

**CITY OF DAYTON, KENTUCKY
ORDINANCE 2023#17**

AN ORDINANCE AMENDING ARTICLE VII, §7.0, WORDS AND PHRASES, AND ARTICLE X, §10.8, R-1JJ (RESIDENTIAL ONE-JJ) ZONE (R-1JJ ZONE), OF THE CITY OF DAYTON, KENTUCKY, ZONING CODE, CODIFIED IN CHAPTER 154 OF THE DAYTON CODE OF ORDINANCES, TO ADD ATTACHED SINGLE-FAMILY RESIDENTIAL DWELLINGS AS A PERMITTED USE IN R-1JJ ZONE.

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

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

WHEREAS, the City Council requested that P&Z Commission review and act upon a request to amend the Zoning Regulations to add single-family residential dwellings as a permitted use in the R-1JJ Zone; and

WHEREAS, the Dayton Planning & Zoning Commission held a public hearing, pursuant to advertised legal notice in accordance with KRS Chapters 100 and 424, on June 26, 2023, in Dayton, Kentucky, to review and recommend modifications to the Zoning Regulations, and after due consideration, recommends the changes within Chapter 154 of the Zoning Code; and

WHEREAS, at this public hearing and after due consideration of the evidence and testimony presented there, the Planning & Zoning Commission voted to recommend approval of a text amendment to add single-family residential dwellings as a permitted use in the R-1JJ Zone; and,

WHEREAS, the minutes of the Planning & Zoning Commission from this meeting are attached hereto as Exhibit “A”; and,

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

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

Section I

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

Article VII §7.0 Words and Phrases

DWELLING, MULTI-FAMILY: A residential building on one lot having three or more dwelling units, ~~as separate housekeeping units.~~

DWELLING, TWO-FAMILY: A residential building on one lot ~~designed, arranged, or used exclusively by two families, living independently of each other~~ having two dwelling units.

Article X §10.8 R-1JJ (RESIDENTIAL ONE-JJ) ZONE

A. PERMITTED USES: These are the uses which are permitted on property zoned R-1JJ as outlined on the official zoning map:

1. Single-family residential dwellings, attached or detached.

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

First Reading: September 5, 2023

Second Reading: _____

MAYOR BEN BAKER

ATTEST:

TRISTAN KLEIN
CITY CLERK/TREASURER

EXHIBIT A

DAYTON PLANNING AND ZONING COMMISSION MEETING MINUTES

July 20, 2023

Members Present:

Charles "Chuck" Peters, Chair
Kells Barrett
Sasja DeKoker
Jerry Huntley
Roy Newman
Bob Schrage
Rodney Sparks

Members Absent:

None

Staff Present:

Kirk Hunter, Principal Planner
Jay Fossett, City Administrator

Meeting was called to order at 7 p.m. and attendance was called. Mr. Peters, Mr. Barrett, Ms. DeKoker, Mr. Huntley, Mr. Newman, Mr. Schrage, and Mr. Sparks were all in attendance. A quorum was established.

OLD BUSINESS

None.

NEW BUSINESS

Mr. Hunter presented the attached a staff report for the following case:

File Number:	PZ-23-023
Applicant:	CITY OF DAYTON, KY
Request:	Text Amendment to Zoning Ordinance to add attached single-family residential dwellings to the list of permitted uses in the Residential-One JJ (R-1JJ) Zone

A copy of the staff report is attached to these minutes and made by reference a part of these minutes. Mr. Hunter said that the public hearing on this proposed text amendment was advertised in the Cincinnati Enquirer on June 16, 2023.

Mr. Hunter said the existing R-1JJ residential zoning classification generally favors a more suburban land-use pattern that often conflicts with the historic urban scale and form that the city takes. The city has been working toward new zoning language to encourage new in-fill development that fits the City's historic pattern. Previous successes have included the addition

of neighborhood-oriented commercial uses within the R-1JJ zone in 2017 and the new *Infill Development Standards* introduced in 2022.

Mr. Hunter told the Commission that the proposed single-family detached configuration can be scaled up or down depending on the amount of density that a community wants to see. Minimum lot sizes are used to control that density.

The fundamental difference between attached and detached structures, according to Mr. Hunter, is that the actual building envelope is situated on two or more separately deeded lots, often referred to as "duplexes," "townhouses," row houses," etc. Fundamentally, they are a type of multi-family use but each unit is deeded separately.

Mr. Hunter said the proposed text amendment would *not* be permit "two-family" or "multi-family" uses in the zone. Multi-family dwellings are, by definition, more than one unit on a single deeded parcel.

Mr. Hunter recommended that two definitions in Article VII §7.0 be amended and the word "attached" be added to the permitted uses in Article X §10.8 of the R-1JJ (Residential One-JJ) Zone, as more fully described below.

Dayton City Administrator Jay Fossett testified that a local developer had approached the city about changing the text of the R-1JJ zone so he could develop attached homes on a large lot that he owned on the north side of Seventh Avenue just east of Boone Street. Mr. Fossett also testified that the city wanted to encourage infill housing in the city and it had taken steps in the past to promote this activity and that he believed this proposed text amendment would help do that.

Mr. Jerry Huntley raised concerns about ingress and egress into the building, which Mr. Hunter addressed. Mr. Barnett asked questions regarding the allowable height of the buildings, which Mr. said was 35 feet. Mr. Peters emphasized that approval of the text amendment would apply to all properties located in the R-1JJ zone, not just the property discussed on Seventh Avenue.

Upon the motion of Mr. Barrett, which was seconded by Mr. Newman, and based on the staff report and the testimony presented at the public hearing, the Planning Commission voted unanimously, 7-0, to recommend approval of the text amendment to Article VII and X of the Dayton Zoning Ordinance as follows:

Words to be **removed** are ~~strike-through~~ and to be **added** are underlined

Article VII §7.0 Words and Phrases

DWELLING, MULTI-FAMILY: A residential building on one lot having three or more dwelling units, ~~as separate housekeeping units.~~

DWELLING, TWO-FAMILY: A residential building on one lot ~~designed, arranged, or used exclusively by two families, living independently of each other~~ having two dwelling units.

Article X §10.8 R-1JJ (RESIDENTIAL ONE-JJ) ZONE

B. PERMITTED USES: These are the uses which are permitted on property zoned R-1JJ as outlined on the official zoning map:

1. Single-family residential dwellings, [attached or](#) detached.

The meeting was adjourned at 7:30 PM.

Respectfully submitted by:

Jay Fossett, City Administrator

Charles "Chuck" Peters, Chair of the Dayton Planning and Zoning Commission

Staff Comments, Findings, and Recommendations

The Dayton Planning & Zoning Commission will hold a public hearing on July 20, 2023 at 7:00 P.M. 625 2nd Ave. Dayton, KY. for the purpose of hearing testimony for the following case:

File Number: PZ-23-023
Applicant: CITY OF DAYTON, KY
Request: Text Amendment to Zoning Ordinance to add attached single-family residential dwellings to the list of permitted uses in the Residential-One JJ (R-1JJ) Zone

Background

Aside from certain neighborhood-oriented commercial uses along Sixth Avenue, the only permitted residential use within the R-1JJ zone is specifically a single-family *detached* dwelling. The existing zoning text generally favors a more suburban land use pattern that often conflicts with the historic urban scale and form that the city takes. The city has been working toward new zoning language to encourage new development that fits the City's historic pattern. Previous successes have included the addition of neighborhood-oriented commercial uses within the R-1JJ zone in 2017 and the new *Infill Development Standards* introduced in 2022.

The R-1JJ zoning district in Dayton is comprised of many historic neighborhoods that predate the implementation of zoning. There is a significant number of existing single-family detached dwellings in the zone, but there are also non-conforming multifamily dwellings as well. In the interest of encouraging creative housing solutions, the city has decided that the permitted residential uses in R-1JJ should be expanded.

It is important to understand the zoning language used. Currently, the residential use that is permitted by right in the R-1JJ Zone is "Single-family residential dwellings, detached". This is the standard one house/one lot suburban pattern. The use requires minimum setback distances (open space) on all four sides of the house. *See figure 1.*

The single-family detached configuration can be scaled up or down depending on the amount of density that a community wants to see. Minimum lot sizes are used to control that density. For example: A

Single-Family Detached

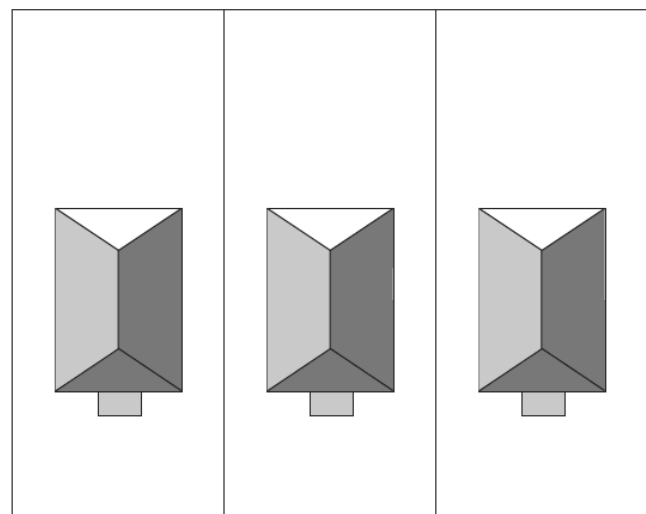


Figure 1

one-acre lot would translate as one dwelling unit per acre (1DU/A), a one-half acre lot would maintain a 2DU/A maximum density, one quarter acre minimum would maintain a 4DU/A density, and so on. . .Maximum density is controlled by

minimum lot size. There is no maximum lot size.

The minimum lot size in the R-1JJ Zone is 2500 square feet. This maintains a maximum density of approximately 17 dwelling units/acre. The majority of lots in the R-1JJ zone exceed the minimum lot size so density falls significantly short of the maximum density.

The proposed amendment would add *"Single-Family Dwellings, Attached"* to the list of permitted uses. This lends some flexibility for development. The fundamental difference between attached and detached is that the actual building envelope situates on two or more separately deeded lots. Buildings like this are often referred to as "duplexes", "townhouses", "row houses", "paired-patio", etc. Fundamentally, they are a type of multi-family use but each unit is deeded separately. By this definition, however, additional separate units cannot be located on one building lot. For example, an upstairs apartment would not be permitted. See figure 2.

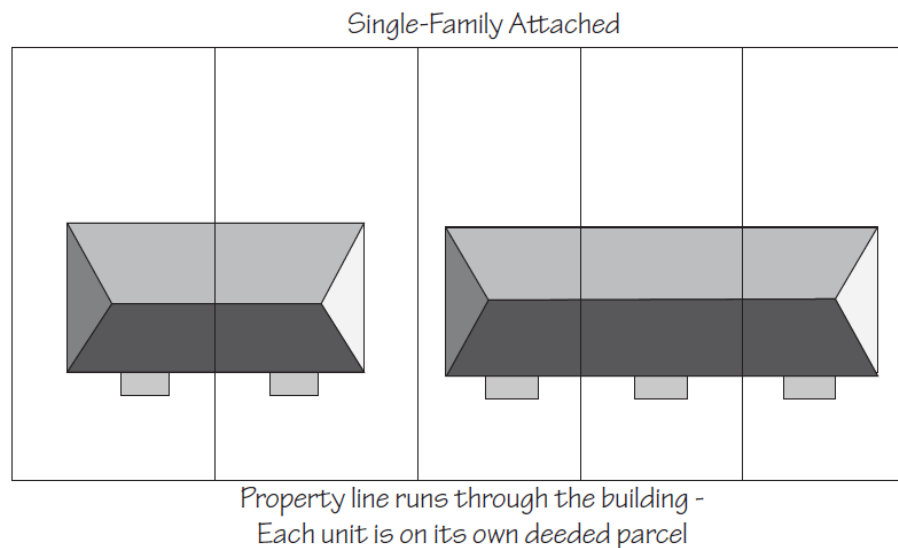


Figure 2

The proposed amendment would not be permitting "two-family" or "multi-family" uses in the zone. Multi-family dwellings are, by definition, more than one unit on a single deeded parcel. See Figure 3.

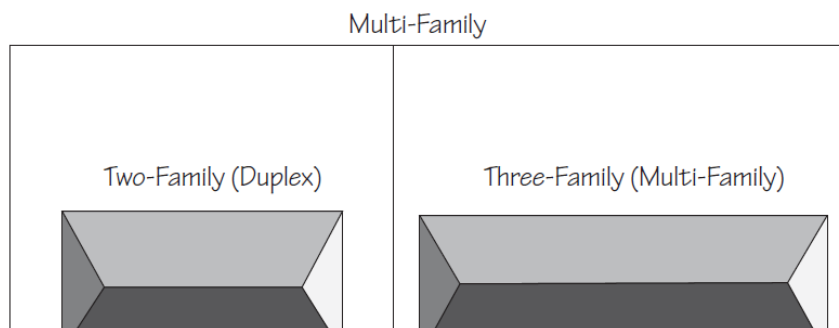


Figure 3

Considerations

Article VII, Definitions provides the following:

DWELLING, ATTACHED, SINGLE-FAMILY: A dwelling unit which is attached to one or more dwelling units, each of which has independent access to the outside of the building to ground level and which has no less than two exterior walls fully exposed and not in common with the exterior walls of any other units.

DWELLING, DETACHED, SINGLE-FAMILY: A dwelling standing by itself and containing only one dwelling unit, separate from other dwellings by open space, but shall not include mobile homes.

DWELLING, MULTI-FAMILY: A residential building having three or more dwelling units, as separate housekeeping units.

DWELLING, TWO-FAMILY: A residential building designed, arranged, or used exclusively by two families, living independently of each other.

DWELLING UNIT: A building or portion thereof providing complete housekeeping facilities for one person or one family.

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

A. PERMITTED USES: These are the uses which are permitted on property zoned R-1JJ as outlined on the official zoning map:

1. Single-family residential dwellings, detached.

...

Proposed Text Amendments:

Article VII: Definitions

DWELLING, MULTI-FAMILY: A residential building on one lot having three or more dwelling units.—

DWELLING, TWO-FAMILY: A residential building on one lot having two dwelling units.

Article X: Zones

A. PERMITTED USES: These are the uses which are permitted on property zoned R-1JJ as outlined on the official zoning map:

1. Single-family residential dwellings, attached or detached.

Recommendation:

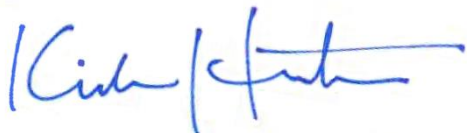
To adopt the revised text changes related to the professional offices in the CBD Zone in the City of Dayton Zoning Ordinance and to forward the recommended text revisions to the City for consideration.

Bases for Staff Recommendation:

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

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

Respectfully submitted,



Kirk Hunter, AICP

Principal Planner

CC: City of Dayton Planning and Zoning Commission Members
City Administrator, City Attorney, and Mayor

Attachments (1)

Appendix

Proposed Text Amendments to Dayton Zoning Ordinance

Words to be **removed** are ~~strike-through~~ and to be **added** are underlined

Article VII §7.0 Words and Phrases

DWELLING, MULTI-FAMILY: A residential building on one lot having three or more dwelling units, ~~as separate housekeeping units.~~

DWELLING, TWO-FAMILY: A residential building on one lot ~~designed, arranged, or used exclusively by two families, living independently of each other~~ having two dwelling units.

Article X §10.8 R-1JJ (RESIDENTIAL ONE-JJ) ZONE

- C. PERMITTED USES: These are the uses which are permitted on property zoned R-1JJ as outlined on the official zoning map:
1. Single-family residential dwellings, attached or detached.