

CITY OF DAYTON, KENTUCKY

KOC 710.17 R

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A TRUST AGREEMENT FOR OPERATION AND MAINTENANCE OF SARGEANT PARK.


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

SECTION ONE: That the Mayor be and he is hereby authorized to sign a Trust Agreement for the operation and maintenance of Sargeant Park and the City shall be bound by the terms thereof. A copy of the Trust Agreement is attached hereto, and made part hereof by reference.

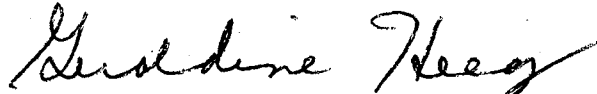
SECTION TWO: This resolution shall be signed by the Mayor, attested by the City Clerk, recorded, and shall be in effect at the earliest time provided by law.

PASSED by City Council of the City of Dayton, Kentucky assembled in regular session this 17th day of March, 1987.

CITY OF DAYTON, KENTUCKY

by 
G.H. Lynn, its Mayor

ATTEST:


Geraldine Heeg, its Clerk

TRUST AGREEMENT

This TRUST AGREEMENT is made and executed on the day and date hereinafter stated by and between the CITY OF DAYTON, KENTUCKY, (hereinafter "Grantor") and the SARGEANT PARK FOUNDATION, herein described, (hereinafter "Trustee") for the purposes of complying with a certain "Agreement to Establish Trust Fund" entered into between Campbell County, Kentucky and Harry Howard Sargeant, a copy of said agreement being attached hereto, on May 26, 1983, which agreement was assigned to City of Dayton, Kentucky by Campbell County, Kentucky on August 5, _____, 1986.

WITNESSETH

That the Grantor has delivered and caused or will cause to be delivered to Trustee, funds herein described TO HAVE AND TO HOLD said funds and such other property both real and personal, as may be added hereto in accordance with the terms of this Agreement unto the Trustee, its successors and assign, IN TRUST HOWEVER, for the following used and purposes and subject to all of the terms and conditions hereof, to wit:

1. The Trustee, SARGEANT PARK FOUNDATION, shall consist of the presiding Mayor of Dayton, the presiding Chairman of the Dayton Park Board, Inc., and the Dayton City Treasurer, acting in consensus, and it shall be entitled to take action upon a simple majority vote of same.

2. The funds shall be defined as those funds from sale of that portion of land known as Sargeant Property north of Lincoln

Road as permitted in the Agreement to Establish Trust Fund including Fifty Thousand Dollars (\$50,000.00) transferred by Campbell County to Grantor upon execution of the assignment of said agreement to Grantor along with Thirty Thousand Dollars (\$30,000.00), along with interest thereon, due to Grantor under a certain promissory note and mortgage from Norbert Kuper to Campbell County which was assigned by Campbell County to Grantor on August 5, 1986, all along with interest accrued thereon (of which Six Thousand Ninety-four and 51/100 Dollars [\$6,094.51] was transferred by Campbell County to Grantor at the time of assignment).

3. Further, Trustee may accept money, in kind contributions, property, notes, bonds, mortgages, and donations of any type or kind, restricted or non-restricted, as Trustee, in its discretion may agree and may assign same to income or principal as it deems necessary. Such other contributions whether from Grantor, heirs of Harry Sargeant, or some third person may be included in the fund described in paragraph 2 above or may be held in separate trust as Trustee deems necessary.

4. That Trustee may use up to \$45,000.00 for development of recreational facilities on the property known and previously dedicated as SARGEANT PARK.

5. That the remainder of the fund (hereinafter, "Principal") shall be held for investment and the income therefrom may be used for general maintenance and operation of the park as the Trustee shall decide in its discretion including administration costs borne by Grantor. The Trustee may, from time to time, declare

that income from the trust be transferred to Principal as it may, in its discretion decide said amounts transferred from income to Principal may be transferred back to income at any time.

Unless otherwise provided herein, Trustee shall not allow the Principal of the trust fund instituted hereunder to fall below Thirty Thousand Dollars (\$30,000.00) at any time.

6. The trust fund established hereunder shall be included as a separate trust fund of the Grantor for the purpose of maintaining the income therefrom in a federal, state and local non taxable status. The fund shall be audited each year by Grantor's auditor and a copy of said audit shall be released to the heirs of Harry Sargeant upon their request. Said heirs shall have the option of having the fund independently audited at their expense.

7. In the administration, maintenance and operation of the Park, the Trustee may contract with Grantor or with any other person or entity to provide such services. No alteration, addition, or deletion of facilities or equipment in the park shall be made by Trustee without the express written consent of the Grantor.

8. The Trustee may allow the Principal amount to fall below Thirty Thousand Dollars (\$30,000.00) only in the event that same is necessary to repair or replace facilities lost due to act of God, calamity, or other loss not under control of the Trustee or Grantor. Upon such occurrence, the Trustee shall thereafter assign Twenty-five Percent (25%) of yearly income from the remainder of the Principal to Principal until such time as

Principal shall again equal or exceed Thirty Thousand Dollars (\$30,000.00).

9. In the administration of the trust property, the Trustee is authorized to collect all income therefrom; to determine whether money or property coming into its possession and disbursements made by it shall be allocated to principal or income; to invest and reinvest trust funds in such securities and other property as may be selected by it, irrespective of any limitation prescribed by law or custom upon the investments of trustees; to sell, lease or otherwise dispose of the trust property, or any part thereof, unless otherwise proscribed herein, at such prices and upon such terms and conditions as it shall determine; to grant options; to reserve from investment or keep unproductive of income such sums as it may deem advisable, without liability for interest thereon; to exercise the voting rights appurtenant to securities, and for such purpose to execute proxies or powers of attorney; to make advances of its own funds or borrow money upon such terms and conditions as it shall determine, and for the repayment of such advances, with interest, it shall have a lien upon the trust property, and for any sums so borrowed may issue its promissory note or notes as Trustee and secure the payment thereof by mortgaging or pledging any part or all of the trust assets; to register securities and hold title to other property in its own name, in the name of nominee, or in bearer form, without disclosing the trust, but the Trustee shall be responsible for the actions of its nominee; and, generally to exercise such powers and perform such duties as may be vested in

it by law or as may be required to give effect to the powers and duties herein conferred upon it. The Trustee is authorized to retain as an investment, without liability for depreciation in value, any property received by it from any person or source, even though such property be of a kind or in an amount not ordinarily deemed suitable for trust investment. In accepting title to real estate, the Trustee shall not be held to have assumed any encumbrances thereon or any responsibility as to the validity thereof. No person dealing with the Trustee shall be obligated to inquire into its authority or be responsible for the application of any money paid or property transferred to the Trustee.

10. Should at any time Sargeant Park cease to exist through act of God, calamity, or other loss not under control of the Trustee or Grantor, the remaining funds in the trust created hereunder, whether income or principal may be used by Trustee for the operation and maintenance of parks or recreation lands owned or operated by Grantor or its successor, however, Grantor and Trustee shall make any and all reasonable efforts to continue the existence of Sargeant Park as a park and recreation area as required by restrictions in deed of record found in Deed Book 448, at Page 71 of the records of the Campbell County Clerk's office at Newport, Kentucky. Should no other park or recreation land be owned or operated by Grantor, said remaining funds shall become the property of Grantor or its successor and the trust fund created hereunder shall cease to exist.

11. The terms of this trust shall be approved by the heirs of Harry Sargeant as required by the "Agreement to Establish Trust Fund". Any amendments, additions or deletions in the terms of this trust shall be approved by the oldest living heir of Harry Sargeant.

12. The Trustee hereunder shall receive no compensation other than out-of-pocket expenditures made in the administration of the Trust created hereunder.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand pursuant to Resolution KOC _____ duly adopted on March 17, 1987 and Trustee has caused these presents to be executed on the 18th day of March, 1987.

CITY OF DAYTON, KENTUCKY

by: G. H. Lynn
G.H. Lynn, its Mayor

SARGEANT PARK FOUNDATION, TRUSTEE

by: G. H. Lynn
G.H. Lynn, Mayor

by: Gerald L. Gifford
Gerald L. Gifford, Chairman
Dayton Park Board, Inc.

by: Geraldine Heeg
Geraldine Heeg, City Treasurer

COMMONWEALTH OF KENTUCKY
COUNTY OF CAMPBELL

Before me, the undersigned Notary Public, personally appeared G.H. Lynn, known to me to be Mayor of the City of Dayton, and Jerald L. Gifford, known to me to be Chairman of the Dayton Park Board, Inc., and Geraldine Heeg, known to me to be City Treasurer, and acknowledged the above document, that their signature is affixed and that said signature was a free and voluntary act this 20 day of March, 1987.


NOTARY PUBLIC

My commission expires:

March 29, 1989