayor shall have authority to issue and promulgate such regulations as he or she may consider necessary for the administration of this chapter, provided such regulations are not inconsistent with the provisions of this chapter; and provided further that such regulations when promulgated are approved by the City Council. No license shall be issued for any unlawful activity, or for any business that the City Clerk/Treasurer with the approval of the Mayor, shall consider to be detrimental to the public welfare, or contrary to the public interest, but any such decision to refuse to issue a license may be appealed to the City Council.

(C) If any business entity, person, association, firm, or corporation should fail to comply this chapter, the City Clerk/Treasurer shall report in writing the names, address and nature of the trade, profession, occupation, or business being carried on by such delinquents to the Mayor.

(D) Provided that an applicant is not in violation of any city ordinance and not otherwise operating in violation of any law, a license certificate shall be issued to each person or business entity filing a business license application and paying all fees and Occupational License fees due under this or any other city ordinance. Such certificate shall show the year for which issued, the name of the person to whom issued and the address or location of the place of business being licensed. A license may be transferred from one person to another if the kind of business is not materially changed and

may be transferred to cover another location if a taxpayer moves his or her place of business. Each taxpayer shall display the license certificate in a conspicuous place in each licensed place of business. The licenses issued under the provisions of this chapter shall be for the same license year provided for under § 110.10.

§ 110.19 REVOCATION OR SUSPENSION OF OCCUPATIONAL AND BUSINESS LICENSES.

(A) Any Occupational License or other business license issued under this chapter, or any other authority of the city, may after notice to the holder thereof, and after a hearing before City Council as hereinafter provided, be revoked, or suspended by the City Council for the following reasons:

(1) If any person licensed under this chapter is convicted of a felony, a misdemeanor for which a jail sentence may be imposed, any other crime in which moral turpitude is involved, or any other crime which directly relates to the business, occupation, or profession of which a license was issued pursuant to the terms of this chapter. However, in making the decision to revoke or suspend the license, the City Council shall consider:

(a) The nature or seriousness of the crime for which the person was convicted;

(b) The relationship of the crime to the purpose of regulating the business, occupation, or profession for which the license was issued;

(c) The relationship of the crime to the ability, capacity and fitness required to perform the duties and to discharge the responsibilities of the operation of the business, occupation, or profession for which the license was issued; and

(d) The extent to which the person may have been successfully rehabilitated.

(2) If there shall occur in, on or at the premises covered by the license any constitution that is a nuisance or obnoxious to the morals and general welfare of the public; or

(3) If any person is disorderly in, on or at the premises covered by the license and disturbs the good order of the community or the licensee suffers or permits any disorderly conduct in, on, or at the licensed premises; or

(4) If the Licensee misrepresents any material facts as to the type or kind of business stated in his or her application or tax return or other fact necessary or proper to determine the regulatory fee to be paid; or

(5) If the Licensee fails to provide supporting tax return documentation required by this ordinance;

(6) If the Licensee refused a right of entry to the Building Inspector or other city officer or employee requiring entry for the purpose of conducting inspection as specified or permitted by ordinance; or

(7) If there shall occur in, on, or at the business premises any violation of any city or state code or ordinance or if the Licensee suffers or permits any violation of any city or state code or ordinance in, on, or at the licensed premises.

(B) When the Mayor or City Clerk/Treasurer has probable cause to believe that a license should be revoked for any of the causes enumerated herein, he or she shall prefer charges against the Licensee with the City Clerk/Treasurer. The charges shall be in writing and each charge shall be clearly set out. Within three days after the filing of the charges and of the time of the hearing thereof shall be mailed to the licensee at the address shown on the license and a hearing before the City Administrative Officer shall be held within ten days after the filing of the charges. After the hearing, the City Administrative Officer shall issue findings of fact and conclusions of law on the charges.

The decision of the City Administrative Officer may be appealed to the City Council, which will conduct a de novo hearing on the charges. The evidence presented to City Council shall be transcribed and the action taken by City Council on the charges shall be reduced to writing and recorded in the minute book. An aggrieved party may appeal the City Council decision to a court of appropriate jurisdiction in Campbell County, Ky.

§ 110.20 LICENSEES' BUILDINGS AND PREMISES TO COMPLY WITH STATE AND LOCAL REQUIREMENTS AND LAWS.

No license shall be issued for the activities of any business if the premises, building, or real property is used for purposes do not fully comply with all applicable state and federal laws and ordinances of the city. No license or permit shall be issued for the conduct of any business or performance of any act that would involve a violation of the city's zoning ordinance or otherwise constitutes a nuisance.

§ 110.21 DUTY TO ALLOW INSPECTIONS.

(A) Whenever inspections of the premises used for, or in connection with, the operation of a licensed business or occupation are provided for or required by city ordinances, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer or employee of the city who is authorized or directed to make such inspection for the purpose of making the inspection.

(B) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with an ordinance provision or to detect violations thereof, it shall be the duty of the licensee to give to any authorized officer or employee of the city requesting the same sufficient samples of such material or commodity for such analysis.

(C) In addition to any other penalty which may be provided, the Mayor may revoke the license of any licensed proprietor of any licensed business in the city who refuses to permit any such officer or employee authorized to make such inspection or take such sample to make the inspection, or who interferes with such officer or employee while in the performance of his or her duty in making such inspection.

No license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the city, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.

§ 110.99 PENALTIES

(A) A person or business entity subject to tax on gross receipts may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the person or business entity:

(1) Fails to file any return, report, or supporting federal tax-return documentation as required by this ordinance on or before the due date prescribed for filing or as extended by the city; or

(2) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

(3) The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25.00).

(B) Every employer who fails to file a return, pay the fees on or before the time prescribed under § 110.06, or submit the required federal tax forms required under §§ 110.06 (A) and (C) and

110.09 (F) may be subject to a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this section shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25.00).

(C) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the fee, an amount equal to twelve percent (12%) per annum simple interest on the fee shown due, but not previously paid, from the time the fee was due until the fee is paid to the city. A fraction off a month is counted as an entire month.

(D) Every fee imposed by this chapter, and all increases, interest, and penalties thereon shall become from the time the fee is due and payable a personal debt of the taxpayer to the city.

(E) The city may enforce the collection of the Occupational License fee due under § 110.06 and any fees, penalties, and interest as provided in this section by filing a civil action in a court of appropriate jurisdiction. To the extent authorized by law, the City shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this chapter.

(F) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected or provide required documentation, with the intent to evade payment of the fee or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(G) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

First Reading: May 16, 2023

Second Reading:

CITY OF DAYTON, KENTUCKY

By: _____
Mayor Ben Baker

ATTEST:

Tristan Klein, City Clerk/Treasurer

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2023#4**

**ADDING A NEW SECTION 37.02 AND AMENDING
SECTION 37.04 OF THE DAYTON CODE OF
ORDINANCES RELATED TO THE PAYMENT,
COLLECTION, AND ENFORCEMENT OF THE CITY'S AD
VALOREM PROPERTY TAXES.**

WHEREAS, during the 2023 Kentucky General Assembly legislative session, the Kentucky Legislature amended KRS 65.8801 to 65.8839 to allow code enforcement liens to be placed on cities' ad valorem tax bills ("SB 141"); and

WHEREAS, the City of Dayton ("City") has passed an ordinance pursuant to KRS 91A.070(2); and

WHEREAS, the City wishes to clarify its compliance with KRS 91A.070(2) and to incorporate SB 141 into this ordinance.

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

A new § 37.02, titled "Payment, Collection, and Enforcement of Taxes," is hereby added to the Dayton Code of Ordinances ("Code") and § 37.04 of the Code is hereby amended, with words being deleted being ~~lined through~~ and words being added underlined as follows:

§ 37.02 PAYMENT, COLLECTION, AND ENFORCEMENT OF TAXES

(A) The due date for city ad valorem property taxes ("property taxes"), unless otherwise modified or changed, is established as November 30 and the delinquency date is established as December 1.

(B) If November 30 falls on a Saturday or Sunday, then the due date would be the next available business day.

(1) The above-referenced dates are fixed in accordance with provisions of KRS 132.285, which provides, in part, that the legislative body of any city adopting a county assessment may fix the due and delinquency dates for property taxes and any other dates that will enable it effectively to adopt the county assessment, notwithstanding any statutory provision to the contrary.

(C) Pursuant to KRS 91A.070(2), any notice/invoice of ad valorem taxes owed on a parcel of real estate in the City of Dayton ("property") shall set forth:

- (1) The name of the owner of the real estate ("the property owner");
- (2) The property address;
- (3) The Parcel Identification Number for the property being taxed;
- (4) The assessed value of the property being taxed;
- (5) The current ad valorem tax rate assessed against the property;
- (6) The total amount of ad valorem taxes to be paid on the property;
- (7) The date on which the taxes are to be paid and when they will become

delinquent;

(8) Penalty and interest due on delinquent taxes; and

(9) The location where or manner in which the property taxes may be paid.

(D) The City Clerk and/or the City Administrator are authorized, with the assistance of the City Solicitor, to file in a court of appropriate jurisdiction an action to collect any property taxes, penalty, interest, or any other charges related thereto, and to recover all court costs and reasonable attorney fees incurred to enforce any provision of this chapter.

(E) The amount of any unpaid lien the city has recorded pursuant to KRS 65.8835 ("code enforcement lien") may be placed on the property tax notice/invoice as a separate item, which shall not be considered a part of the property owner's ad valorem tax liability. The nonpayment or late payment of a code enforcement lien shall not be enforced under KRS 91A.070 but instead pursuant to KRS 65.8835. The City may elect to use KRS 91.481 to 91.527 to enforce uncollected liens arising pursuant to KRS 65.8835 in the same manner as authorized for unpaid tax bills.

§ 37.04 AD VALOREM TAXES ON MOTOR VEHICLES AND MOTORBOATS.

(A) All ad valorem taxes on motor vehicles and motorboats shall be collected by the Campbell County Clerk in accordance with KRS 134.800.

(B) Ad valorem taxes on motor vehicles and motorboats shall become due and delinquent as set forth in KRS 134.810 and any such taxes not paid by the date when they become delinquent shall be subject to the penalty and interest specified in KRS 134.810.

First Reading: May 16, 2023

Second Reading:

CITY OF DAYTON, KENTUCKY

By: _____
Mayor Ben Baker

ATTEST:

Tristan Klein, City Clerk

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2023#5**

**AN ORDINANCE PROHIBITING THE OPERATION OF
RECYCLING OPERATIONS AND STORAGE OF
RECYCLING MATERIALS IN RESIDENTIALLY AND
COMMERCIALY ZONED AREAS OF THE CITY OF
DAYTON.**

**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 118, as follows:

RECYCLING ESTABLISHMENTS AND RECYCLERS

§ 118.01 DEFINITIONS

(1) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic or corporation.

(2) "Recycler" means a person, firm, or corporation operating a recycling establishment or allowing recycling materials to be deposited, parked, collected, or otherwise located on premises owned or controlled by such person, firm, or corporation.

(3) "Recycling establishment" means any place where wrecked or nonoperative automobiles, vehicles, machines, and other scrap, salvage materials, or recycling materials, as defined below, are deposited, parked, collected, or otherwise located.

(4) "Recycling materials" shall mean old appliances and equipment; scrap copper, brass, iron, steel, and other old or scrap ferrous or nonferrous materials; rope; rags; batteries; paper; plastic; trash, debris, and waste; used tires and rubber debris; or old or used motor-vehicle parts, whether these recycling materials are placed or located on land or in or on trucks, trailers, or other vehicles or equipment.

**§ 118.02 RECYCLERS AND RECYCLING ESTABLISHMENTS PROHIBITED ON
PROPERTIES IN RESIDENTIALLY AND COMMERCIALY ZONED AREAS**

No person shall operate or cause to be operated in the City of Dayton any recycling establishment or store, place, or locate recycling materials on any property located in the city that is zoned for residential or commercial uses.

§ 118.03 CRIMINAL PENALTY

A violation of this ordinance shall be a Class A misdemeanor and a person convicted thereof in a court of competent jurisdiction shall be sentenced to shall pay a criminal fine not to exceed the maximum amount of five hundred dollars (\$500) and/or serve a term of imprisonment not to

exceed the maximum period of twelve (12) months. The penalties provided in this section shall be in addition to any civil fines or civil penalties imposed for violations of other city ordinances.

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: May 16, 2023

Second Reading: _____

MAYOR BEN BAKER

ATTEST:

TRISTAN KLEIN
CITY CLERK/TREASURER

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2023#6**

**AN ORDINANCE ADDING A NEW SECTION 72.15,
TITLED "VEHICLES CARRYING RECYCLING
MATERIALS," TO THE DAYTON CODE OF
ORDINANCES.**

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

A new § 72.15, titled "Vehicles Carrying Recycling Materials," is hereby added to the Dayton Code of Ordinances as follows:

§ 72.15 VEHICLES CARRYING RECYCLING MATERIALS

It shall be unlawful for anyone to park a truck, trailer, or other vehicle or equipment carrying recycling materials, as that term is defined in § 118.01(4), on city streets for a period of eight (8) consecutive hours or longer.

First Reading: May 16, 2023
Second Reading:

CITY OF DAYTON, KENTUCKY

By: _____
Mayor Ben Baker

ATTEST:

Tristan Klein, City Clerk

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2023#7**

AN ORDINANCE ADOPTING THE CITY OF DAYTON, KENTUCKY'S ANNUAL BUDGET FOR THE FISCAL YEAR RUNNING FROM JULY 1, 2023, THROUGH JUNE 30, 2024, 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 2024.

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, 2023, and ending June 30, 2024, 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, 2023, 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, 2023 and ending June 30, 2024.
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, 2023 and ending June 30, 2024.
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 16, 2023, and given final reading on June 6, 2023, 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 16, 2023

Second Reading: June 6, 2023

MAYOR BEN BAKER

ATTEST:

TRISTAN KLEIN
CITY CLERK/TREASURER

City of Dayton Budget 2024

The annual budget for fiscal year beginning July 1, 2023 and ending June 30, 2024 is hereby adopted as follows:

Resources Available	General Fund	Municipal Aid Fund	Econ. Development	Park Board	TIF
Fund Balance Forward:	\$ 2,400,000.00	\$ 115,000.00	\$ 500,000.00	\$ 60,100.00	\$ 900,000.00
Estimated Revenue					
Taxes	\$ 1,640,000.00				\$ 650,000.00
Licenses and Permits	\$ 2,077,200.00				
Fines	\$ 80,650.00				
Intergovernmental	\$ 71,000.00	\$ 118,000.00		\$ 135,000.00	\$ 183,000.00
Charges for Services	\$ 431,600.00				
Miscellaneous	\$ 110,900.00			\$ 400.00	
Grant Restricted	\$ 3,303,120.00			\$ 72,000.00	
Interest	\$ 30,000.00	\$ 2,500.00	\$ 8,000.00	\$ 1,000.00	\$ 10,000.00
Total Estimated Revenue	\$ 7,744,470.00	\$ 120,500.00	\$ 8,000.00	\$ 208,400.00	\$ 843,000.00
Available Appropriations	\$ 10,144,470.00	\$ 235,500.00	\$ 508,000.00	\$ 268,500.00	\$ 1,743,000.00
Appropriations					
General Government	\$ 703,364.40				\$ 130,000.00
Police	\$ 1,536,659.72				
Fire	\$ 1,230,559.95				
Public Works	\$ 494,027.60	\$ 30,000.00		\$ 77,500.00	
Code Enforcement	\$ 136,609.20		\$ 50,000.00		
Parks				\$ 60,000.00	\$ 60,000.00
Economic Development			\$ 135,000.00		
Waste Collection	\$ 232,000.00				
Professional Services	\$ 92,300.00	\$ 50,000.00			\$ 21,000.00
TIF Payment					\$ 505,000.00
Miscellaneous	\$ 48,250.00				
Capital Spending	\$ 4,280,290.00			\$ 98,000.00	
Total Appropriations	\$ 8,754,060.87	\$ 80,000.00	\$ 185,000.00	\$ 235,500.00	\$ 716,000.00
Est. Ending Fund Balances	\$ 1,390,409.13	\$ 155,500.00	\$ 323,000.00	\$ 33,000.00	\$ 1,027,000.00

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2023#8**

**AN ORDINANCE AMENDING SECTION 38.08(C)(1) OF
THE DAYTON CODE OF ORDINANCES RELATED TO
APPEALS OF CODE ENFORCEMENT CITATIONS.**

WHEREAS, enforcement proceedings for Code Enforcement citations are outlined in KRS 65.8825 and Section 38 of the Dayton Code of Ordinances (“Code”); and

WHEREAS, the City wishes to clarify Section 38.08(C)(1) of the Dayton Code of Ordinances to ensure compliance with KRS 65.8825(6).

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

Section 38.08, titled “Enforcement Proceedings,” of the Code is hereby amended, with words being deleted being ~~lined through~~ and words being added underlined as follows:

§ 38.08 ENFORCEMENT PROCEEDINGS

(G) (1) The person to whom the citation is issued shall respond to the citation within ~~ten~~ seven (407) days of the date of issuance by either paying the civil fine or requesting, in writing, a hearing before the Board to contest the citation. If the person fails to respond to the citation within ~~ten~~ seven (407), the person shall be deemed to have waived the right to a hearing or appeal and the determination that a violation was committed shall be considered final. In this event, the citation, as issued, shall be deemed a final order determining that the violation was committed and imposing the civil fine as set forth in the citation, and the person shall be deemed to have waived the right to appeal the final order to District Court.

First Reading: May 16, 2023

Second Reading:

CITY OF DAYTON, KENTUCKY

By: _____
Mayor Ben Baker

ATTEST:

Tristan Klein, City Clerk

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2023#9**

**AN ORDINANCE AMENDING 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 16, 2022, and will be given a final reading on June 6, 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 16, 2023

Second Reading: _____

City of Dayton Budget 2023- First Amendment

The annual budget for fiscal year beginning July 1, 2022 and ending June 30, 2023 is hereby adopted as follows:

Resources Available	General Fund	Municipal Aid Fund	Econ. Development	Park Board	Grant Park TIF	Manhattan TIF	Sargeant Park
Fund Balance Forward:	\$ 2,100,000.00	\$ 180,000.00	\$ 610,000.00	\$ 95,000.00	\$ 320,000.00	\$ 260,000.00	\$ 30,000.00
Estimated Revenue							
Taxes	\$ 1,790,000.00						
Licenses and Permits	\$ 1,749,150.00						
Fines	\$ 63,150.00						
Intergovernmental	\$ 131,304.00	\$ 118,000.00		\$ 130,000.00	\$ 62,000.00	\$ 377,200.00	
Charges for Services	\$ 409,800.00						
Miscellaneous	\$ 91,300.00			\$ 400.00			
Grant Restricted	\$ 3,335,928.60			\$ 72,000.00			
Interest	\$ 1,500.00	\$ 150.00	\$ 500.00	\$ 75.00	\$ 300.00	\$ 250.00	\$ 200.00
Total Estimated Revenue	\$ 7,572,132.60	\$ 118,150.00	\$ 500.00	\$ 202,475.00	\$ 62,300.00	\$ 377,450.00	\$ 200.00
Available Appropriation	\$ 9,672,132.60	\$ 298,150.00	\$ 610,500.00	\$ 297,475.00	\$ 382,300.00	\$ 637,450.00	\$ 30,200.00
Appropriations							
General Government	\$ 655,050.59 \$ 685,050.59						
Police	\$ 1,476,389.57						
Fire	\$ 1,173,871.79						
Public Works	\$ 435,094.56 \$ 455,094.56	\$ 30,000.00		\$ 77,500.00			
Code Enforcement	\$ 110,523.40		\$ 50,000.00				
Parks				\$ 50,000.00			
Economic Development			\$ 135,000.00				
Waste Collection	\$ 232,000.00						
Professional Services	\$ 67,000.00	\$ 209,000.00					
TIF Payment	\$ 152,000.00 \$ 165,000.00				\$ 62,000.00	\$ 280,000.00	
Miscellaneous	\$ 360,250.00						
Capital Spending	\$ 3,333,777.00			\$ 98,000.00			
Total Appropriations	\$ 8,058,956.91	\$ 239,000.00	\$ 185,000.00	\$ 225,500.00	\$ 62,000.00	\$ 280,000.00	\$ -
Est. Ending Fund Balance	\$ 1,613,175.69	\$ 59,150.00	\$ 425,500.00	\$ 71,975.00	\$ 320,300.00	\$ 357,450.00	\$ 30,200.00

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2023-#10**

**AN ORDINANCE CLOSING AND VACATING TWO
ALLEYS LOCATED IN THE BLOCKS BOUNDED BY
THIRD AVENUE, CLAY STREET, FIFTH AVENUE, AND
GREENDEVILS LANE.**

WHEREAS, pursuant to KRS 82.405, the City of Dayton, Kentucky (“City”), has decided to close two alleys located within the blocks bounded by Third Avenue, Clay Street, Fifth Avenue, and Greendevils’ Lane in the City, as is more fully described herein; and

WHEREAS, the Dayton Independent Schools owns all of the property abutting the public ways to be closed (“Property Owner”) and the City has provided written notice of the proposed closing to the Property Owner; and

WHEREAS, the City has received written, notarized consent of the proposed closing and vacation of the street from the Property Owner as well as a waiver and disclaimer of interest (“Consent”), as depicted in Exhibit “A,” which is made a part hereof by reference pursuant to KRS 83A.060(9) and incorporated by reference herein.

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

Section I. Two alleys located within the blocks bounded by Third Avenue, Clay Street, Fifth Avenue, and Greendevils’ Lane in the City (“the alleys”) are hereby ordered closed and vacated without further action. This public way is described in both as a narrative legal description and as a plat in Exhibits A and B of the Consent, which also are attached hereto and incorporated herein.

Section II. Having made the above-referenced findings, the alleys 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.

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: June 6, 2023

Second Reading: _____

MAYOR BEN BAKER

ATTEST:

TRISTAN KLEIN
CITY CLERK/TREASURER

EXHIBIT "A"
Written Consent Closing and Vacating Alleys

**CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2023-#11**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON,
KENTUCKY, ADOPTING AN UPDATED CODE OF ETHICS AND
AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL
COOPERATION AGREEMENT WITH THE NORTHERN KENTUCKY
REGIONAL ETHICS AUTHORITY AND THE CITIES AND COUNTY WHO
ARE CURRENTLY MEMBERS OF THIS AUTHORITY.**

WHEREAS, the City of Dayton and its City Council members committed to the operation of the City in a manner that manifests the highest moral and ethical standards among its board members, officers and employees and desire to maintain the trust and confidence of the public in the discharge of the agency’s mission and duties.

WHEREAS, Kentucky Revised Statutes (“KRS”) Section 65.003 requires the City to enact an ordinance to assure that board members and employees comply with standards of ethical conduct and financial disclosure requirements.

WHEREAS, the City needs to update its ethics ordinance, which has not been updated since 1994.

WHEREAS, the Kentucky League of Cities’ model ethics ordinance is used as source material to update the City’s previous code of ethics to align with the Commonwealth of Kentucky’s Revised Statutes.

NOW, THEREFORE, BE IT ORDERD AND RESOLVED BY THE CITY COUNCIL
OF THE CITY OF DAYTON, KENTUCKY THAT:

Section 1

The Dayton City Council (“City Council”) hereby adopts a new and updated Code of Ethics, which shall be applicable to City Council members and employees of the City of Dayton, Kentucky (“City). This Code of Ethics replaces the City’s existing Code of Ethics in Chapter 40 of the City’s Code of Ordinances as follows:

CITY OF DAYTON, KY., CODE OF ETHICS

§ 40.01 DEFINITIONS.

This policy shall be known and may be cited as the “City of Dayton, Ky., Code of Ethics.”

§ 40.02 Findings.

The legislative body of the City of Dayton finds and declares that:

- (A) Service in public office and employment with the City are public trusts.
- (B) The vitality and stability of the governance of this City depends upon the public's confidence in the integrity of its board members and employees. Whenever the public perceives a conflict between the private interests and public duties of a board member or employee, that confidence is compromised.
- (C) The legislative body of this City has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its board members and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

§ 40.03 Purpose and Authority

- (A) It is the purpose of this policy to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for board members and employees of the city shall be clearly established, uniform in their application, and enforceable, and to provide the officers and employees of the city with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.
- (B) It is the further purpose of this ordinance to meet the requirements of KRS 65.003.
- (C) This ordinance is enacted under the power vested in the city by KRS 82.082 and pursuant to the requirements of KRS 65.003.

§ 40.04 Definitions.

As used in this policy, unless the context clearly requires a different meaning:

- (A) "Agency" means any board, commission, authority, non-stock corporation, or other entity created, either individually or jointly, by the City.
- (B) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.
- (C) "Candidate" means any individual who seeks appointment, nomination, or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the county clerk or the secretary of

- state, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the county clerk or secretary of state.
- (D) “City” refers to the City of Dayton, Kentucky.
- (E) “City business” means any discussion of specific issues that go beyond general information.
- (F) “Confidential information” means information obtained in the course of holding public office or employment, or as a contractor to the city, which is not available to members of the public and which the officer or employee is not authorized to disclose, except to designated individuals or bodies, including written and non-written information. When such information is also available through channels open to the public, officers and employees are not prohibited from disclosing the availability of those channels.
- (G) “Consultant” means an independent contractor, professional person, or entity engaged by the city or advising a city officer, and in a position to influence a city decision or action or having access to confidential information.
- (H) “Customer or client” means:
1. Any person or entity that has supplied goods or services during the previous 24 months, having a total value greater than \$1,000; or
 2. Any person or entity to which an officer or employee’s outside employer or business has supplied goods or services during the previous 24 months, having a total value greater than \$1,000, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.
- (I) “Domestic partner” is an adult, unrelated by blood, with whom an unmarried or separated officer or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.
- (J) “Employee” means any person, whether full-time, part-time, seasonal, or temporary, and whether paid or unpaid, who is employed or provides service to the city. The term “employee” shall not include any contractor or subcontractor or any of their employees.
- (K) “Enforcement committee” means the appointed body charged with the responsibility to investigate ethics complaints for the enforcement of this ordinance.
- (L) “Ethics board” see Enforcement committee.
- (M) “Family Member” means a spouse, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.
- (N) “Immediate family member” means a spouse, domestic partner, and, whether by blood, adoption, marriage, guardianship, or domestic partnership, a child who is not

emancipated and who resides in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse or domestic partner, as a dependent for tax purposes.

- (O) "Financial benefit" includes any money, service, license, permit, contract, authorization, loan, discount, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include legal campaign contributions.
- (P) "Financial interest" is a relationship to something where a direct or indirect financial benefit has been, will be, or might be received as a result of the relationship.
- (Q) "Household" includes anyone whose primary residence is in the officer's or employee's home, including nonrelatives are not paying rent or staff.
- (R) "NKREA" or "Authority" means the Northern Kentucky Regional Ethics Authority, to which the City seeks membership and which has the responsibility of appointing members to the Authority's Enforcement Committee to enforce this jurisdiction's code of ethics.
- (S) "Officer" means any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:
 - 1. Mayor;
 - 2. Council member;
 - 3. City Clerk;
 - 4. City Administrator and Assistant City Administrator;
 - 5. Police Chief;
 - 6. Any other person that occupies a nonelected office created pursuant to KRS 83A.080; or
 - 7. A member of the governing body of city agency who has been appointed to that agency by the City.
- (T) "Official act" means any legislative, administrative, appointive, or discretionary act of any public official or employee of the City, or any agency, board, committee, or commission thereof.
- (U) "Personal benefit" includes benefits other than those that are directly financially advantageous. These include financial benefits to immediate family members, business associates, as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career.

- (V) “Personal interest” means a relationship to something where a personal benefit has been, will be, or might be obtained by certain action or inaction with respect to it.
- (W) “Social media” is understood to be content created by individuals using the internet. Social media examples include Facebook, Instagram, YouTube, Twitter, LinkedIn, Snapchat, Reddit, TikTok, and blogs.
- (X) “Subordinate” means another official or employee over whose activities an official or employee has direction, supervision, or control.
- (Y) “Substantial debtor or creditor” means any person or business owed more than \$5,000, except from debts arising from the purchase of a primary residence or the purchase of consumer goods, which are bought or used primarily for personal, family, or household purposes.
- (Z) “Transaction” means any matter, including but not limited to, contracts, work, or business with the city, the sale or purchase of real estate by the city, and any request for zoning amendments, variances, or special permits pending before the city, upon which a public officer or employee performs an official act or action.

STANDARDS OF CONDUCT

§ 40.05 Conflicts of Interest in General.

Every officer and employee of the City and every City agency shall comply with the following standards of conduct:

- (A) No officer or employee, or any immediate family member of any officer or employee shall have an interest in a business or engage in any business, transaction, or activity which is in substantial conflict with the proper discharge of the officer’s or employee’s public duties.
- (B) No officer or employee shall intentionally use, or attempt to use, their official position with the City to secure unwarranted (or unsolicited) privileges or advantages for themselves or others.
- (C) No officer or employee shall intentionally take or fail to take any discretionary action, or agree to take or fail to take any discretionary action, or influence or attempt to influence any other officer or employee to take or fail to take any discretionary action on any matter before the City to obtain a personal or financial benefits for any of the following:
 1. The officer of the employee.

2. A family member.
 3. An outside employer.
 4. Any business in which the officer or employee, or any family member, has a financial interest, including, but not limited to:
 - i. An outside employer or business of theirs, or of their family member, or someone who works for such outside employer or business;
 - ii. A customer or client; or
 - iii. A substantial debtor or creditor of theirs, or of their family member.
 5. Any business with which the officer or employee of any family member is negotiating, or seeking prospective employment, or other business or professional relationship.
 6. A nongovernmental civic group, social, charitable, or religious organization of which they, or their immediate family member, is an officer or director.
- (D) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action, or inaction, no personal or financial benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in subsection (C)(4-5) of this section, as a member of any business occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.
- (E) Every officer or employee who has a prohibited financial interest which the officer or employee believes, or has reason to believe, may be affected by their participation, vote, decision, or their action taken within the scope of their public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the City or agency served by the officer or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure pursuant to Section 40.08 of this ordinance.

§ 40.06 Conflicts of interest in Contracts

- (A) No officer or employee of the city/county or any agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the City or a City agency, with the following exceptions:
1. The prohibition in subsection (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to City Council or a City agency office, or

before an employee was hired by the City or a City agency. However, if any contract entered into by a City or City agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in subsection (A) of this section shall apply to the renewal of the contract unless the disclosures required by subpart 3 below are satisfied.

2. The prohibition in subsection (A) of this section shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, or awarding, or managing the contract. If the officer or employee has any of the authorities as set forth in the preceding sentence, then the officer or employee shall have no interest in the contract, unless the disclosures required by paragraph 3 below are satisfied.
3. The prohibition in subsection (A) of this section shall not apply in any case where the following requirements are satisfied:
 - a. The specific nature of the contract transaction and the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the City or City agency.
 - b. The disclosure is made a part of the official record of the governing body of the City or City agency before the contract is executed.
 - c. The finding is made by the governing body of the City or City agency that the contract with the officer or employee is in the best interest of the public and the City or City agency before the contract is executed.
 - d. The finding is made as part of the official record of the governing body of the City or City agency before the contract is executed.

(B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of KRS 61.252. In addition, a violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules, or regulations.

§ 40.07 Incompatible Offices

- (A) Pursuant to Section 165 of the Kentucky Constitution, no officer or employee of the City may also be a state officer, deputy state officer, or member of the General Assembly, or an officer of any county, city, or other municipality.
- (B) Pursuant to KRS 61.080, the following offices are incompatible with any other public office:
 1. Member of the Public Service Commission of Kentucky;

2. Member of the Workers' Compensation Board;
 3. Commissioner of a fiscal court;
 4. County indexer;
 5. County judge executive;
 6. Member of the legislative body; and
 7. Mayor of a city.
- (C) In addition to the constitution and statutory provisions, common law incompatibilities have been defined by the courts. Officers and employment positions are deemed incompatible when one office or position of employment was inherently inconsistent in function with the other. This incompatibility occurs when there arises an implication that the duties and responsibilities of both cannot be performed at the same time with a necessary degree of impartiality and honesty.
- (D) KRS 61.090 provides that the acceptance of an incompatible office operates to vacate the first office.

§ 40.08 Withdrawal from Participation.

- (A) An officer or employee must refrain from acting on, or discussing, formally or informally, a matter before the City, if acting on the matter or failing to act on the matter may personally or financially benefit any of the persons, or entities, listed in Section 5(C) above. Such officer or employee should leave the room if it is a public meeting conducted under KRS 61.810 and KRS 61.815.
- (B) Withdrawal at a meeting requires the public announcement, on the record, of the reason for withdrawal.
- (C) Ongoing conflict: An officer or employee whose outside employment, or other outside activity or relationship, can reasonably be expected to require more than sporadic withdrawal must resign, or cease such outside employment or activity. An officer or employee should not begin employment, or an activity or relationship that can reasonably be expected to require more than sporadic withdrawal that can reasonably be expected to require more than sporadic withdrawal. If a prospective officer or employee is in such a situation, they should not accept the position with the City.

§ 40.09 Receipt of Gifts.

- (A) No officer or employee of the City or City any agency, shall directly, or indirectly, through any other person, or business, solicit, or accept any gift having a market value of more than \$200, whether in the form of money, service, loan, travel,

entertainment, hospitality, thing, or promise, or any other form, under circumstances where it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee in the performance of their public duties.

- (B) Certain items are typically excluded from this provision. Examples of these items include:
1. Gifts received from family members.
 2. Gifts accepted on behalf of the City and transferred to the City.
 3. Reasonable travel and travel-related expenses, cost of administration, food and beverages, and entertainment furnished in connection with certain specified public events, appearances, ceremonies, economic development activities, or fact-finding trips related to official government business.
 4. Usual and customary loans made in the ordinary course of business.
 5. Awards, including certificates, plaques, and commemorative tokens presented in recognition of public service.
 6. Informational, promotional, and educational items.

§ 40.10 Use of City Property, Equipment and Personnel.

No officer or employee of the City shall use, or permit the use of, any city time, funds, personnel, equipment, or other personal or real property, for the private use of any person, unless the use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

§ 40.11 Nepotism Prohibited.

- (A) No officer or employee of the City, or a City agency, shall advocate, recommend, or cause the employment, appointment, promotion, transfer, or advancement of a family member to an office, or position of employment with the City or City agency.
- (B) No officer or employee of the City or City agency shall supervise or manage the work of a family member.
- (C) No officer or employee shall participate in any action relating to the employment, do discipline of a family member, except that this prohibition shall not prevent an elected or appointed officer from voting on, or participating in, the development of a budget, which includes compensation for a family member, provided that the family member is included only as a member of a class of persons, or a group, and the family member benefits to no greater extent than any other similarly situation member of the class or group.

- (D) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to the effective date of the ordinance establishing this code of ethics.

§ 40.12 Representation of Interests Before City Government.

- (A) No officer or employee shall represent any person, group, or business, other than the city/county, in connection with any cause, proceeding, application, or other matter pending before the City or City agency.
- (B) Nothing in this section shall prohibit any officer or employee from representing themselves in matters concerning their own interests.
- (C) No elected officer shall be prohibited by this section from making an inquiry for information, on behalf of a constituent, if no compensation, reward, or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.

§ 40.13 Misuse of Confidential Information.

No officer or employee of the City or City agency shall intentionally use or disclose, information acquired in the course of their official duties, if the primary purpose of the use or disclosure is to further their personal or financial interest, or the personal or financial interest of another person, group, or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act at the time of its use or disclosure.

§ 40.14 Political Solicitation.

- (A) An officer, employee, or candidate may not request, or authorize anyone else to request that any subordinate or potential future subordinate participate or not participate in any political activity, including the making of a campaign contribution.
- (B) An officer, employee, or candidate may not engage in any political activity for candidates for City Council while on duty or in uniform; using governmental funds, supplies, vehicles, or facilities; or during any period of time during which they are normally expected to perform services for City for which compensation is paid.

§ 40.15 Patronage.

No officer or employee may promise an appointment or use their influence to obtain an appointment to any position as a reward for any political activity or contribution.

§ 40.16 Outside Employment.

- (A) An officer or employee shall not accept any employment, or enter into any contracts,

that result in a conflict of interest with their duties as an officer or employee of the City.

- (B) An employee of the City may be self-employed, or may take occasional or part-time jobs, if, in the opinion of their supervisor there is no conflict with working hours, the employee's efficiency in his or her City work, or other interest of the city.
- (C) Employees wishing to take off-duty employment shall have the written approval of their supervisor.
- (D) Employees or officers holding management-level positions shall notify the mayor prior to creating, contracting with, or being employed by an agency or business firm other than the City.
- (E) City employment shall remain the first priority, and if at any time the outside employment interferes with an employee's job requirements or performance, the employee shall be required to modify the conditions of the outside employment or terminate either the off-duty employment or their governmental employment.

§ 40.17 Post-Employment Restriction.

- (A) No officer or employee of the City or City agency shall appear before the City or City agency or receive compensation for services rendered on behalf of any person in relation to any particular matter with respect to any matter on which the officer or employee personally worked while in the service of the City or City agency for a period of one year after the termination of the officer's or employee's service with the City or City agency.
- (B) No officer or employee of the shall make, participate in making, or use their official position to influence a decision involving the interests of a person with whom they are seeking, negotiating, or securing an agreement concerning future employment.
- (C) No officer or employee shall disclose or use without appropriate authorization any confidential information acquired in the course of the official duties.

§ 40.18 Fees and Honoraria.

- (A) An officer or employee shall not accept any compensation or honorarium in consideration for an appearance, speech, or article unless the appearance, speech, or article is both related to the officer's or employee's employment or activities outside of public service and unrelated to the officer's or employee's duties.
- (B) This section shall not preclude an officer or an employee from obtaining reasonable travel and travel-related expenses.

§ 40.19 Endorsements.

- (A) No officer or employee in their official capacity may publicly endorse products or services for their own personal or financial interest, or for their family member's personal or financial interest.
- (B) However, this does not prohibit an officer or employee from answering inquiries by other governmental officials, consumer organizations, or product information services regarding products or services.

§ 40.20 Complicity with or Knowledge of Others' Violations.

No officer or employee may, directly or indirectly, induce, encourage, or aid anyone to violate any provision of this code. If an officer or employee knows or has reasonable suspicion to believe that someone has violated this code, they are required to report it to the Ethics Enforcement Committee pursuant to 40.20 of this ordinance.

§ 40.21 Falsely Impugning Reputation.

An officer or employee may not falsely impugn the reputation of a resident, employee, or an officer of another jurisdiction. If an officer or employee believes their accusation to be true, and then learns that it was false, even in part, they should apologize in the same forum and manner where the accusations were made. A failure to apologize within a reasonable period of time after learning of the falseness of the accusations will create the presumption that the conduct was intentional.

§ 40.02 Meeting Attendance.

All elected officers and members of city boards and commissions are expected to attend their meetings. It is a violation of this code to miss more than one-third of the meetings in a 12-month period.

§ 40.23 Social Media.

- (A) Officials, elected or otherwise, can maintain a personal presence on social media. However, to be considered personal, these officials cannot mention of their status as a public official. Any mention of their status potentially changes the nature of the page to one for a public agency, which requires recordkeeping in accordance with the Kentucky Department of Library and Archives retention schedule and subjecting the entire page to Open Records' requests.
- (B) Officials who want to interact with the community on social media in their role as a city official must maintain a separate social media account from their personal account for this purpose if they have a personal account. Officials will notify the clerk of any official page(s) utilized. The clerk will maintain an updated list of official pages of city officials.
- (C) Officials shall conduct themselves as a representative of the City and act respectfully.

- (D) Elected official pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure. In addition, guidelines, if any, shall be posted conspicuously on the page.
- (E) No comments shall be deleted unless in violation of posted guidelines. Deleted comments shall be provided to the city clerk and must be saved for one year.
- (F) City officials shall not conduct city business through social media. If receiving a specific request from a resident, the city official shall direct the resident to contact the official through official lines of communication, such as email or phone.
- (G) Elected officials shall not discuss issues pending before the legislative body. Elected officials may seek public input but shall not respond to comments. Engaging in substantive conversations on social media could require retention of the posts and may violate the Open Meetings Act if other elected officials are also engaging in the discussion.

§ 40.24 Email.

- (A) Emails sent or received by officials relating to official business shall be retained according to the Kentucky Department of Library and Archives schedule for emails. This includes the use of personal email accounts if they are used to conduct official business and may be subject to the Open Records requests.
- (B) It is recommended that officials maintain an official email address.

FINANCIAL DISCLOSURE

§ 40.25 Who Must File.

- (A) The following classes of officers and employees and agencies shall file an annual statement of financial interests with the Ethics Enforcement Committee or the administrative official designated:
 - 1. A Board of Trustees/Director members.
 - 2. Elected Officials.
 - 3. Candidates for Elected Office.
 - 4. Chief Executive Officer or Administrator.
 - 5. Chief Deputy Executive Officer or Assistant Administrator.
 - 6. The Treasurer.

7. The City Clerk.
8. Board Members of any Policymaking Board.
9. Any officer or employee whose job description or actual duties involve any type of negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses; and the purchase, sale rental, or lease of real property, personal property, or services; and the obtaining of grants of money or loans.

§ 40.26 When to File Statements and Amended Statements.

- (A) The initial statement of financial interests required by this section shall be filed with the Ethics Enforcement Committee or the administrative official designated as the custodian of the statement of financial interests by the Ethics Enforcement Committee, no later than 5 p.m. April 15. All subsequent statements of financial interest shall be filed no later than 5 p.m. on April 30 each year provided that:
 1. An officer or employee newly appointed to fill an office or position of employment with the City or City agency shall file their initial statement no later than 30 days after the date of the appointment.
 2. A candidate for an elected office shall file their initial statement no later than 30 days after the date on which the person becomes a candidate for elected office.
- (B) The Ethics Enforcement Committee or the designated administrative official may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.
- (C) In the event of a material change in any information contained in a financial statement that has been filed with the Ethics Enforcement Board or the designated administrative official, the officer or employee shall, no later than 30 days after becoming aware of the material change, file an amended statement with the Ethics Enforcement Committee.
- (D) By June 30 of each year, the Ethics Enforcement Committee or the designated administrative official must review all annual financial disclosure statements filed to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible, or potential, violation of this code. If the Ethics Enforcement Committee or the designated administrative official determines that an annual, or transactional, disclosure statement is deficient, or reveals a possible or potential violation of this code, the Ethics Enforcement Committee or the designated administrative official will notify the person in writing of the deficiency, or possible, or potential violation, and the penalties for failure to comply with this code.

§ 40.27 Form of the Statement of Financial Interests.

- (A) The statement of financial interests shall be filed on a form prescribed by the Ethics Enforcement Committee or the designated administrative official, or an approved alternative.
- (B) The Ethics Enforcement Committee or the designated administrative official, along with the City Clerk, will annually review the list of officials and employees required to file annual disclosure statement, to determine whether the lists are complete and accurate.
- (C) In the event that an officer or employee files a similar statement of financial interest with another jurisdiction, a copy of that statement of financial interest may be submitted in lieu of the form prescribed, so long as the form contains the information requested in the prescribed statement of financial interests form and is required by this ordinance.
- (D) The failure of the Ethics Enforcement Committee or the designated administrative official to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

§ 40.28 Control and Maintenance of the Statements of Financial Interests.

- (A) The Ethics Enforcement Committee or the designated administrative official shall be the “official custodian of the statements of financial interests and shall have control over the maintenance of the statements of financial interest. Statements of financial interests shall be maintained by the Ethics Enforcement Committee or the designated administrative official as the “custodian” of public documents and be available for public inspection immediately upon filing.
- (B) A statement of financial interests shall be retained by the Ethics Enforcement Committee or the designated administrative official pursuant to the Kentucky Department of Libraries and Archives schedule as follows:
 - 1. Upon the expiration of two years after the person ceases to be an officer or employee of the jurisdiction, the Ethics Enforcement Committee or the designated administrative official shall cause to be destroyed any statement of financial interests or copies of the statements filed by the person.
 - 2. Upon expiration of two years after any election at which a candidate for elected city office was not elected or nominated, the ethics board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

§ 40.29 Contents of the Financial Interests Statement.

(A) The Statement of financial interest shall include the follow information for the preceding calendar year:

1. The name, current business address, business telephone number, and home address of the filer.
2. The title of the filer's office, office sought, or position of employment.
3. The occupation of the filer and the filer's spouse or domestic partner.
4. Information that identifies each source of income of the filer and the filer's immediate family members exceeding five thousand dollars (\$5000) during the preceding calendar year, and the nature of the income (e.g., salary, commission, dividends, retirement fund distribution etc.)
5. The name and address of any business located within the state in which the filer, or any member of the filer's immediate family, had at any time during the preceding calendar year an interest of fifteen thousand dollars (\$15,000) at fair market value or five percent (5%) ownership interest or more.
6. The name and address of any business located outside of the state, if the business has engaged in any business transactions with the jurisdiction or agency during the past three years, or which is anticipated to engage in any business transactions with the city, in which the filer, or any member of the filer's immediate family, had at any time during the preceding calendar year an interest of twenty thousand dollars (\$20,000) at fair market value or five percent (5%) ownership interest or more.
7. A designation as commercial, residential, or rural, and the location of all property within the county, other than the filer's primary residence, in which the filer, or any member of the filer's immediate family, had during the preceding calendar year an interest of twenty thousand dollars (\$20,000) or more.
8. Each source, by name and address, of gifts or honoraria having aggregate fair market value of two hundred fifty dollars (\$250) or more from a single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family, during the preceding calendar year.
9. The name and address of any substantial debtor or creditor owed more than ten thousand dollars (\$10,000), excluding debts arising

from the purchase of a primary residence, student loans, or the purchase of consumer goods which are bought or used primarily for person, family, or household purposes.

- (B) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amounts, nor the names of individual clients, nor customers of businesses listed as sources of income.

§ 40.30 Noncompliance with Filing Requirement.

- (A) The Ethics Enforcement Committee or the designated administrative official shall notify by certified mail or electronic mail with proof of delivery and read receipts each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form that was not prescribed and does not contain the required information. The notice shall specify the type of failure or delinquency, shall establish a date by which the future or delinquency shall be remedied, and shall advise the person of the penalties for violation.
- (B) Any person who fails, or refuses, to file the statement, or who fails, or refuses, to remedy a deficiency in the filing identified in the notice under subsection (A) within the time established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Ethics Enforcement Committee in an amount not to exceed twenty five dollars (\$25) per day, up to a maximum civil fine of five hundred dollars (\$500). Any civil fine imposed by the Ethics Enforcement Committee, under this section, may be recovered by NKREA in a civil action in the nature of debt if the offender fails, or refuses, to pay the penalty within the prescribed period of time.
- (C) Any person who intentionally files a statement of financial interest which they know to contain false information, or intentionally omits required information, shall be guilty of a Class A misdemeanor.

ENFORCEMENT

§ 40.31 Ethics Enforcement Committee.

- (A) The Dayton City Council hereby designates the Northern Kentucky Regional Ethics Authority as the appointing body for the Ethics Enforcement Committee and shall become a signatory of the Interlocal Cooperation Agreement (“interlocal agreement”).
- (B) This jurisdiction, as required by the interlocal agreement and this ethics ordinance, hereby designates the Ethics Enforcement Committee as its ethics board and shall comply with the powers and duties set forth in this ethics ordinance.
- (C) The Mayor or his or her designee shall act as the member serving on the Northern

Kentucky Regional Ethics Authority and shall act within the by-laws and procedures established by the interlocal agreement.

- (D) The Ethics Enforcement Committee shall consist of seven members who shall be appointed by NKREA.
- (E) Ethics Enforcement Committee members shall serve until their successor has been appointed in the same manner as the original appointment.
- (F) No member of the Enforcement Committee shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the City or any City agency. No member of the Enforcement Committee may be or has been within two years prior to appointment an officer or employee, consultant, or contractor of an NKREA members' jurisdiction; an officer in a political party or political committee; a candidate or an active member of the campaign of a candidate for any office within the NKREA members' jurisdictions. Neither should a member nor any member of their immediate family have, within the last year prior to appointment, sought any special benefits from the city, directly or indirectly.
- (G) A member of the Enforcement Committee may be removed by NKREA for misconduct, incapacity, or willful neglect of duties. Before any member of the Enforcement Board is removed from office under this section, the member shall be afforded the opportunity for a hearing before NKREA.
- (H) The Enforcement Committee shall have the following powers and duties:
 - 1. To initiate on its own motion a complaint, receive a complaint, and investigate those complaints, hold hearings, and make findings of fact and determinations with regard to alleged violations of the provisions of this ordinance.
 - 2. To issue orders in connection with its investigations and hearings requiring persons to submit, in writing and under oath, reports and answers to questions relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Enforcement Committee.
 - 3. To administer and to issue orders requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Enforcement Committee.
 - 4. To refer any concerns violations of this ordinance to the appropriate person(s).
 - 5. To render advisory opinions to as requested by officials or employees from NKREA member jurisdictions.

6. To enforce the provisions of this ordinance with regard to all officers and employees of member jurisdictions who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this ordinance.
7. To control and maintain all statements of financial interests that are required to be filed by this ordinance and to ensure that the statements are available for public inspection in accordance with the requirements of this ordinance and the Kentucky Open Records Act.
8. To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this ordinance, provided that the rules, regulations, and actions are not in conflict with the provisions of this ordinance or any state or federal law.

§ 40.32 Reprisals Against Persons Disclosing Violations Prohibited.

- (A) No officer or employee shall be subject to reprisal, directly or indirectly, or use or threaten to use any official authority or influence in any manner whatsoever that would tend to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of the Enforcement Committee, or any other agency or officer of the City, County, or Commonwealth any facts or information relative to an actual or suspected violation of this ordinance.
- (B) This section shall not be construed as:
 1. Prohibiting disciplinary or punitive action if an officer or employee discloses information which they know:
 - a. To be false or which they disclose with reckless disregard for its truth or falsity.
 - b. To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.
 - c. Is confidential under any other provision of law.

§ 40.45 Penalties.

- (A) Except when another penalty is specifically set forth in this ordinance or by state or federal law, any officer or employee who is found by the Enforcement Committee to have violated any provision of this ordinance shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Enforcement Committee not to exceed one thousand dollars (\$1,000), which may be recovered by NKREA in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.

- (B) In addition to all other penalties that may be imposed under this ordinance, any officer or employee who is found by the Enforcement Committee to have violated any provision of this ordinance shall forfeit to the jurisdiction an amount equal to the economic benefit, or gain, that the officer or employee is determined to have received as a result of a violation, as determined by the Enforcement Committee. The amount of any forfeiture may be recovered by this jurisdiction in the nature of debt if the offender fails to pay the amount of the forfeiture within a prescribed period of time.
- (C) In addition to all other penalties that may be imposed under this ordinance, a finding by the Enforcement Committee that an officer or employee is guilty of a violation of this ordinance shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the Mayor or any other officer having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this ordinance shall be taken in accordance with all applicable ordinances and regulations and all applicable laws of the commonwealth.

§ 40.47 Conflicting Ordinances Repealed.

All other ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

§ 40.48 Effective Date.

This ordinance shall take full force and effect immediately upon publication as required by KRS 83A.060.

Section 2

The City Council hereby authorizes the Mayor to enter to a Interlocal Cooperation Agreement with the Northern Kentucky Regional Ethics Authority and the cities and county that are currently members of NKREA to establish and operate an enforcement entity responsible for the implementation of the enforcement process the City's Code of Ethics as set forth in this ordinance. This Agreement will be similar to the Interlocal Cooperation Agreement attached hereto as Exhibit "A".

First Reading: June 6, 2023

Second Reading: _____

MAYOR BEN BAKER

ATTEST:

TRISTIAN KLEIN
CITY CLERK/TREASURER

EXHIBIT "A"
Northern Kentucky Regional Ethics Authority Interlocal Cooperation Agreement

CITY OF DAYTON, KENTUCKY
ORDER-RESOLUTION NO 2023-20R

AN ORDER-RESOLUTION AUTHORIZING MAYOR BENJAMIN BAKER TO SIGN THE JOINDER AGREEMENT WITH KDC FOR PARTICIPATION IN THE 457 PLAN AND THE 401(K) PLAN FOR THE BENEFIT OF THE CITY OF DAYTON'S ELIGIBLE EMPLOYEES

WHEREAS, the General Assembly of the Commonwealth of Kentucky has enacted Sections 18A.230-18A.275 of the Kentucky Revised Statutes authorizing the creation of the Kentucky Public Employees' Deferred Compensation Authority Board of Trustees and the establishment of the Kentucky Public Employees' Deferred Compensation Authority (KDC); and

WHEREAS, the Commonwealth by KDC sponsors the Kentucky Employees' 457 Deferred Compensation Plan and the Kentucky Public Employees' 401(k) Deferred Compensation Plan which includes KDC's Deemed IRA Program (the Plans) for adoption by local governmental political subdivisions and units; and

WHEREAS, the City of Dayton, Kentucky wishes to adopt and enter that certain Joinder Agreement attached hereto, dated _____ . 20__

NOW THEREFORE BE IT:

RESOLVED, that Dayton, Kentucky, Commonwealth of Kentucky, hereby enters and adopts the Joinder Agreement with KDC for participation in the 457 Plan and the 401(k) Plan for the benefit of its eligible employees; and,

FURTHER RESOLVED, that Mayor Benjamin Baker be, and hereby is, authorized and directed by the City of Dayton, Kentucky to execute the Joinder Agreement with KDC, which authorizes KDC to administer the Plans on behalf of Governmental Unit, and to do all further acts and things, and to execute all further documents in writing, which the authorized signatory determines to be necessary or desirable in order to effect this Resolution.

Dayton, Kentucky

By: _____

Title: _____

Date: _____

Attest: _____

Date: _____

**CITY OF DAYTON, KENTUCKY
ORDER/RESOLUTION NO. 2023-21-R**

**ORDER/RESOLUTION OF THE DAYTON CITY COUNCIL
SPONSORING A TEXT AMENDMENT TO THE CITY'S ZONING
ORDINANCE ALLOWING BOTH ATTACHED AND DETACHED
SINGLE-FAMILY RESIDENTIAL DWELLINGS IN THE R-1JJ ZONE.**

WHEREAS, the City of Dayton, Kentucky ("City"), has established a Planning and Zoning Commission ("Commission") pursuant to KRS 100.130; and

WHEREAS, the City Council wishes to sponsor a text amendment to be heard by the Commission and for the Commission to provide a recommendation to City Council regarding this text amendment.

NOW, THEREFORE, BE IT ORDERED/RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAYTON, KENTUCKY THAT:

The City Council hereby sponsors consideration of a text amendment to the City's zoning ordinance that would allow both attached and detached single-family residential dwellings in the R-1JJ zone and further requesting that the Dayton Planning and Zoning Commission conduct a public hearing on this proposed text amendment and make a recommendation regarding this text amendment to the City Council.

That this Order/Resolution shall become effective immediately upon approval by the City Council of the City of Dayton, Kentucky.

AND IT IS SO ORDERED AND RESOLVED. Passed and approved by the City Council of the City of Dayton, Kentucky, on this 6th day of June 2023.

This Order/Resolution shall be maintained and indexed in the Official Resolution and Order Book by the City Clerk/Treasurer.

MAYOR BENJAMIN BAKER

ATTEST:

TRISTAN KLEIN
CITY CLERK/TREASURER