CITY OF DAYTON

COUNCIL MEETING

JUNE 7, 2016

A regular meeting of Dayton City Council held on Tuesday, June 7, 2016, 7:00 p.m. in the board meeting room of the Dayton Independent School Administrator Building, Third & Clay Street, Dayton, KY.

Roll Call:

Mayor Boruske Present Member Gifford Absent

Member Neary Present Member Lynn Present

Member Burns Present City Adm. Giffen Present

Member Baker Present City Att. Edge Present

Audience:

Tammy Cornett, Civic Club, reminded everyone that Musicfest is June 18 and she is still in need of bartenders for the night.

Jennifer Sierra, 217 Sixth Ave., said over the past few years her garbage and recycling is frequently missed. She would like council to consider this when entering into a waste contract.

Cathy Volter, 336 Riverpointe, stated if the council was to mandate citizens to use the toters for garbage to keep in mind the narrow alleys and steps. She feels with the limited space, this might encourage citizens to place garbage toters in their front lawns causing an eyesore.

MAYOR’S REPORT:

Jean Schroer, The Catalytic Fund, is president and CEO of the Catalytic Fund. Jean Schroer explained that the Catalytic Fund is privately funded and non-profit. They have 10 entities that are made-up of large national banks, regional banks, community banks, foundations, and private corporations that have provided investment dollars towards the river cities for real estate transactions. They work with local governments and economic groups to attract residents to the community. The Catalytic Fund has provided deal structures with 13 different projects and put at risk 2.1 million dollars in capital, which have created 52 million in total investments in this region. Because of the investment funds received, they have been able to create 105 residential units, 226,000 square feet of commercial space and 300 jobs.

Beyond the Curb started because river cities were requesting help in promoting urban living options. Jean was impressed when working with the Dayton community and volunteers because of their enthusiasm for Dayton. Beyond the Curb would like to be more active in the future with the Campbell County region.

Tara Johnson, The Catalytic Fund, provided examples of how Beyond the Curb helped Dayton.

* There were 11 properties and some properties had multiple units such as Manhattan Harbour.
* Two hundred ninety-three (293) people registered, two hundred fifty-one (251) attended.
* People from twenty-five (25) zip codes attended. Many people were from outside the Cincinnati region.
* Twenty-three (23) local businesses participated. These businesses received free advertisement in a brochure that was distributed at the event. The brochure provided coupons/discounts to the business.
* Businesses stated they saw an increase in business on that day.
* Positive media articles enclosed in the packet provided to council.
* Eighty-two (82%) of people surveyed have a positive perception of Dayton after Beyond the Curb.

Motion by Member Lynn, seconded by Member Burns to approve the minutes as received from May 3, 2016, meeting. Motion carried-so ordered.

First Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2016-#5\_\_**

**AN ORDINANCE RESCINDING CITY OF DAYTON CODE OF ORDINANCES CHAPTER 42 AND CREATING A NEW SECTION OF DAYTON CODE OF ORDINANCES AUTHORIZING AND REGULATING THE ISSUANCE OF SEARCH WARRANTS.**

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

## Section I

## That Ordinance 2010-06 as codified in City of Dayton Code of Ordinances, Chapter 42 is rescinded and deleted.

Section II

That the following sections shall be added to the Code of Ordinances for the City of Dayton:

## **§ 10.50 Administrative Search Warrants**

**(A) Definitions.** For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning:

“Administrative Search Warrant” shall mean a written order of a judge or other officer authorized by statute to issue search Warrants that commands the search or inspection of any property, place or thing, and the seizure, photographing, copying, or recording of property or physical conditions found. An administrative search warrant authorizes an officer to enter any premises to conduct any inspection, sampling, and other functions required or authorized by law to determine compliance with the provisions of an ordinance, code, or other regulation including, but not limited to, those relating to the use, condition, or occupancy of property or structures.

“Administrative Officer” shall mean to include any of the following: building inspector, code enforcement officer, police officer, fire chief and their deputies; or other duly authorized representative pursuant to City of Dayton Code of Ordinances.

**(B) Administrative Search Warrants Authorized.** An Administrative Search Warrant is authorized for inspection or investigation of any place or thing for compliance with the City of Dayton Code of Ordinances or whenever the law otherwise requires or authorizes:

**(C) Application for Administrative Search Warrant.** To obtain an Administrative Search Warrant, the Administrative Officer shall file application before a judge or other officer authorize by statute that includes the following:

(i) be supported by an affidavit sufficient under Section 10 to of the Kentucky Constitution and be sworn to before an officer authorized to administer oaths as provided in the Kentucky Rules of Criminal Procedure or other applicable law;

(ii) State the applicant's status in applying for the warrant, the ordinance or regulation requiring or authorizing the inspection or investigation, and the nature, scope and purpose of the inspection to be performed;

(iii) Describe the property or places to be entered, searched, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(iv) state the basis upon which sufficient cause exists to search or inspect for violations of the ordinance or regulation specified.

(v) state that either: (a) that, for the purpose of making an inspection, access to the property has been sought from and refused by the regulated party; (b) that, after making a reasonable effort, the applicant has been unable to locate the regulated party; or (c) that the facts or circumstances reasonably show that the purposes of the inspection or investigation might be frustrated if entry were sought without first procuring a warrant; and

**(D) Grounds for Issuance.** An Administrative Search Warrant may only be issued upon a showing that probable cause for the inspection or investigation exists and that the other requirements for granting the warrant are satisfied. Probable cause may be shown by:

(i) reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection and that those standards are satisfied with respect to the location;

(ii) a reasonable administrative inspection program exists regarding the condition of the property and that the proposed inspection comes within that program;

(iii) a health, public protection or safety ordinance, regulation, rule, standard or order and that specific evidence of a condition or nonconfonnity exists with respect to the particular location; or

(iv) an investigation is reasonably believed to be necessary in order to determine or verify the condition of the location.

## Section III

## 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: June 7, 2016

Second Reading:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

First Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2016-#6**

**AN ORDINANCE RESCINDING CHAPTERS 38 AND CHAPTER 39 OF DAYTON CODE OF ORDINANCES TO ELIMINATE AND REDUCE REDUNDANCY, INCONSISTENCY AND INVALID PROVISIONS.**

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

## Section I

## That City of Dayton Code of Ordinances, Chapter 38 is rescinded and deleted in whole except for Dayton Code of Ordinances Section 38.002 which remains in effect and is renumbered as follows:

## **§ 31.65 PARTICIPATION IN COUNTY EMPLOYEES RETIREMENT SYSTEM.**

**(A)** The city is authorized to participate in the County Employees Retirement System "Alternative Participation Plan as described in KRS 78.530(3) et seq., effective January 1, 1990 and all eligible regular full-time officers and employees of the city are hereby authorized and directed to comply with the statutory requirements of this Retirement System.

**(B)** All employees of the city whose duties require an average of one hundred (100) hours during each working month shall be considered as "regular full-time employees" for County Retirement System purposes except those employees of agencies excluded as shown below which may. participate in the system as a separate agency and those other persons who are employed as “temporary part-time and seasonal" workers as defined in KRS 78.510(21}.

**(C)** Agencies excluded as authorized by KRS 78.530 are the Dayton Housing Authority and the Urban Renewal and Community Development Agency of the City of Dayton, Kentucky.

**(D)** All eligible employees of the Police Department and Fire Department may participate in the "hazardous duty" employee portion of the aforesaid retirement system. All other employees of the city shall participate in the "nonhazardous duty" employee portion of the system.

## Section II

## That City of Dayton Code of Ordinances, Chapter 39 is rescinded and deleted in whole

## Section III

## 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: June 7, 2016

Second Reading:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

First Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2016-#7**

**AN ORDINANCE CONCERNING THE REGISTRATION OF VACANT RESIDENTIAL PROPERTY LOCATED WITHIN THE CITY AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF.**

**WHEREAS**, the presence of vacant residential property located within the City of Dayton may constitute a threat to the public, health, general welfare and safety of its residents; and,

**WHEREAS**, the presence of such vacant residential property may depreciate real property values and contribute to the deterioration of surrounding neighborhoods and the City, in general; and,

**WHEREAS**, the presence of such vacant residential property may necessitate expensive and disproportionate expenditures of City funds for preservation of the said property, maintenance costs and the prevention of crime along with associated police, fire and accident protection; and,

**WHEREAS**, appropriate City personnel are hampered in their efforts to enforce various pertinent municipal codes without requisite information regarding the current status and ownership of such vacant residential property; and,

**WHEREAS**, it is in the best interest of the City to ensure sufficient information is made available to appropriate City personnel to assure effective preservation of such vacant residential property;

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

## Section I

## That the following sections shall be added to the Code of Ordinances for the City of Dayton:

**TITLE XV: LAND USAGE**

**CHAPTER 157 – REGISTRATION OF VACANT RESIDENTIAL PROPERTY.**

**§ 157.01 PURPOSE.**

It is the purpose and intent of this Ordinance to establish vacant residential property registration requirements as a mechanism to protect neighborhoods, preserve real property, prevent or lower maintenance costs and minimize hazards to persons and property located within the City as a result of such vacancy.

**§ 157.02 DEFINITIONS.**

As used herein, the following terms shall be defined, as follows:

**(A)** “Creditor” shall mean any person or any federal or state chartered bank, savings bank, savings and loan association, credit union or any other financial institution or entity acting on behalf of the Creditor named in the debt obligation including, but not limited to, servicers.

**(B)** “Dwelling unit” shall mean a group of rooms located within any building, structure or house used for residential purposes, forming a single housekeeping unit with facilities which are designed and used for living, sleeping, cooking and/or eating.

**(C)** “Residential property” shall mean any real property and the improvements, buildings, structures or house thereon, whether single or multi family, whether or not owner occupied, used for residential purposes, containing one (1) or more dwelling units.

**(D)** “Vacant” shall mean a residential property having no legal resident or tenant. Evidence of vacancy may include any condition that, on its own or combined with other present conditions, would lead a reasonable person to believe that the property is uninhabited. Such conditions may include, but are not limited to, overgrown or dead vegetation; accumulation of flyers, mail or trash; rodent infestation; disconnected utilities; the absence of window coverings or furniture; broken and/or boarded up windows and entryways; neglect or lack of general maintenance; and, statements of neighbors, delivery persons or government employees as to the lack of occupancy. The abandonment or voluntary “walk away” by the owner of any residential property in which any Creditor holds a mortgage interest shall be considered as evidence of vacancy.

**(E)** “Vacant Property Registration Form” shall mean a form publicly available from the Department of Development Services that Creditors and owners of vacant residential property subject to the requirements of this Ordinance must complete and submit as specified herein.

**(F)** “Vacant, Foreclosed Residential Property” shall mean a vacant residential property upon which a Creditor has filed an action in foreclosure in Circuit Court in order to recover monies pursuant to a mortgage which is secured by residential property.

**§ 157.03 REGISTRATION.**

**(A)** Within ten (10) business days of filing a foreclosure action on residential property that is vacant at the time of filing or within ten (10) days of the residential property becoming vacant after the filing, the Creditor shall complete and submit a Vacant Property Registration Form to the City Clerk/Treasurer.

**(B)** No later than sixty (60) days after residential property becomes vacant, the owner of the residential property shall complete and submit a Vacant Property Registration Form to the City Clerk/Treasurer.

**(C)** Registration of any vacant residential property required to be registered herein shall include the residential property address, the name and address of the owner of the residential property, the name and address of the Creditor who has instituted a foreclosure action or the Creditor’s authorized agent located within the Commonwealth of Kentucky for acceptance any notice required herein.

**(D)** The Creditor of vacant, foreclosed residential property or owner of any vacant residential property shall notify the City Clerk/Treasurer within ten (10) business days of any change of information on the Vacant Property Registration Form. The Vacant Property Registration Form shall be maintained with accurate information until the Creditor or owner notifies the City Clerk/Treasurer in writing that the property has sold at a judicial sale, reoccupied or transferred to an unaffiliated third party. The name and address of the new owner or individuals occupying the property shall be provided in writing to the City Clerk/Treasurer.

**§157.04 REGISTRATION FEES.**

The Creditor of vacant, foreclosed residential property and the owner of vacant residential property shall pay an initial registration fee of $500.00 and annually thereafter a $500.00 registration fee until such time that the foreclosure action is dismissed, the property is sold at a judicial sale, the property is reoccupied or until the property is transferred to an unaffiliated third party.

**§ 157.05 PENALTY.**

**(A)** Any Creditor of vacant, foreclosed residential property or owner of vacant residential property that fails to register such property with the City Clerk/Treasurer shall be subject to a civil fine of one hundred ($100.00) dollars for each day of the violation.

**(B)** Failure to maintain accurate information once having registered the property shall constitute a violation and shall be subject to a civil fine of one hundred ($100.00) dollars for each day of the violation.

## 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: June 7, 2016

Second Reading:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

First Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2016-#8**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DAYTON.**

**WHEREAS**, the Dayton Planning Commission held a public hearings to adopt Manhattan Harbour Community Theme/Pattern Books for Phase A and Phase B;

**WHEREAS**, said public hearings was held pursuant to KRS 100.207, 100.211, 100.212 and 100.213 with all conditions prerequisite thereto being met;

**WHEREAS**, the Dayton Planning Commission recommend to the City Council to adopt both the Phase A and Phase B Theme/Pattern Books for the Manhattan Harbour Community as part of a Mixed Land Use Zone; and

**WHEREAS**, the Dayton City Council has previously adopted the Manhattan Harbour Community Theme/Pattern Book for Phase A and Phase B by Resolution 2013-9R and Municipal Order 2015-8R. respectively.

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

## Section I

## That the City of Dayton, Kentucky having considered the findings of the Planning Commission as reflected in its minutes and the reports adopted by the Planning Commission pursuant to those findings from the city staff and its actions and recommendations, as well as reviewing the minutes of said public hearings and the report from city staff does hereby concur and adopt the reasons, recommendations and findings of the Planning Commission hereby approves and adopts the the Manhattan Harbour Community Theme/Pattern Books for Phase A and Phase B of the development. A copy of said pattern books are attached and incorporated hereto and made part hereof by reference.

## Section II

That the official zoning map of Dayton, Kentucky is hereby amended as it pertains to the Mixed Land Use Zone, as designated by Ordinance 2007-7, containing approximately 82.273 acres located along the Ohio River between O’Fallon Avenue and Clark Street to reflect to the herein adopated pattern books.

## Section III

## That all ordinances or parts of ordinances in conflict herewith are to the extent of such conflict, hereby repealed.

## Section IV

## That this ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer and recorded. Same shall be in effect at the earliest time provided by law.

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

First Reading: June 7, 2016

Second Reading:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

First Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2016-#9**

**AN ORDINANCE REVISING DAYTON CODE OF ORDINANCES SECTION 154.062 AS RECOMMENDED BY THE PLANNING COMMISSION FOR THE PURPOSES OF REGULATING CELLULAR ANTENNA TOWERS AND SMALL CELL SYSTEM TOWERS.**

**WHEREAS,** the City of Dayton has heretofore adopted an Official Zoning Ordinance for the incorporated portions within the City of Dayton, Kentucky; and

**WHEREAS**, the City of Dayton Planning Commission has been requested to review and act upon an application by same said commission to amend its Zoning Ordinance as codified under Section § 154.062; and

**WHEREAS**, the City of Dayton Planning Commission held a public hearing to review said application, pursuant to due legal notice in accordance with KRS Chapter 100 on Wednesday, May 11, 2016 at 200 Clay Street, Dayton, Kentucky 41074; and

**WHEREAS**, at said public hearing and after due consideration of the evidence and testimony presented, the City of Dayton Planning Commission voted to approve the requested text amendment; and

**WHEREAS**, the City Council for the City of Dayton, having reviewed the proposed zoning text amendment, hereby concurs in the recommendation of the Planning Commission.

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

## Section I

## That City of Dayton Code of Ordinances, Section § 154.062 is hereby amended as follows:

**154.062 CELLULAR ANTENNA Towers and Small Cell System Towers**

A. PURPOSE: The purpose of these regulations is to facilitate the planning and placement of [~~communication~~] Cellular Antenna Towers and Small Cell System Towers and facilities [~~and services~~] within the community in accordance with the requirements of the most recent and applicable Kentucky Revised Statutes (KRS), Kentucky Administrative Regulations (KAR), and Federal Communications Commission (FCC). These regulations are intended to:

1. Accommodate the need for [~~cellular antenna and small cell systems towers~~] Cellular Antenna Towers and Small Cell System Towers and facilities, while regulating their location;

2. Balance the visual effects of [~~communication towers~~] Cellular Antenna Towers and [~~support structures~~] Small Cell System Towers and facilities through proper siting, design, and screening; and

[~~3. Avoid damage to neighboring properties from communication towers and support-structure failure; and~~]

~~[]~~3. Encourage the joint use of any new and existing towers and/or support structures to reduce the number of sites.

These regulations apply to every [~~utility~~] Utility or company that is engaged in the business of providing the required infrastructure to construct or maintain an antenna tower for Cellular Telecommunications Services or Personal Communications Services.

Except as hereinafter specified, no Cellular Antenna Tower or Small Cell System Tower shall hereafter be modified, placed or constructed except in conformity with these regulations.

B. DEFINITIONS: The following words and phrases are used to supplement the definitions [~~included~~] include in the Zoning Ordinance.

ANTENNAS OR RELATED EQUIPMENT: Any transmitting, receiving or other equipment used in conjunction with a Wireless Communications Facility. The term includes Utility or Transmission Equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar equipment. This definition does not include Cellular Antenna Towers.

APPLICANT: An Applicant is person or entity who is authorized by the provisions of these regulations to file for approval under these regulations.

APPLICATION: An Application is the completed form or forms and all accompanying documents, exhibits, and fees required of an Applicant by these regulations.

CELLULAR ANTENNA TOWER: A tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of Cellular Telecommunications Services or Personal Communication Services not considered a Small Cell Tower.

CELLULAR TELECOMMUNICATIONS SERVICES: A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

CO-LOCATION: Locating two (2) or more transmission Antennas or Related Equipment on the same Cellular Antenna Tower or Small Cell System Tower.

COMMUNICATION BASE STATION: A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communication between user equipment and a communication network.

MONOPOLE: A tower that consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennas and connected appurtenances.

NON-TOWER WIRELESS COMMUNICATION FACILITIES: Wireless communications facilities other than tower-based wireless communications that are located on buildings, utility poles, and other existing structures.

PERSONAL COMMUNICATION SERVICES: Commercial mobile services unlicensed wireless services, and common carrier wireless exchange access services as defined in 47 U.S.C. sec. 332(c).

RIGHT-OF-WAY: The surface of and space above and below any real property in the municipality in which the federal government, Commonwealth, municipality, or municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, bridges, or any other public place, area, or property under the control of the federal government, Commonwealth, municipality, or municipal authority.

SMALL CELL SYSTEM: A network of remote antenna nodes that distributes radio frequency signals from a central hub through a high capacity signal transport medium to a specific area. The term includes mini commercial towers, small cells, distributed antenna systems, mini cell, or similar systems.

SMALL CELL TOWER: Any structure under fifty (50) feet in height with an antenna or transmitter that is constructed for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. A pole originally installed for the primary purpose of supporting wireless telecommunications equipment, regardless of the timeframe between pole installation and connection/implementation of Transmission Equipment, is considered a Small Cell Tower, and is not a Utility Pole. The term Small Cell Tower includes mini cell towers, distributed antenna system towers, micro cell towers, mini cell, or similar systems.

TRANSMISSION EQUIPMENT: Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wirelesses services such as microwave backhaul.

UTILITY: Has the meaning as defined in KRS 278.010(3) as amended or supplemented from time to time.

UTILITY, OVERHEAD: Utility infrastructure that is located primarily above ground. Overhead Utilities include but are not limited to power lines and communications lines.

UTILITY POLE: A structure originally constructed for the support of electrical, telephone, cable television or other video services, street lighting, or other similar cables and located within the public right-of-way or Utility easements. A pole originally installed for the primary purpose of supporting wireless telecommunications equipment, regardless of the timeframe between pole installation and connection/implementation of Transmission Equipment, is considered a Small Cell Tower, and is not a Utility Pole.

UTILITY, UNDERGROUND: Utility infrastructure that is located primarily underground. For purposes of these regulations, utilities include but are not limited to water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas lines, power lines, and communications lines. This definition does not include electric transformers, switch boxes, telephone pedestals and telephone boxes, traffic boxes, and similar devices which are ground mounted.

WIRELESS COMMUNICATIONS FACILITY: The set of equipment and network components including antennas, transmitters, receivers, Communication Base Stations, cabling, and Antenna or Related Equipment, used to provide wireless data and telecommunication services.

[~~C. EXISTING SITES:~~~~Telecommunication facilities in existence on the date of the adoption of these regulations are subject to the following provisions:~~

~~1. A provider that replaces or adds ground equipment and/or equipment shelters within the limits of the existing fence compound and/or replaces antennas or other equipment at the same elevation (RAD center) on the tower or pole shall be viewed as maintenance and repair.~~

~~2. Any proposal by a provider to add equipment at a RAD center, other than which they are currently located, shall be viewed as a co-location and is subject to approval by the Planning and Zoning Commission or its Duly Authorized Representative.~~

~~3. All proposals to enlarge the fenced compound for a site shall be in conformance with current setback and fencing and landscaping standards.~~

~~C. TOWER CITING:~~~~The location, erection, construction, alteration, or enlargement any cellular or wireless communications tower, facility, building, or structure other than fencing shall be subject to review and approval by the Planning and Zoning Commission.~~

~~The applicant shall make a reasonable attempt to co-locate additional transmitting or related equipment and shall provide the local planning unit with a statement indicating that the applicant has:~~

~~1. Successfully attempted to co-locate on towers designed to host multiple wireless service providers’ facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant’s facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or~~

~~2. Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider’s facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant’s facilities and that:~~

~~a. Identifies the location of the towers or other structures on which the applicant attempted to co-locate; and~~

~~b. Lists the reasons why the co-location was unsuccessful in each instance.~~

~~The Planning Commission may deny an application to construct a tower based on an applicant’s unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.~~ ][.]C. PUBLIC NOTIFICATION:At least one Public Hearing on the proposal shall be held by the Planning Commission for the construction of a new or modified [~~telecommunications tower or facility~~] Cellular Antenna Tower. As part of this hearing, the Planning Commission shall review the proposal for consistency with the Comprehensive Plan, Zoning Ordinance and other relevant regulations.

Upon holding such hearing, the Planning Commission shall review and take final action on Applications for new Cellular Antenna Towers within sixty (60) days of a completed Application, or within a date otherwise specified in a written agreement between the Planning Commission and the Applicant. This time period will not begin until the filing fee is submitted and the [~~application~~] Application is deemed complete. The Planning Commission shall notify the [~~applicant~~] Applicant once the [~~application~~] Application is deemed complete and provide the deadline for the review period. The Planning Commission shall either approve, approve with conditions, or deny the Application. If the Planning Commission does not make a final decision within the required sixty (60) days, or the date specified in the written agreement, the Application shall be deemed to be approved as submitted. The Planning Commission shall submit to the Applicant and the local zoning administrator, along with its action, the bases for the decision.

[~~E~~]D. APPLICATION PROCESS AND DESIGN STANDARDS: This article defines the application process and basic design standards required by the [~~planning~~] Planning Commission for:

1. CELLULAR Antenna Towers
2. Small Cell System Towers

[~~E1~~]D1.CELLULAR Antenna Towers

[~~E1A~~]D1A. APPLICATION REQUIREMENT: Application for a Cellular Antenna Tower shall conform to the requirements as set forth in KRS 100.9865 and KRS 100.987 on a form prescribed by the Planning []Commission.

All information contained in the Application and any updates, except for any map or other information that specifically identifies the proposed location of the Cellular Antenna Tower being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. All Applicants shall be required to make a reasonable attempt to co-locate and shall provide the Planning Commission with supporting documentation of its efforts to co-locate.

[~~Upon the approval of an application for the construction of a cellular antenna tower by the Planning Commission, the applicant shall notify the Public Service Commission within ten (10) working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved uniform application with the Public Service Commission, the applicant shall be prohibited from beginning construction of the cellular antenna tower until such notice has been made.~~][~~E1B~~]D1B. PERMITTED LOCATIONS:Cellular Antenna Towers and support facilities are permitted in all zoning districts. Whenever possible, [~~cellular antenna towers~~] Cellular Antenna Towers, whether temporary or permanent, shall be sited at locations that minimize their adverse effect on adjoining properties and residential uses in the immediate area.

Non-Preferred Locations - The following locations shall be avoided unless no other reasonable site is available:

1. No [~~cellular antenna tower~~] Cellular Antenna Tower shall be located in a residential zoning district unless the Planning Commission determines that no other reasonable site is available that meets the applicant’s or wireless [~~providers~~] provider’s coverage objectives.

2. No [~~cellular antenna tower~~] Cellular Antenna Tower shall be located in or within a quarter mile (1,320 feet) of a Historic Landmark/Historic District Overlay District (H) or within a quarter mile of a National Register District or Property unless the Planning Commission determines that no other reasonable site is available that meets the applicant’s or wireless [~~providers~~] provider’s coverage objectives.

3. No [~~cellular antenna tower~~] Cellular Antenna Tower shall be located within a Kentucky Scenic Byway as designated by the State of Kentucky or its view shed, so as to have a negative impact on the scenic qualities of the roadway and the views from the roadway unless the Planning Commission determines that no other reasonable site is available that meets the applicant’s or wireless [~~providers~~] provider’s coverage objectives.

[~~E1C~~]D1C. DESIGN GUIDELINES:

1. Tower Design:

a. Stealth towers (such as clock towers, church steeples, flagpole towers, etc. with concealed antennas) shall be permitted in all zoning districts.

b. Monopole towers shall be permitted in all zoning districts and shall have a grey, or galvanized steel finish. The monopole and foundation shall be designed to accommodate as many co-locators as possible. An alternate color may be approved by the [~~planning commission~~] Planning Commission based upon site [~~environs~~]conditions.

c. Lattice towers shall be permitted in non-residential zoning districts and shall have a grey or galvanized steel finish. The lattice tower and foundation shall be designed to accommodate as many co-locators as possible. Lattice towers shall only be permitted when the tower height is greater than 199 feet.

d. Guyed towers shall be permitted in agricultural zones only and shall have a grey or galvanized steel finish. The guyed tower and foundations must be designed to accommodate as many co-locators as possible. Guyed Towers shall only be permitted when the tower height is greater than 199 feet.

2. Tower Heights:

a. The overall height of a [~~cellular antenna tower~~] Cellular Antenna Tower in a residential zone shall be limited so it does not have to be lit or marked per FAA standards.

b. The overall height of a [~~cellular antenna tower~~] Cellular Antenna Tower in a non-residential zone (except agricultural zones) shall be limited to 199 feet.

c. The overall height of a [~~cellular antenna tower~~] Cellular Antenna Tower in an agricultural zone shall be limited to 315 feet.

3. Setback Requirements:

a. Cellular [~~antenna towers~~] Antenna Towers shall be setback a minimum of one (1) times the tower height (tower, antennas and lightning rod) from any public or private street.

b. Cellular [~~antenna towers~~] Antenna Towers shall be setback a minimum of two (2) times the tower height (tower, antennas, and lightning rod) from any residence or residentially zoned property.

c. Cellular [~~antenna towers~~] Antenna Towers shall be setback a minimum of one (1) times the tower height (tower, antennas, lightning rod) from agriculturally zoned property.

d. Cellular [~~antenna towers~~] Antenna Towers shall be setback a minimum of one-fourth (¼) the tower height (tower, antennas, lightning rod) from any non-residentially zoned properties (does not apply to agriculturally zoned properties).

e. All accessory structures associated with the [~~cellular antenna tower~~] Cellular Antenna Tower shall be located as close to the tower base or tower legs as possible. All accessory structures and fences shall be located a minimum of fifty (50) feet from adjoining property lines.

4. Lighting: Cellular [~~antenna towers~~] Antenna Towers shall not be lit, except as required by the Federal Aviation Administration (FAA).

5. Access and Parking:

a. If applicable, a proposed access point on a public [~~shall regulations~~] street shall meet the applicable Zoning Ordinance and Regulations regarding the number of curb cuts permitted on a property, spacing of driveways, and required sight distance.

b. The first twenty (20) feet of a proposed driveway (measured from the right-of-way line) that is used exclusively to access a cell tower site shall be paved.

c. One (1) parking space and/or turnaround area shall be provided immediately to the side of the cell tower compound.

6. Fencing and Landscaping: A privacy fence, not less than eight (8) feet, shall enclose the base of the [~~cellular antenna tower~~] Cellular Antenna Tower and associated ground equipment. In addition, the outside perimeter of the fence compound (except the access gate) shall be bound on all sides by a ten (10) foot wide landscaping buffer.

7. Signage: No signs and/or commercial advertising shall be located on the [~~cellular antenna tower~~] Cellular Antenna Tower, on the fence surrounding the tower and equipment, or on any buildings accessory to the [~~cellular antenna tower~~] Cellular Antenna Tower, with the exception of signs providing ownership, safety, and emergency information.

8. Mitigating Design Standards: The Planning Commission shall consider the following mitigating design standards for Cellular Antenna Towers Proposed in Residential Zoning Districts and other Non-Preferred Locations.

a. The Planning Commission shall have the power to require a stealth tower in a residential zone or other non-preferred locations.

*Example Considerations:*

*1. Is the [~~cellular antenna tower~~] Cellular Antenna Tower proposed at a location that minimizes adverse impacts on adjoining properties, residential uses, historic properties, or scenic byways?*

*2. Would a stealth tower design help mitigate these impacts and still allow the wireless provider(s) to fulfill their coverage objectives? If so, what type of stealth tower should be used?*

*3. How many wireless providers will be able to locate on the stealth tower? The applicant shall document the co-location opportunities on alternative stealth tower designs and a similarly sized monopole, lattice, or guyed tower.*

b. The Planning Commission shall have the power to impose additional landscaping requirements, which may include trees, shrubs, and fencing designed to complement the character of the surrounding area.

c. Design and building materials standards may be imposed on accessory buildings.

d. Asphalt or other hard surface parking may be required to complement the character of the surrounding area.

D1DCommunication Base Station.[~~E1D. Temporary Cellular Antenna Towers: Temporary cellular antenna towers shall be subject to approval by the Planning Commission. The tower shall be located on the subject site no more than six (6) months or a time period specifically agreed upon by the Planning Commission and the applicant. The six (6) month or agreed upon time period shall start upon issuance of a Building Permit.~~

~~Temporary cellular antenna towers shall be limited to an overall height of seventy (70) feet and shall be subject to the same setback and fencing requirements (landscaping not required) as a permanent tower.~~

~~Removal of the accessory structures and privacy fencing shall occur within thirty (30) days of the temporary cellular antenna tower being removed from the site. A temporary cellular antenna towers shall be permitted by right when a permanent cellular antenna tower has been approved for the same applicant and on the same property, until such time that the permanent facility is constructed.]~~[~~E2~~]D2. Small Cell System Towers

[~~E2A~~]D2A. APPLICATION SUBMITTAL:All proposed Small Cell Systems, shall be subject to the review and approval of the Planning [~~and Zoning Commission or its~~] Commission’s Duly Authorized Representative. The Planning Commission’s Duly Authorized Representative may refer the Application to the Planning Commission for action. One (1) Application for multiple proposed towers within the same Small Cell System is encouraged whenever possible. Applications are limited to ten (10) towers per Application. Multiple towers may only be included on a single Application if they are located within the same city or unincorporated area of the County.

All information contained in the Application and any updates except for any map or other information that specifically identifies the proposed location of the Cellular Antenna Tower then being reviewed shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction.

Applicants for the construction of Small Cell Systems for Cellular Telecommunications Services or Personal Communications Services may choose to provide either the Uniform Application per KRS.100.9865 or in lieu of the Uniform Application, the following information should be submitted:

1. A written description and map showing the coverage area of the provider’s existing facilities in the general and site-specific areas that are the subject of the Application.
2. A statement of the telecommunications objectives for the proposed location, whether the proposed facility is necessary to prevent or fill a gap or capacity shortfall in the Applicant or provider’s service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.
3. A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, the Kentucky Public Service Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
4. A statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.
5. A full description of the number and dimensions of all Small Cell Towers proposed to be installed.
6. A site development plan, signed and sealed by a professional engineer registered in Kentucky, showing the proposed location of the tower and existing structures within five hundred (500) feet of the proposed site. For Applications in which multiple towers are proposed, an overall site development plan showing all proposed locations within a single city or unincorporated area must be provided.
7. A vertical profile sketch or drawing of the towers, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas and equipment enclosures. Written approval from the property owner stating the Applicant or provider has permission to construct a facility on their property. In the case of public Right-of-Way or public property, written approval must be submitted from the [~~duly-authorized~~] Duly Authorized representative of the governing body holding ownership.
8. Photographs of view shed from each proposed tower location, taken in at least four directions.
9. Description of whether other Overhead Utilities exist within five hundred (500) feet of the proposed antenna location.
10. All Applicants shall be required to make a reasonable attempt to co-locate and shall provide the Planning Commission with supporting documentation of its efforts to co-locate.

D2B: PERMITTED LOCATION AND DESIGN:The design criteria required for the new Small Cell Systems is determined by the type of location or zoning district in which the facility is to be located.

1. NON-TOWER SMALL CELL SYSTEM LOCATION: No administrative review is required for antennas locating on existing telecommunications structures, water towers, buildings, or other existing structures. These non-tower locations must adhere to all other applicable federal, state, and local zoning codes, building codes or permits.

2. NEW SMALL CELL SYSTEM TOWER LOCATION AND DESIGN IN ALL ZONES:

1. Temporary, mobile or wheeled [~~cellular antenna towers~~] Small Cell Towers shall not be permitted.
2. New Small Cell Towers shall not exceed the maximum building height for the zoning district within which they are located.
3. New Small Cell Towers shall be designed and constructed to accommodate a minimum of two (2) service providers.
4. New Small Cell Towers may be located on public or private non-residential land or within a public Right-of-Way provided it does not interfere with other utilities, functionality of sidewalks, visibility, or other matters of public safety.
5. New Small Cell Towers shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the Stealth Technology, such as a design intended to look like a street light pole.
6. New Small Cell Towers shall not include advertisements and may only display information required by a federal, state, or local agency. Such display shall not exceed one (1) square foot in area, unless required by state or federal regulations, or unless a larger display is integral to the Stealth Technology. Such display shall not exceed the width of the pole, unless a wider sign is integral to the Stealth Technology such as a design which integrates a decorative banner.
7. If a new Small Cell Tower is located in an area with primarily Underground Utilities, or where no adjacent Overhead Utility lines exist, it shall not utilize Overhead Utility lines.

3. NEW SMALL CELL SYSTEM TOWER LOCATION AND DESIGN IN RESIDENTIAL ZONES:

1. Facilities located within, or immediately adjacent to, residential zoning residential areas are strongly encouraged to be Non-Tower Wireless Communication Facilities.
2. New Small Cell Towers and Antenna or Related Equipment shall be camouflaged by Stealth Technology. Examples of appropriate Stealth Technology for residential areas includes, at a minimum, towers with all cables, wires, Transmission Equipment, electric meters, power equipment, etc. installed inside the Small Cell Tower. Other types of stealth technology may be approved by the Planning [~~and Zoning~~] Commission or its Duly Authorized Representative.
3. All poles and antennas shall be uniform grey or black in color, unless another color is integral to the Stealth Technology as approved by the Planning [~~and Zoning~~] Commission or its Duly Authorized Representative.
4. The use of cooling fans is discouraged. When needed, fans with lower noise profiles must be used.
5. New Small Cell Towers should avoid areas without Overhead Utilities. If a Small Cell Tower is located in an area with primarily Underground Utilities it must adhere to Stealth Technology that incorporates the telecommunications equipment into a streetscape amenity such as a decorative lamp post, street light or other approved design. In areas with Overhead Utilities, cylindrical antennas are required.
6. In residential areas, a Small Cell Tower shall not be located closer than the height of the proposed tower to an existing or proposed residential structure, or no closer than thirty (30) feet, whichever is greater.
7. Efforts should be made to locate new Small Cell Towers in the yard location where other Overhead Utilities are located.
8. New Small Cell Towers within residential areas should be located to avoid obstructing the view of building facades by placing the tower at a corner, intersection or along a lot line.
9. New Small Cell Tower shall not be located within five hundred (500) feet of an existing Small Cell System Tower. Multiple carriers are permitted and encouraged to locate on one tower, where possible.
10. Reasonable efforts shall be made to locate new Small Cell Towers in the order of hierarchy below, based on the following functional roadway classification:

* Interstate
* Arterial
* Collector
* Local

4. NEW SMALL CELL SYSTEM TOWER LOCATION AND DESIGN IN NON-RESIDENTIAL ZONES:

* 1. In instances where a facility is proposed to be constructed in the right of way within one hundred (100) feet of a residential zone or use, even if the antenna’s physical location is within a non-residential zone, regulations for a residential zone shall be followed.

1. In instances where an antenna is proposed to be constructed within a historic or commercial district with established public or private design control measures, regulations for a residential zone shall be followed. Efforts shall be made to adhere to any established design control measures or existing furnishing or fixture styles within the district.
2. Antennas in commercial, institutional, or park areas are encouraged to be installed as Non-Tower Wireless Communication Facilities.
3. Reasonable effort shall be given to locate new equipment based upon the following hierarchy of zones and land uses:
   * + Co-locate on an existing structure whenever possible.
     + Institutional.
     + Industrial.
     + Commercial.
     + Public parks.
     + Agricultural.
4. Equipment enclosures, including electric meters, should be nearly the same width as the pole or as small as possible. Ground mounted equipment boxes should be screened from view with shrubs or other appropriate screening as approved by the Planning [~~and Zoning~~] Commission or its Duly Authorized Representative.
5. Shrouds, risers, and conduits shall be used to reduce the appearance of external cabling.
6. All poles, antennas, brackets, cabling, risers, shrouds, and conduits shall be uniform grey or black in color, or other color as approved by the Planning [~~and Zoning~~] Commission or its Duly Authorized Representative.
7. Cylindrical antennas shall be required, unless another antenna style is integral to the Stealth Technology as approved by the Planning [~~and Zoning~~] Commission or its Duly Authorized Representative.
8. There shall be no more than a four (4) inch offset between the pole and pole mounted equipment enclosures.

D2C. AMENDMENTS TO APPROVED PLANS:Any amendments to approved plans, except for the minor adjustments as outlined below, shall be made in accordance with the above procedures subject to the same limitations and requirements as those under which such plans were originally approved.

The following activities shall be considered minor adjustments from the original approval of an Application for towers located in public rights of way. Changes are measured cumulatively from the original approval of the tower or Communication Base Station.

1. Tower height increases by less than ten (10) percent or ten (10) feet, whichever is greater.
2. Change in the tower width of less than ten (10) percent or six (6) feet, whichever is greater.

[~~E~~. ~~AMENDMENTS TO APPROVED PLANS:~~~~Any amendments to approved plans, except for the minor adjustments as outlined below, shall be made in accordance with the above procedures.~~

~~The following activities shall be considered minor adjustments from the original approval of an Application for towers not located in public Rights-of-Way. Changes are measured cumulatively from the original approval of the tower or Base Station.~~

1. ~~Tower height increases of less than ten (10) percent or twenty (20) feet, whichever is less.~~
2. ~~Support structure height increases of less than ten (10) percent or ten (10) feet, whichever is less.~~
3. ~~New equipment extensions from a tower horizontally of less than twenty (20) feet or width of tower at elevation of change.~~
4. ~~Structure or new item extensions on a Non-Tower Wireless Communication Facility horizontally less than six (6) feet from existing structure.~~
5. ~~The addition of four (4) or fewer new equipment cabinets within the boundaries of the leased/owned site.~~
6. ~~Any excavation or deployment within the current boundaries of the leased/owned site and any access/Utility easements.~~
7. ~~Concealment elements of the tower are not defeated.~~
8. ~~Activities that comply with all other conditions in any prior approval not related to the limits set forth above.~~ ]

g. Waiver of Requirements: The Planning Commission can modify or waive the design guidelines if there are special circumstances or conditions as determined by the Planning Commission.

## 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: June 7, 2016

Second Reading:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

First Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2016#10**

**AN ORDINANCE ADOPTING THE CITY OF DAYTON, KENTUCKY'S ANNUAL BUDGET FOR FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, & ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE CITY TO THE FULL EXTENT AUTHORIZED BY KRS 82.082 AND INTERPRETATIVE CASE LAW.**

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

## Section I: That the annual budget for the fiscal year beginning July 1, 2016 and ending June 30, 2017 to estimate revenues and resources and appropriate funds for the City to the full extent authorized by KRS 82.082 and interpretative case law, is hereby adopted as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Resource Available** | **General Fund** | **Municipal Road Aid** | **Parks** |
| **Fund Balance Forward** | 403,781 | 226,778 | 103,598 |
|  |  |  |  |
| **ESTIMATED REVENUES:** |  |  |  |
| Property Tax | 1,353,305 |  | 100,000 |
| Licenses and Permits | 1,223,900 |  |  |
| Intergovernmental | 65,200 | 105,000 |  |
| Fines & Penalties | 42,500 |  |  |
| Charges for Services | 151,692 |  |  |
| Other | 527,714 | 500,000 | 2,000 |
| Interest | 4,000 | 700 | 200 |
| **Total Estimated Revenue** | 3,368,311 | 605,700 |  |
|  |  |  |  |
| **Total Resources Available for Appropriation** | 3,772,092 | 832,478 | 205,798 |
|  |  |  |  |
| **APPROPRIATIONS:** |  |  |  |
| General Government | 423,628 |  |  |
| Police Department | 1,240,638 |  |  |
| Fire Department | 941,301 |  |  |
| Public Works | 340,777 | 30,000 | 65,000 |
| Building Services | 100,693 |  |  |
| Professional Services | 648,705 | 802,478 |  |
| Main Street | 76,350 |  |  |
| Park Salary |  |  | 12,500 |
| Utilities/Operations |  |  | 12,400 |
| Repair/Maintenance |  |  | 10,750 |
| Miscellaneous |  |  | 1,500 |
| **Total Appropriations** | 3,772,092 | 832,478 | 102,150 |
|  |  |  |  |
| **Excess of resources over/under appropriations** | 0 | 0 | 103,648 |
| Transfers from other funds | 0 | 0 |  |
| Transfers to other funds | 0 | 0 |  |
| **Estimated fund balances** | 0 | 0 | 103,648 |

|  |  |  |  |
| --- | --- | --- | --- |
| **Resource Available** | **Economic Development** | **Sargent Park Trust Fund** | **Waste Collection** |
| **Fund Balance Forward** | 594,784 | 38,158 | 0 |
|  |  |  |  |
| **ESTIMATED REVENUES:** |  |  |  |
| Charges for Services | 6,700 |  | 316,750 |
| Land Sale Payment | 200,000 |  |  |
| Other (Interest) | 900 | 200 |  |
| Intergovernmental | 0 |  |  |
| **Total Estimated Revenue** | 207,600 | 200 | 316,750 |
|  |  |  |  |
| **Total Resources Available for Appropriation** | 802,384 | 38,358 | 316,750 |
|  |  |  |  |
| **APPROPRIATIONS:** |  |  |  |
| Capital Outlay | 200,000 |  |  |
| CCAP | 128,000 |  |  |
| Waste Collection Services |  |  | 260,058 |
| Administrative Collection Fee |  |  | 15,500 |
| Franchise Fee |  |  | 41,192 |
|  |  |  |  |
| **Total Appropriations** | 328,000 | 0 | 316,750 |
|  |  |  |  |
| **Excess of resources over/under appropriations** | 474,384 | 38,358 | 0 |
| Transfers from other funds |  |  |  |
| Transfers to other funds |  |  |  |
| **Estimated fund balances** | 474,384 | 38,358 | 0 |

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

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

First Reading: June 7, 2016

Second Reading:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

# CITY OF DAYTON, KENTUCKY

**RESOLUTION NO. 2016-#3R**

**A RESOLUTION OF THE CITY OF DAYTON, KENTUCKY, APPROVING AN AMENDMENT TO THE FINANCE PLAN AS SET FORTH IN THE LOCAL PARTICIPATION AGREEMENT FOR THE MANHATTAN HARBOUR DEVELOPMENT AREA; RESTATING THE PRIORITY FOR THE USE AND DISBURSAL OF INCREMENTAL TAX REVENUES RELATED TO THE DEVELOPMENT AREA; AUTHORIZING THE MAYOR TO ESTABLISH PROCEDURES FOR DISBURSING INCREMENTAL REVENUES TO PAY FOR ELIGIBLE PROJECTS COSTS AND APPROVED PUBLIC INFRASTRUCTURE COSTS RELATED TO THE MANHATTAN HARBOUR DEVELOPMENT AREA; AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENTS WITH THE DEVELOPER OR SUB-DEVELOPERS TO REIMBURSE ELIGIBLE PROJECT COSTS AND APPROVED PUBLIC INFRASTRUCTURE COSTS CONSISTENT WITH THE TERMS OF THIS RESOLUTION, THE LOCAL PARTICIPATION AGREEMENT AND TAX INCENTIVE AGREEMENT RELATED TO THE MANHATTAN HARBOUR DEVELOPMENT AREA.**

**WHEREAS**, the City established the Manhattan Harbour Development Area (the “Development Area”), by Ordinance 2008-11, dated October 14, 2008 (the “Development Area Ordinance”), pursuant to the provisions of KRS 65.7041 to KRS 65.7083 (the “Act”); and

**WHEREAS**, the Development Area Ordinance approved a Local Participation Agreement dated as of October 1, 2008, (the “LPA”), relating to a pledge of local incremental revenues as authorized by the Act to support the Manhattan Harbour Project (the “Project”) as identified more fully in the LPA, among the City, the County of Campbell, Kentucky, the Campbell County, Kentucky Public Library District, the Campbell County Public Health Taxing District, and the Campbell County Cooperative Extension District (collectively the “Local Taxing Districts”); and

**WHEREAS**, the Local Taxing Districts in the LPA pledged their respective incremental tax revenues to pay for certain costs identified in the LPA as provided in the Finance Plan attached to the LPA; and

**WHEREAS**, the LPA authorizes the City to approve changes in the Finance Plan; and

**WHEREAS**, the City initially designated DCI Properties-DKY, LLC (the “Developer”), as the developer for the Project, but now other sub-developers (the “Sub-Developers”) has or will undertake certain parts of the construction and development of the Project; and

**WHEREAS**, the Finance Plan originally anticipated that City bonds would be issued to pay for the costs supported by the incremental revenues pledged by the Local Taxing Districts, but now the financing for the Project will be obtained by the Developer (or Sub-Developers), subject to being reimbursed for eligible project (the “Eligible Project Costs”) costs as set forth in the LPA from the incremental tax revenues pledged by the Local Taxing Districts; and

**WHEREAS**, in addition to the pledge of incremental tax revenues from the Local Taxing Districts, the City applied for and received through the execution of a Tax Incentive Agreement (the “Tax Incentive Agreement”), a pledge of certain state incremental tax revenues to reimburse certain costs for approved public infrastructure costs (the “Approved Public Infrastructure Costs”) associated with the Project as set forth and approved in the Tax Incentive Agreement, as it has been amended.

**BE IT HEREBY RESOLVED BY THE CITY OF DAYTON, KENTUCKY AS FOLLOWS:**

## **Section I - Finance Plan**

**A.** That in lieu of bonds being issued by the City supported by the incremental tax revenues from the Local Taxing Districts and the State to pay for Eligible Project Costs as originally provided in the LPA, Eligible Project Costs and approved Public Infrastructure Costs expended by the Developer (or Sub-Developers) shall be reimbursed by the City as incremental tax revenues are received by the City from the Local Taxing Districts pursuant to the provisions of the LPA, or from the State as provided in the Tax Incentive Agreement.

**B.** The Eligible Project Costs and Approved Public Infrastructure Costs that may be reimbursed from local and or state incremental tax revenues are listed in the attached Exhibit A, and are so incorporated herein as fully written.

**SECTION II – Expenditure of Incremental Tax Revenues**

**A.** Any incremental tax revenues from the State may only be used to reimburse Approved Public Infrastructure Costs that are also approved for recovery as set forth in the Tax Incentive Agreement or any amendments thereto.

**B.** The priority for the use of incremental tax revenues and the reimbursement of Developer or Sub-Developer costs expended for Eligible Project Costs and Approved Public Infrastructure Costs shall be as follows:

**1.** Costs related to the construction of Manhattan Boulevard, including the cost of street construction, utilities, storm and sanitary sewers, curbs, sidewalks, street lighting, and the placement and compaction of the fill needed to construct Manhattan Boulevard, as set forth in Exhibit A;

**2.** Costs associated with the acquisition of the River City Marina lease;

**3.** Costs associated with structural parking that may be needed to support the Project, as set forth in Exhibit A;

**4.** Cost related to the Community Center Project up to $2,000,000; and

**5.** Other Eligible Project Costs or Approved Public Infrastructure Costs set forth in Exhibit A.

**SECTION III – Authority to Enter Agreements**

That the Mayor is hereby authorized to establish procedures, and enter into agreements as needed to reimburse the Developer or Sub-Developers for costs expended for Eligible Project Costs and Approved Public Infrastructure Costs, provided that any such procedures and agreements must be consistent with the provisions of the LPA, the Tax Incentive Agreement and this Resolution.

**SECTION IV – Approval of Resolution**

That this Resolution is hereby adopted and approved by the City Council of the City of Dayton, Kentucky this 7th day of June, 2016, and shall be effective immediately upon according to law. This Resolution shall be maintained and indexed in the Official Resolution Book by the City Clerk/Treasurer.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

**EXHIBIT A**

**Public Infrastructure Costs/Eligible Project Costs**

Land Preparation $ 11,350,960

Public Buildings/Structures $ 2,000,000

Sewers/Storm Drainage $ 8,640,328

Curbs, Sidewalks, Promenades and Pedways $ 260,400

Roads $ 933,000

Street Lighting $ 1,245,100

Provision of Utilities $ 970,400

Parking $ 20,000,000

Amenities, such as fountains, benches

and sculptures $ 3,264,001

Other (List)

Berry Ave. Connection $ 362,598

Geotechnical/Engineering $ 1,177,575

Contingency $ 2,693,937 $ 4,234,110

**TOTAL ESTIMATED COSTS $ 52,898,299**

Motion by Member Burns, seconded by Member Lynn to approve 2016-#3R as read.

Comments:

Member Neary asked if there were any modifications or an overview of differences made. City Att. Edge advised there were no changes to the TIF agreement, but they wanted a resolution for the TIF finance.

Roll Call:

Member Burns Aye Member Gifford Absent

Member Tucker Aye Member Lynn Aye

Member Baker Aye Member Neary Aye

Motion carried- so ordered.

# CITY OF DAYTON, KENTUCKY

**MUNICIPAL ORDER NO. 2016 #4R**

A MUNICIPAL ORDER ACCEPTING A BID FOR THE PURCHASE OF ROAD SALT FOR WINTER SNOW AND ICE CONTROL.

**WHEREAS,** the City of Dayton obtained bids for the road salt for winter snow and ice control; and

**WHEREAS,** the City Council desires to purchase 350 tons amount of road salt for a price of $65.00 per ton from Cargill, Incorporated.

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

## Section I

That the City hereby authorizes and accepts to purchase 350 tons of road salt from Cargill, Incorporated at a price of $65.00 per ton.

## Section II

That the Mayor and any other necessary officials are authorized to sign all documents necessary to accept the bid.

## Section III

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

**So ordered by the City Council of the City of Dayton, Campbell County, Kentucky assembled in regular session this 7th day of June, 2016.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

Motion by Member Lynn, seconded by Member Tucker to approve 2016 #4R as read.

Comments:

City Adm. Giffen mentioned that Dayton participated in the Kentucky Association of Counties Reverse Salt Auction. Cargill was the provider last year and this year they came in with the lowest bid. There were four bids total. One bid was close to Cargill’s but Cargill was still the lowest.

Member Neary inquired if this is where a group of cities went together for the whole county and he would like to see all bids in the future. City Adm. Giffen advised this was for counties and cities across the entire state. Member Burns asked how much salt the city had left over from last year. In addition, would 350 tons last through a bad winter? City Adm. Giffen said 100 tons is left over from last year and 350 tons would last the city through a severe winter. Also, there is a decrease in the price from last year. Last year it was $68 per ton and this year it is $65 per ton. Member Baker questions the quality of salt in order to avoid damage to the roads. City Adm. Giffen said Cargill delivered a great product last year and does not see the product decreasing in quality this year. Member Baker asked if council were to be tabled this today would it affect pricing. City Adm. Giffen stated yes, prices are only good for another week.

Roll Call:

Member Tucker Aye Member Lynn Aye

Member Baker Aye Member Neary Aye

Member Gifford Absent Member Burns Aye

Motion Carried- so ordered.

# CITY OF DAYTON, KENTUCKY

**MUNICIPAL ORDER NO. 2016 #5R**

A MUNICIPAL ORDER ACCEPTING A BID FOR WASTE COLLECTION SERVICES IN THE CITY OF DAYTON.

**WHEREAS,** the City of Dayton requested bids for waste collection services for a term of five years; and

**WHEREAS,** the City Council has selected Republic to provide waste collection services for the City of Dayton.

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

## Section I

That the City hereby authorizes and accepts the waste collection services from Republic at a rate of $106.80 per year for collection of solid waste 1 times per week.

## Section II

That the Mayor and any other necessary officials are authorized to sign all documents necessary to accept the bid.

## Section III

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

**So ordered by the City Council of the City of Dayton, Campbell County, Kentucky assembled in regular session this 7th day of June, 2016.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

Motion by Member Tucker, seconded by Member Burns to accept 2016 #5R as read.

Comments:

Member Tucker inquired if the citizens could still rent the waste toters and sign up for recycling. City Adm. Giffen explained that five other cities joined in on the solid waste bid. The cities have several bid categories to choose from such as price with toters and without toters and then sub-categories to determine the model the city will use. The sub-categories are as follows: waste once a week with recycling, waste two times a week with recycling, waste once a week with recycling, and waste once a week with no recycling. The best price is also Dayton’s current model, which is, waste once a week with no recycling. With this model, residents can sign up for recycling and the city would provide recycling toters free of charge. In addition, rental of waste toters is still an option.

Member Burns noted that if the city contracts with Republic that they pickup missed trash and recycling. City Adm. Giffen will look into this. Member Baker asked if all the cities picked the same model as Dayton, and would like to know the size of toters available. City Adm. Giffen said cities went with different models. The city offers 35 & 95 gallons toters are available.

Member Neary felt that participating in recycling and having waste toters should be mandatory. Member Neary conducted a Facebook survey and found that many people want to recycle and few people were not aware that Dayton offered recycling. Member Neary would like to see the recycling process more streamlined and less of back and forth between Republic and the city. Mayor Boruske advised Republic handles billing. Member Baker will vote on this based on the facts it will save the city money and give citizens the option to sign up for recycling.

Roll Call:

Member Baker Aye Member Neary Aye

Member Gifford Absent Member Burns Aye

Member Lynn Aye Member Tucker Aye

Motion carried- so ordered.

# CITY OF DAYTON, KENTUCKY

**MUNICIPAL ORDER NO. 2016 # 6R**

A MUNICIPAL ORDER APPOINTING MEMBERS TO THE CITY OF DAYTON CODE ENFORCEMENT AND NUISANCE BOARD.

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

## Section I

That the Mayor appoints with the approval of City Council the following members to the City of Dayton Code Enforcement and Nuisance Board for the following terms:

|  |  |
| --- | --- |
| **Member Name** | **Term Expiration** |
| Shirley Bishop | December 2016 |
| Bonnie Lindon | December 2016 |
| Allen Smith | December 2017 |
| John Williams | December 2017 |
| Deborah Willman | December 2018 |

## Section II

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

**So ordered by the City Council of the City of Dayton, Campbell County, Kentucky assembled in regular session this 7th day of June, 2016.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

MAYOR VIRGIL L. BORUSKE

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DONNA LEGER

CITY CLERK/TREASURER

Motion by Member Burns, seconded by Member Baker to accept 2016#6R as read.

Roll Call:

Member Gifford Absent Member Burns Aye

Member Lynn Aye Member Tucker Aye

Member Neary Aye Member Baker Aye

Motion carried- so ordered.

City Administrator’s Report:

Handicap parking request from Lester Beckner, 1017 Fourth Ave. Mr. Beckner meets all the requirements of the ordinance. Motion by Member Burns, seconded by Member Tucker. Motion carried-so ordered.

Handicap parking request from Janet McInstoh, 1023 Fourth Ave. Ms. McIntosh received permission from the owner and meets all requirement of the ordinance. Motion by Member Baker seconded by Member Lynn. Motion carried-so ordered.

The Dayton High School Athletic Department is gearing up for their All Sports Program for 2016-2017 school year. This is something that council participates in every year.

Department Head’s Report:

Dave Halfhill, Police Chief, said on May 26 there was an active shooter training for staff at Dayton High School and Lincoln Elementary. This training helped the staff to be aware of smells, their surroundings and provide options on what they can do. Chief Halfhill received positive feedback from the staff. Chief Halfhill thanked Chief Carpenter and Officer Donnelly with the Ft. Thomas Police Department who helped assists with this program

Michael Auteri, Fire Chief, submitted a copy of his report.

Tina Neyer, Main Street Manager, submitted a copy of her report.

Rich McAllister, Code Officer, submitted a copy of his report. Member Burns made a request for larger print on the report next time. Rich McAllister, Code Officer, stated next month that the report would go electronically. Member Neary thanked Rich for putting the owner’s name and their address on the report, but only 392 notices of citations sent. Rich McAllister, Code Officer, said that 392 is notice of violations, not citations. Member Neary liked how the report was coming along. Member Baker questioned why there was not a Code Board meeting last month. Rich McAllister, Code Officer, advised citations just started going out and from this point forward, there should be one to two meetings a month.

Personnel, Law & Printing (Member Neary):

Member Neary has two things on his agenda.

1. Talk to the administration about a possible change in the vacation day policy for the city. Switching from a use or lose it system to something more flexible. Mayor Boruske advised the city does not have a problem and he would grant an extension to city employees as needed.
2. He would like to have a meeting this coming Tuesday at 6:00 p.m. with Personnel, Law & Printing to go over all the ordinances and orders that were sent last Friday. He feels that with this many ordinances and orders presented tonight, this left an insufficient amount of time for review. Everyone on the committee agreed to attend the meeting this coming Tuesday.

Economic Development (Member Baker):

Met with a few individuals that are interested in the CCAP program.

Parks & Real Estate (Member Tucker):

The Park Board meeting on June 6 was cancelled. The meeting is rescheduled Monday, June 20, 7:00 p.m. at the VFW.

Unfinished Business:

Member Lynn inquired about the progress on the three houses that Mr. Fossette bought. He noticed that 410 Eighth Ave. is finished but 522 Seventh Ave. and 524 Fourth Ave. are still vacant. City Att. Edge noted, per the contract he has a year. City Adm. Giffen said Mr. Fossette has been in contact with the city and is aware of the deadline.

New Business:

Member Neary asked about the price of a recycling toter. City Adm. Giffen responded that the toters are budgeted for a $2,100 for this year and in the past, the city spent over $ 5,000. The recycling toters will remain city property.

City Adm. Giffen would like to talk to council about digital video recording of the council meetings. If the city were to sub-contract the digital video recording, this will allow quicker turnaround time and better video quality. Member Burns inquired about the cost if the city continued to record the meetings. City Adm. Giffen stated this is costing the city $130 per meeting (Planning & Zoning, Board of Adjustments and Code Enforcement). The city has three options for digital video.

Option 1: The city will continue to record the meetings. The city has budgeted $2,500 for a new camera.

Option 2: The city can have Silver Sun Studios record the meetings. The cost would be $ 60.00 per meeting but a contract will be required

Option 3: The city can go with the Cable Board. The cost is $160.00 a meeting but the city would be required to go back into an agreement with the Cable Board.

Member Neary prefers the city to buy a camera or hire Silver Sun Studios to do the meetings. Member Tucker made a motion for the city to look into a contract with Silver Sun Studios, seconded by Member Neary. Motion carried- so ordered.

Comments:

Member Burns stated that if the city contracts with Silver Sun Studios, he would like Silver Sun Studios to have a contract with term dates.

Member Baker is checking on the status of the sidewalk going in on Dayton Pike and the school’s decision to discontinue bus services. City Adm. Giffen advised that Ultra Technic completed the survey and the Departmental of Local Governmental Agency re-submitted Dayton’s application to the National Park Service for the Park Conversion request. The city is looking into executing a TAP Grant for two sidewalk improvements in the city. City Adm. Giffen submitted an E-Clearinghouse letter, this will allow the city to get a proposal for design work and request construction bids for the safe route to school.

Adjournment:

Motion by Member Lynn, seconded by Member Burns.

Motion carried- so ordered/

Respectfully submitted,

Tiffany Myers

Asst. Clerk/Treas.

Donna Leger

Clerk/Treas.

ATTEST:

Virgil Boruske

Mayor