CITY OF DAYTON

COUNCIL MEETING

December 5, 2017

A regular meeting of Dayton City Council held on Tuesday, December 5, 2017, 7:00 p.m. in the board meeting room of the Dayton Independent School Administration Building, Third & Clay Street, Dayton, KY.

Roll Call:

Mayor Boruske Present Member Haas Present

Member Volter Present Member Lynn Present

Member Burns Present City Adm. Giffen Present

Member Neary Present City Att. Edge Present

Member Baker Present

Mayor Boruske opened the meeting with a silent prayer and led the Pledge of Allegiance.

**Mayor's Report:**

Motion by Member Lynn, seconded by Member Baker to approve the minutes from November 7, 2017. Motion carried- so ordered.

Second Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2017-#18**

**AN ORDINANCE REPEALING SECTIONS 33.01 AND 33.02 OF THE CITY OF DAYTON CODE OF ORDINANCES.**

This ordinance repeals Sections 33.01 and 33.02 of the City of Dayton Code of Ordinances. These sections establish a City Fire Department and the positions of Fire Chief and Assistant Fire Chief.

I, Tom Edge, an attorney licensed to practice law in the Commonwealth of Kentucky, acting as attorney for the City of Dayton, Kentucky, do hereby certify that this summary was prepared by me at the direction of the Council of the City of Dayton, and that said summary is a true and accurate summary of the contents of the ordinance.

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**TOM EDGE**

Motion by Member Lynn, seconded by Member Haas to approve 2017#18 as read.

ROLL CALL:

Member Baker Aye Member Volter Aye

Member Haas Aye Member Burns Aye

Member Lynn Aye Member Neary Aye

Motion carried- so ordered.

Second Reading:

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2017-#19**

**AN ORDINANCE REPEALING CHAPTERS 36 (TITLED “PUBLIC RECORDS”) AND 36A (TITLED “PUBLIC MEETINGS”) OF THE CITY OF DAYTON CODE OF ORDINANCES.**

This ordinance repeals Chapter 36 (titled “Public Records”) and Chapter 36A (titled “Public Meetings”) of the City of Dayton Code of Ordinances.

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**TOM EDGE**

Motion by Member Haas, seconded by Member Volter to approve 2017#19 as read.

ROLL CALL:

Member Haas Aye Member Burns Aye

Member Lynn Aye Member Neary Aye

Member Volter Aye Member Baker Aye

Motion carried- so ordered.

Second Reading:

# CITY OF DAYTON, KENTUCKY

**ORDINANCE NO. 2017-#20**

**AN ORDINANCE AMENDING ORDINANCE 2017-#12 SETTING FORTH COMPENSATION AND NUMBER OF AUTHORIZED POSITIONS FOR EMPLOYEES UNDER THE DAYTON JOB CLASSIFICATION SYSTEM.**

This ordinance amends the Dayton Job Classification System by amending the amount of Police Officers from eight to nine and City Codes Director from one to zero.

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**TOM EDGE**

Motion by Member Burns, seconded by Member Haas to approve 2017#20 as read.

**Comments:**

Member Volter was concerned about a salary increase since council is voting to take away a code director and add a police officer in that position. City Adm. Giffen advised the salary is the same, but there are a few added benefits since he is a police officer such as KLEF. Mayor Boruske stated Phil is doing codes 99% of the time. City Adm. Giffen said since Phil is a police officer that is why this ordinance needs to change.

Member Neary wanted to know if council would need to rescind Section 31.39 of the Dayton Code of Ordinances for City Inspector/Zoning Administrator. City Att. Edge said council can choose to rescind Section 31.39 but this current ordinance tonight deals with job classification and job titles. Campbell County handles zoning for the city. Member Neary questioned if hiring a police officer in the position of blight if there is an increase in pension or pay. City Adm. Giffen advised it will cost an additional $7, 500 in the retirement contribution, (but the city will not pay any health insurance). At this moment no take-home vehicle is provided, that is left up to the administration if they choose to offer that.

ROLL CALL:

Member Lynn Aye Member Neary Nay

Member Volter Nay Member Baker Aye

Member Burns Aye Member Haas Aye

Motion carried-so ordered.

Second Reading:

**CITY OF DAYTON, KENTUCKY**

**ORDINANCE NO. 2017-#21**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 110 OF THE CODE OF ORDINANCES RELATING TO THE IMPOSITION, ADMINISTRATION, AND PAYMENT OF AN OCCUPATIONAL AND PAYROLL LICENSE REQUIREMENT BY PERSONS AND BUSINESS ENTITIES CONDUCTING BUSINESSES, OCCUPATIONS, AND PROFESSIONS WITHIN THE CITY OF DAYTON, KENTUCKY.**

This ordinance repeals and replaces Chapter 110 of the City of Dayton Code of Ordinances. This ordinance implements the requirements of KRS 67.750 to 67.790. This ordinance requires that business license applications are filed under certain conditions and payment of taxes authorized under 92.280 for both payroll and gross receipts as set out below:

**(A)** Based on the gross receipts of all businesses, trades, professions, or occupations from activities conducted within the City, the amount as outlined in the following table except as excluded herein:

|  |  |
| --- | --- |
| **TOTAL GROSS RECEIPTS (Dollars)** | **AMOUNT OF TAX (Dollars)** |
| 0-500 | 25.00 |
| 501 - 5,000 | 70.00 |
| 5,001 - 10,000 | 100.00 |
| 10,001 - 25,000 | 140.00 |
| 25,001 - 50,000 | 170.00 |
| 50,001 -100,000 | 200.00 |
| 100,001 - 200,000 | 270.00 |
| 200,001 – 300,000 | 400.00 |
| 300,001 – 400,000 | 540.00 |
| 400,001 – 500,000 | 680.00 |
| 500,001 – 600,000 | 810.00 |
| 600,001 – 700,000 | 945.00 |
| 700,001 – 800,000 | 1,080.00 |
| 800,001 – 900,000 | 1,220.00 |
| 900,001 – 1,000,000 | 1,350.00 |
| 1,000,001 – 2,000,000 | 1,490.00 |
| 2,000,001 – 3,000,000 | 1,620.00 |
| 3,000,001 – 4,000,000 | 1,750.00 |
| 4,000,001 – 5,000,000 | 1,890.00 |
| 5,000,001 – and over | 2,030.00 |

**(1)** Every person having coin-operated amusement and vending machines, as defined in this section, on his or her premises shall pay an annual license tax to the City in the amount of ten dollars ($10.00) per machine instead of the amounts listed in the table above.

**(2)** Every person engaged in the business of leasing or renting real property or portions thereof shall pay an annual license tax to the City in the amount of .01 times his or her gross receipts but not less than the amount of one hundred dollars ($100.00) instead of the amounts listed in the table above.

**(3)** Every person engaged as a vendor of fruit, ice cream, sherbet, peanuts, popcorn, candy, and other articles upon the street, shall pay a license tax as described in (E) below, but not less than the amount of fifty dollars ($50.00) per year or ten dollars ($10.00) per day instead of the amounts listed in the table above.

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

**(B)** Based on the wages and compensation paid or payable in the City for work done or services performed or rendered in the City by every resident and nonresident who is an employee in amount of two percent (.02) of said wages and compensation.

The ordinance also sets rules for the apportionment of taxes between taxing districts and the administration and payment of said taxes by employers and businesses. The ordinance further requires all documents submitted by employers and businesses are to remain confidential. Lastly, the ordinance sets penalties for violations of this ordinance as follows:

**§ 110.99 PENALTY.**

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

**(1)** Fails to file any return or report on or before the due date prescribed for filing or as extended by the City; or

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

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

**(B)** Every employer who fails to file a return or pay the tax on or before the time prescribed under§ 110.05 may be subject to a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this section shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars ($25.00).

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

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

**(E)** The City may enforce the collection of the occupational tax due under§ 110.03 and any fees, penalties, and interest as provided in divisions (A), (B), (C), and (D) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the City shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this chapter.

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

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

**(H)** A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the City and required to be filed with the City by the provisions of this chapter, or by the rules of the City or by written request for information to the business entity by the City.

I, Tom Edge, an attorney licensed to practice law in the Commonwealth of Kentucky, acting as attorney for the City of Dayton, Kentucky, do hereby certify that this summary was prepared by me at the direction of the Council of the City of Dayton, and that said summary is a true and accurate summary of the contents of the ordinance.

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**TOM EDGE**

Motion by Member Volter, seconded by Member Lynn to approve 2017#21 as read.

ROLL CALL:

Member Volter Aye Member Baker Aye

Member Burns Aye Member Haas Aye

Member Neary Aye Member Lynn Aye

Motion carried- so ordered.

**City Administrator's Report**:

City Adm. Giffen wanted to clarify a comment made at a meeting last month if the city would pay any cost for Planning & Zoning to review the Industrial Zone Ordinance and to review the amended Manhattan Harbour Pattern Book. To clarify, the answer provided last month was no additional money will be charged because they are combining one meeting instead of charging us for two. But the city will need to pay the county a fee for their service. A Planning & Zoning meeting will be held on January 3rd at 7 pm to discuss amending the pattern book. The city is amending the pattern book by combining a single-family and multi-family into one pattern book to make it easier to read, and in the spring a meeting will be planned to discuss the Industrial Zone.

City Adm. Giffen met with the NKADD District and we are set to go forward with goals and objectives and part of this plan is to set up a Comprehensive Plan Board where we have a few council members, city staff, citizens and school personnel. City Adm. Giffen asked if two council members would like to be on this board. Member Neary and Member Volter requested to be on this board. A meeting will be after the first of the year and the projected completion date is in late 2018.

City Adm. Giffen asked for a motion to appoint Member Volter to the OKI Board for 2018. Motion by Member Lynn, seconded by Member Baker to approve Member Volter to the OKI Board for 2018. Motion carried-so ordered.

City Adm. Giffen requested a motion for additional compensation for the employees for $100. Motion by Member Burns, seconded by Member Baker to approve additional compensation to employees of $100. Motion carried-so ordered.

City Adm. Giffen asked if the council is able to meet next Tuesday, December 12th @ 6 pm to discuss the design firm that will design the city building and he reminded council that submissions are due next Monday, December 11th . Member Volter feels that this is the most critical decision council will make and requested that at the December 12th meeting if council can score the firms and with the top two or three firms picked, he would like to have another special meeting in 2018. The firms need to provide a presentation and go over any questions the public or council would have. Member Neary is concerned the city is not financially ready and stated this decision seems rushed and the city should look at other options. City Adm. Giffen stated this is not a rushed decision it's been in the making for 10 yrs. As far as money, the city has been adding to the general fund for years and not losing money. Council has been involved in the budget for the last year and knows that the money is in there. The council has been advised in the past the city is unable to move the Tif District because that would involve approval of five different taxing districts.

Member Volter, City Adm. Giffen, and Mayor Boruske decided that the meeting on December 12th council will score the firms and pick the top two or three to have them come in a later date to provide a presentation and have public and councils input. Mayor Boruske said he values councils and the public input on this decision process.

City Adm. Giffen said there is a Planning & Zoning meeting January 3, 2018, 7 p.m. in the board meeting room of the Dayton Independent School Administration Building, Third & Clay Street, Dayton, KY.

**Departments Heads:**

**Tiffany Myers, Assistant Clerk/ Treas.,** financials were submitted.

**Bob Yoder, Main Street Manager,** advised that in January there are two restaurants opening. One is at 638 Sixth Ave., Buck’s BBQ and the second restaurant is at 624 Sixth Ave. that will serve breakfast and lunch. It will have signature waffles & Wek sandwiches. A Vintage Outlet for woman's vintage clothing and collectibles will open soon at 505/507 Sixth Ave. Bridewell Stone a maker of crystals for jewelry and jeweler will be located in the first-floor retail space at 635 6th Ave. Currently, there are three Rental Abatement applications, four Uniform Signage applications, and one Structural & Façade application in process.

The Dayton Holiday Market is at 635 6th Ave., on Friday's 4 pm to 8 pm, Saturday's Noon to 8 pm, and Sunday's Noon to 5 pm. The Dayton High School and Middle School Bands will be playing at 6:30 pm at the Holiday Market on Friday, December 15 at 6:30 pm.

Bob Yoder, Main Street Manager, thanked public works for their efforts in planting trees around the city and he thanked the Campbell County Soil Conservation District for the grant that helped offset cost on the project.

The Recreational Trail Program Grant is opening this month, and Bob Yoder will reapply.

GRW has completed the surveying of 6th Ave. and is currently digitizing all the information. A stakeholders meeting will be in January.

There will be no Main Street Advisory Board meeting this month.

**Lieutenant Baldwin, Police Department,** submitted his report to council.

**Chief Auteri, Fire Department,** submitted a copy of his report but added that the fire department had an ISO analysis; this is done every five years. The results were the fire department received 2nd class designation, which will help business coming to Dayton to receive insurance breaks. All 288 fire hydrants were checked and 3 were repaired.

**Officer Liles, Code Department,** thanked everyone on council for this opportunity to serve Dayton. He is a lifelong resident of Campbell County and served 28 years as a Newport police officer.

Officer Liles submitted two reports to council. The first report is showing that he has sent 32 letters for violation out and the second report is showing all the cases he has closed that Rich has worked on. If council would like certain items added to the report Phil can get with the software company to get this updated. As far as the follow up received, he will go take pictures of the property and issue a violation. On the violation, he lists different time limits due to the weather.

**New Business:**

Member Neary would like the administration to get with the KY Transportation Department to put crosswalk markings at 6th and McKinney on the Westside and Member Neary would like council to look into updating the Zoning Ordinance for parking. Since the CBD is growing, we are starting to experience limited parking. City Adm. Giffen advised the city did address this a few years ago, but we can look into this again.

Mayor Boruske entertained a motion to go into executive session for KRS 61.810, (B) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency. Motion by Member Lynn, seconded by Member Neary. Motion carried- so ordered.

Motion by Member Burns, seconded by Member Volter to go back to regular session. Motion carried- so ordered.

**Adjournment:**

Motion by Member Volter, seconded by Member Neary to adjourn. Motion carried- so ordered.

Respectfully Submitted,

Tiffany Myers

Assistant Clerk/Treas.

Donna Leger

Clerk/Treas.

ATTEST:

Virgil L. Boruske

Mayor