



## **NOTICE OF PUBLIC HEARING CITY OF DAYTON, WASHINGTON**

**NOTICE IS HEREBY GIVEN** of the public hearing to be held on **November 14, 2016 at 6:00 p.m.**, or soon thereafter, at a regular meeting of the City Council of the City of Dayton, at Dayton City Hall, Council Chambers, 111 S. 1<sup>st</sup> Street, Dayton, WA 99328.

The purpose of this public hearing is to consider an ordinance of the City of Dayton, amending codified Dayton Municipal Code Titles 10, 11, 12, 17, and 19 for consistency with Title 10, Administration of Development Regulations and Title 21, Code Compliance. Opportunity will be provided for oral and written testimony.

Prior to the public hearing, written testimony, comments and/or questions may be submitted to the Planning Director, at the address above or by email to [kscharer@daytonwa.com](mailto:kscharer@daytonwa.com).

More information is available upon request by calling **509-540-6747**.

By: Karen Scharer, Planning Director

Published: Dayton Chronicle, October 19, 2016 and October 26, 2016

ORDINANCE NO.                     

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON,  
WASHINGTON, AMENDING CODIFIED DAYTON MUNICIPAL CODE  
TITLES 10, 11, 12, 17, 19 FOR CONSISTENCY WITH TITLE 10,  
ADMINISTRATION OF DEVELOPMENT REGULATIONS AND TITLE 21,  
CODE COMPLIANCE

**WHEREAS**, the Dayton City Council adopted Ordinance 1894 on March 14, 2016 creating a new Title 21 “Code Compliance”; and

**WHEREAS**, the Dayton City Council adopted Ordinance 1841 on November 12, 2013 creating a new Title 10 “Administration of Development Regulations”; and

**WHEREAS**, this ordinance provides a housekeeping function in amending the Dayton Municipal Code Titles 10, 11, 12, 17 and 19 for consistency with Title 10 and consistency with Title 21.; and

**WHEREAS**, the City staff posted and published notice of the public hearing; and

**WHEREAS**, the hearing was held on November 14, 2016, and all persons who wished to testify were provided an opportunity to do so; and

**WHEREAS**, the City Council deliberated as to whether the proposed code amendments would comply with state and local law, the Comprehensive Plan and would otherwise benefit the City and residents of Dayton at a regular open public meeting of the City Council on November 14, 2016; and

**WHEREAS**, the City Council finds and determines that the amendments are in the benefit the City and residents of Dayton.

**NOW, THEREFORE**, THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1 Title 10 - Administration of Development Regulations, Section 10-10.010 – “Enforcement”. Section 10-10.010 is amended to read as follows:**

Enforcement of development code violations of the Dayton Municipal Code (DMC) Title 10 shall be in accordance with the provisions of Chapter 9-26 DMC Title 21, Abatement of Public Nuisances Code Compliance. The ~~city~~ planning director or any designated alternate empowered by ordinance or authorized by the mayor shall be responsible for the investigation of potential violations of development codes as referenced herein and shall have the authority to initiate corrective action as provided in ~~Chapter 9-26 DMC~~ Title 21.

**Section 2 Title 11 – Zoning, Section 11-18.030 – “Violation—Enforcement authority, notice and penalties”. Section 11-18.030 is amended to read as follows:**

It is the intent of this section to establish consistent procedures for code enforcement toward violations of this title. The ~~Planning~~planning Director~~director or any designated alternate empowered by ordinance or authorized by the mayor~~ shall be responsible for the investigation of potential violations of this title and shall follow the notice requirements and procedures of Dayton Municipal Code (DMC) Title 21, Code Compliance Chapter 9-26, for violations of the Zoning Code, unless DMC 11-18.040 is applicable. Penalties for violations are set forth ~~in DMC Title 21, Code Compliance-DMC, Chapter 9-26.~~

**Section 3 Title 11 – Zoning, Section 11-18.040 “Revocation of permit, or variance”. Section 11-18.040 title and text is amended to read as follows:**

**“Revocation of approval, permit, or variance.”**

The planning director may revoke or suspend any approval, permit, or variance granted under this title if any of the following conditions is found to exist:

- A. Fraud in obtaining the approval, permit, or variance;
- B. Concealment or misrepresentation of any material fact on the application or on any subsequent applications or reports;
- C. The operation is found to be in violation of the approved plans, conditions of approvals, time limits or the terms of the permit and the owner has failed to correct the violation after proper notice thereof.

The decision of the ~~Planning~~planning Director~~director~~ is appealable as set forth in Title 10 as a Type II application.

- D. Code enforcement under DMC 11-18-030 shall apply to a violation, where there was no approval, permit, or variance issued by the city.

**Section 4 Title 12 – Sign Code, Section 12-1.12. – “Sign administration”. Section 12-1.12 is amended to read as follows:**

1. All signs in this code require a sign permit to erect, alter or relocate a sign, except exempt non-structural signs. All signs whether permanent, temporary, or exempt are subject to DMC 12.1.24 “General sign requirements”, as applicable. No sign shall include a component or feature which is listed as prohibited in DMC 12-1.20 “Prohibited signs”.  
~~No sign, except those exempted in this code shall be erected, altered or relocated by any person without a permit issued by the city.~~
- ~~2.~~ It shall be the duty of the ~~city planner~~ planning director to interpret, ~~and enforce~~ signage requirements ~~for all signs under of the this City of Dayton title;~~ and issue all non-structural sign permits.
- ~~3.~~ The building official shall issue all structural sign permits for the construction, alteration, and erection of signs in accordance with the provisions of the ~~city adopted~~ Washington State Building Code.
- ~~4.~~ It shall be the duty of the ~~board of adjustment~~ hearing examiner to review any appeals of the ~~city planner's~~ planning director's decisions in regards to interpretation of Title 12, signs ~~Signs Code~~.

**Section 5 Title 12 – Sign Code, Section 12-1.28. – “Enforcement and penalties.” Section 12-1.28 is amended to read as follows:**

The following section sets out treatment of non-conforming signs and the enforceable penalties for violation of this code.

1. Non-conforming signs.
  - a. A non-conforming sign, which is non-conforming due to its size, shall not be replaced with a sign that is larger than the original non-conforming sign.
  - b. If a business has more signs than is allowed by this code, new signs shall only be allowed in replacement of existing signs.
  - c. Any sign removed from more than 30 days shall lose its non-conforming status and can only be replaced if it is brought into compliance with the requirements of this code.
  - d. Portable non-conforming signs shall be removed within three months of the effective date of this code or, if located within an area being annexed to the city, within three months of the effective date of annexation, whichever is later.

2. Enforcement provisions. For any sign that violates any provision of this code, and does not qualify as a nonconforming sign or as an exempt sign in compliance with this title, the city shall utilize the following enforcement provisions: ~~which include removal of the sign and/or imposition of a penalty;~~

a. The following signs may be summarily removed by the city planner/planning director or ~~other city employee as duly authorized by the city planner~~ any designated alternate empowered by ordinance or authorized by the mayor:

- 1) ~~1.~~ Signs located on public or private property that create an immediate threat to the safety of the public;
- 2) ~~2.~~ Unauthorized signs that are placed on any utility pole, public property, public building or public structure, or on any traffic ~~sign~~ control device;
- 3) ~~3.~~ Signs placed in the right-of-way not permitted by this ~~code~~ title.

b. ~~Signs on private property that violate~~ Signs on private property in violation of this title will be removed or subject to corrective action in accordance with the provisions of DMC Title 21, Code Compliance. The planning director or any designated alternate empowered by ordinance or authorized by the mayor shall be responsible for the investigation of potential violations as referenced herein and shall have the authority to initiate corrective action as provided in DMC Title 21. ~~a provision of this code, except as provided in subsection 2.a.1, the city planner shall notify the owner of the sign, business, building, structure, or premises, by written notice sent by first class mail;~~

- ~~1. Notice shall advise the owner of the sign, business, building, structure, or premises to bring the sign into compliance or to remove it by a specified date;~~
- ~~2. The city planner shall have discretionary power to set a time limit for compliance not to exceed 30 days from the date of mailing the written notice;~~
- ~~3. The written notice shall describe the violation, the appeal process, and the enforcement provisions including the penalties that may be assessed;~~
- ~~4. The owner may appeal the determination of the city planner that the sign is in violation of this code to the city's board of appeals within ten working days of the mailing of the city planner's initial notification to the owner. If no appeal is made within said period, the owner has waived their right to appeal the violation. Such determination constitutes an administrative determination. On appeal the board of adjustment will determine if the city planner has properly applied the provisions of this code;~~
- ~~5. Upon the owner's failure to comply with the provisions of this code or failure to remove the sign, the city planner may arrange to have the sign removed at the owner's expense;~~

~~a. If the owner has appealed to the board of adjustment and the 30 day time limit for compliance has passed prior to a determination by the board of adjustment, the removal of the sign by the city planner will be stayed until 48 hours after the determination by the board of adjustment has been made.~~

~~b. The city planner will inform the owner(s) of the sign or their right to retrieve the removed sign and the period of time the removed sign will be held on their behalf.~~

~~c. The city may dispose of a sign that has not been retrieved after a reasonable period of time.~~

~~3. Penalty. Any person found in violation of any provision of this code shall be found guilty of a misdemeanor punishable by a fine of not more than \$250.00 for each day the violation continues from date of citation.~~

**Section 7 Title 17 Critical Areas, Section 17-01.020 - "Penalties for noncompliance".**

**Section 17-01.020 is amended to read as follows:**

A. It is the intent of this section to establish consistent procedures for code enforcement toward violations of this title. The planning director or any designated alternate empowered by ordinance or authorized by the mayor, shall be responsible for the investigation of potential violations of this title and shall follow the notice requirements, procedures and penalties of Title 21, Code Compliance of the DMC for violations, , unless superseded by enforcement under Title 15, Shoreline Management.

B. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this title and other applicable regulations. ~~Violations of the provisions of this title by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this title or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000 or imprisoned for not more than 10 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case.~~ Nothing herein contained herein shall prevent the Planning planning Director director from taking such other lawful action as is necessary to prevent or remedy any violation.

**Section 8 Title 17 Critical Areas, Section“17.01.600 – “Enforcement”**. Section“17.01.600 is amended to read as follows:

The methods of enforcement of critical area protection shall include inspections, monitoring, reporting requirements, bonds, permit revocation, civil penalties, and abatement.

Enforcement procedures shall comply with ~~Chapter 9-26~~ Title 21, Code Compliance of the DMC, unless superseded by enforcement under Title 15, Shoreline Management.

**Section 9 Title 19 Land Division, Section“19-01.060. - Administration and enforcement”**.  
**Section 19-01.060 is amended to read as follows:**

The ~~city~~ planning director is vested with the duty of administering and enforcing subdivision and platting regulations within the municipal boundaries of Dayton, and may prepare and require the use of such forms as are essential to their administration. ~~The city clerk shall be ex-officio administrator.~~

Any person violating or failing to comply with any of the provisions of Title 19 shall be subject to the enforcement provisions contained in Title 21, Code Compliance.

The planning director or any designated alternate empowered by ordinance or authorized by the mayor, shall be responsible for the investigation of potential violations of this title and shall follow the notice requirements, procedures and penalties of DMC Title 21, Code Compliance for violations.

**Section 10. Severability.** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 11. Transmittal to Department.** Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

**Section 12. Effective Date.** This ordinance shall be published and shall take effect and be in full force five (5) days after the date of publication.

**PASSED by the City Council of the City of Dayton this \_\_\_\_\_ day of November, 2016.**

City of Dayton, Washington

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By: Craig George, Mayor

Attested:

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By: Trina Cole, City Clerk-Treasurer

Approved as to form:

Menke Jackson Beyer, LLP

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By: Quinn N. Plant, City Attorney



**ORDINANCE SUMMARY BY TITLE ONLY FOR PUBLICATION PURPOSES**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON,  
WASHINGTON, AMENDING CODIFIED DAYTON MUNICIPAL CODE TITLES 10,  
11, 12, 17, 19 FOR CONSISTENCY WITH TITLE 10, ADMINISTRATION OF  
DEVELOPMENT REGULATIONS AND TITLE 21, CODE COMPLIANCE**

Section 1. Title 10 - Administration of Development Regulations, Section 10-10.010 – “Enforcement”.

Section 2. Title 11 – Zoning, Section 11-18.030 – “Violation—Enforcement authority, notice and penalties”.

Section 3. Title 11 – Zoning, Section 11-18.040 “Revocation of permit, or variance”

Section 4. Title 12 – Sign Code, Section 12-1.12. – “Sign administration”.

Section 5. Title 12 – Sign Code, Section 12-1.28. – “Enforcement and penalties.”

Section 6. Title 17 - Critical Areas, Section 17-01.020 - “Penalties for noncompliance”

Section 7. Title 17 - Critical Areas, Section “17.01.600 – “Enforcement”.

Section 8. Title 19 - Land Division, Section “19-01.060. - Administration and enforcement”

Section 9. Severability.

Section 10. Transmittal to Department.

Section 11. Effective date.

The full text of Ordinance \_\_\_\_\_ adopted the \_\_\_\_\_ day of \_\_\_\_\_, 2016 is available for examination at the City Clerk’s Office, 111 S. 1st St., Dayton, WA during normal business hours, Monday – Thursday, 8:00 a.m. to 4:00 p.m.

By: /s/ Craig George, Mayor

Attest: /s/ Trina Cole, City Clerk-Treasurer

Approved as to form: /s/ Quinn P. Plant, City Attorney

The Dayton Chronicle