

**ORDINANCE NO. 1937
AMENDING TITLE 11: ZONING**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON,
AMENDING CERTAIN SECTIONS OF TITLE 11 OF THE DAYTON MUNICIPAL CODE
(DMC) – ZONING, ADDING SECTION 11-04.00 IN REFERENCE TO OUTDOOR DINING
FACILITIES IN THE CENTRAL COMMERCIAL ZONE.**

Whereas, the city of Dayton, Washington is a fully planning city under RCW 36.70a, growth management act; and,

Whereas, Columbia County planning and building is contracted with the city of Dayton to provide building services and planning services for the city of Dayton; and,

Whereas, it is necessary to update and amend the city code to provide clarity, flexibility and benefit to promote growth within the city of Dayton; and,

Whereas, the proposed amendments do not change any adopted comprehensive plans policies or land use designations; and,

Whereas, the adoption of this ordinance is a non-project action and a SEPA checklist was prepared and a determination of non-significance was granted; and,

Whereas, a notice of the SEPA determination was duly advertised within the paper of record, with no comments being received; and,

Whereas, expedited review with the department of commerce was requested and granted for this proposal, ensuring compliance with RCW 36.70a.106; and,

Whereas, the Dayton planning commission duly advertised and held a public hearing on July 17th, 2018 regarding the proposed changes; and,

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

SECTION 1

Section 11-01.050 of the Dayton Municipal Code is hereby amended to read as follows:

11-01.050. - Definitions and interpretation of language.

“Cargo containers” are standardized reusable vessels that were (A) originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, and/or (B) designed for or capable of being mounted or moved by

rail, truck or ship by means of being mounted on a chassis or similar transport device. This definition includes the terms “transport containers” and “portable site storage containers” having a similar appearance to and characteristics of cargo containers.

“Mini-storage” means a building or group of buildings containing separate storage spaces of varying sizes that are leased or rented as individuals units, excluding the use of Cargo Containers as storage spaces.

SECTION 2

Section 11-02.010 of the Dayton Municipal Code is hereby amended to read as follows:

11-02.010. - Zoning districts.

The following zoning districts are hereby established in conformance with the goals of the Dayton Comprehensive Plan:

District Name:	Symbol
Public and Quasi-Public Zone	PU

SECTION 3

Section 11-02.030 of the Dayton Municipal Code is hereby amended to read as follows:

11-02.030. - Official zoning map.

- A. The area within the city is divided into zones and overlay areas as shown on the official zoning map that is adopted by reference and declared to be a part of this title. Land area(s) under an approved development agreement shall be designated on the zoning map. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and shall bear the seal of the city. The official zoning map shall be made available for public inspection within Dayton City Hall.

- B. No amendment to this title that involves boundaries on the official zoning map shall become effective until such change and entry is made on the zoning map.

SECTION 4

Section 11-03.020 of the Dayton Municipal Code is hereby amended to read as follows:

11-03.020. - Uses.

All uses in residential zones shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as indicated in the Use Chart of this section. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use that is permitted as a similar use.

Use Chart	Residential Zones	
	AR	UR

SECTION 5

Section 11-03.030 of the Dayton Municipal Code is hereby amended to read as follows:

11-03.030. - Standards—Lot area, height, setback, lot coverage requirements and exceptions.

- G. Accessory dwelling units (ADU's) shall be designed to preserve or complement the architectural design, style, and appearance of the principal structure with not less than 220 gross square feet and no more than 800 gross square feet of floor area. If detached from the primary residence, an exterior height of 25 feet to the top peak of the roof is allowed; providing, however, that all the other maximum lot coverage, setback and height limit limitations pursuant to DMC 11-03.030 are met. Apartments above garages/shops are permitted to be used as ADU's, if the following conditions are met: all zoning requirements of DMC Title 11 are met, including lot coverage and setbacks, egress must be provided in a way that tenants can get out of the apartment/unit without entering the garage/shop, and all applicable Fire and Building codes are met. All owners must register their ADU with the city's planning department. An occupancy permit must be obtained, if required by building codes.

SECTION 6

Section 11-03.080 of the Dayton Municipal Code is hereby amended to read as follows:

11-03.080. - Landscaping—Required.

- B. In addition to these general requirements, refer to Chapter 11-08, for landscaping, screening, lighting and surfacing requirements for surface parking and outdoor storage areas that are larger than 2,500 square feet.

SECTION 7

Section 11-03.100 of the Dayton Municipal Code is hereby amended to read as follows:

11-03.100. - Animal densities—Livestock and production animals and household pets restrictions.

- A. *Livestock and production animal restrictions.* Livestock and production animals such as horses, cows, goats, sheep and fowl are allowed subject to DMC 11-03.020 and as follows:
1. In the AR zone, large sized livestock animals such as a horse, cow or similar-sized animals require a minimum of 40,000 square feet of usable pasture area for the first large animal with an additional minimum usable pasture area of 20,000 square feet per each additional large animal.
 2. In the AR zone, moderate sized livestock animals such as a sheep, goat or similar-sized animals totaling 200 pounds or less require a minimum of 10,000 square feet of usable pasture for the first moderate sized animal with an additional minimum usable pasture area of 5,000 square feet per each additional animal.
 3. In the UR zone, moderate sized livestock animals such as sheep, goats or similar-sized animals totaling 200 pounds or less will only be allowed where the lot, or combination of lots owned by the same person and where the livestock will be kept, has at least 10,000 square feet of usable pasture (open space) for the first moderate sized animal with an additional minimum usable pasture area of 5,000 square feet per each additional animal, to a maximum of three moderate sized livestock.

- a) Fencing shall be of a non-penetrable type so as to reduce nuisance impact on adjacent land uses.
 - b) Male moderate size livestock must be de-scented and/or neutered using humane standards.
 - c) I confinement areas shall be kept in a manner as not to cause a noise, odor, or visual nuisance with respect to neighboring property. All enclosure areas shall be kept clean.
 - d) Food and animal waste must be removed to keep the areas free from insect infestations, rodents or disease, as well as to prevent obnoxious or foul odors, and must not constitute a nuisance. Manure shall not be allowed in any place where it can affect any source of drinking water.
 - e) Offspring of animals legally permitted under this chapter may be kept for a period not to exceed four months. Beyond this period, offspring must meet the per-animal limitations of this chapter.
4. Small sized production animal such as chickens, rabbits or similar sized animals:
- a) In the UR zone, a maximum of six small production animal are allowed on a lot 7,200 square feet or larger. A variance may be requested to allow small production animals on a substandard sized lot in the UR zone.
 - b) In the AR zone, a minimum of 100 square feet of useable fenced or enclosed area is required for the first small production animal with an additional minimum area of 50 square feet per each additional animal. 5. The calculation of the number of livestock and production animals allowed shall be cumulative and the aggregate of the total number of animals shall not exceed the densities allowed in this section. For example, a 10,000 square foot lot in the UR zone may allow for six chickens or one goat, but not both.
6. Swine are prohibited.
7. No feedlots or similar dense animal-raising facilities or operations are permitted.
8. Shelters, fenced areas or corrals for animals may be built 25 feet or more from a property line or 50 feet or more from an existing residential building on adjacent properties. Except that, a shelter, fenced area or corral for six or fewer small production animals may be located 15 feet from a side or rear property line and 20 feet from a front property line.
- B. *Household pets.* Household pets including but not limited to dogs, cats, indoor birds, small rodents, nonvenomous reptiles or amphibians, fish, and potbellied pigs, subject to the following standards and limitations:
- 1. Three dogs per residence, regardless of lot size.
 - 2. Full-size swine are prohibited.
 - 3. Goats are prohibited except as allowed in 11-03100(A(3)), above
 - 4. Reptiles or amphibians weighing more than ten pounds are prohibited.
 - 5. A maximum of three household pets may be housed outside the residence in a shelter or fenced area.
- C. Livestock, small production animals and pets are subject to the provisions of DMC chapter 6-8, animal control.
- D. Any person or persons being the owner or having possession or control of any livestock found in violation of Chapter 11-30.100, above, shall be subject to penalties as listed in Title 21: Code Compliance.

SECTION 8

Section 11-03.110 of the Dayton Municipal Code is hereby amended to read as follows:

11-03.110. - Mobile home parks.

H. Landscaping and screening. The perimeter of the mobile home park shall be landscaped and screened except in access areas such as driveways and sidewalks. The access areas may not occupy more than 30 percent of the perimeter of the park. The required perimeter landscaped area (on all property lines) shall be five feet deep. The required perimeter screening may be either a six-foot-high sight-obscuring fence or a four-foot-high landscaped berm or a hedge that is at least two feet high when planted. The berm or hedge may be within the required perimeter landscaped area. A sight-obscuring fence must be set back behind the required perimeter landscaping (set back five feet from the property line). The landscaped area and berms shall be planted and maintained with trees, shrubs and evergreen ground cover in a manner which covers the required landscaped and berm area within three years from the date the development permit is issued, and the landscaped cover shall be maintained as long as the mobile home park is in use. One tree is required to be planted and maintained in each 50 lineal feet of the perimeter-landscaped area. If the parking area in the park is larger than 2,500 square feet, refer to Chapter 11-08 for landscaping requirements in the parking area.

SECTION 9

Section 11-04.020 of the Dayton Municipal Code is hereby amended to read as follows:

11-04.020. - Uses.

All uses in commercial zones shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as indicated in Use Chart below. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use that is permitted as a similar use.

SECTION 10

Section 11-04.030 of the Dayton Municipal Code is hereby amended to read as follows:**11-04.030. - Standards for lot area, height, setback, lot coverage, floor areas and exceptions.**

General Standards:	Zones	
	CC	FC
Minimum front yard setback (exceptions listed below)	0'	5'
Minimum rear yard setback (exceptions listed below) Loading area may be in rear yard set back	10'	10'
Minimum side yard (exceptions listed below)	0'	5'
Maximum structure or building height (exceptions listed below)	50'	35'
Maximum floor area	3 times the lot area	2 times the lot area
Maximum lot coverage	80%	60%

Specific standards and exceptions.

A. Manufacturing, fabricating, repairing, refuse compacting and recycling and other activities that are major noise generators shall be conducted wholly within an enclosed structure. These and other major noise generating uses shall not be located within 50 feet of a residential zone.

Venting from uses that produce major odors, vapors, smoke, cinders, dust, gas and fumes shall be at least ten feet above finished sidewalk grade and cannot be vented within 100 feet of a residential zone.

SECTION 11

Section 11-04.100 is added to the Dayton Municipal to read as follows:

11-04.100. - Outdoor dining facilities, design and placement in the central commercial zone

Outdoor dining facilities are recognized as contributing to the visual, cultural and economic vitality of downtown. This benefit must, nevertheless, be secondary to the basic purpose of safe pedestrian transport. The city public works director and the city planning director are responsible for balancing these interests to the best benefit of downtown.

- A. Applications for outdoor dining facilities shall be constructed in detail by the applicant, illustrating the complete layout, including number of tables and chairs and width of pedestrian passage. This design shall be reviewed by the city public works director and the city planning director (committee). The committee shall seek input from the city engineer and other applicable department heads and/or agencies.
- B. Basic placement standards shall maintain a minimum of six feet of unobstructed pedestrian walkway on the street side of the sidewalk. Dining area enclosures shall be designed to provide proper visibility for pedestrians, minimal damage to the sidewalk, minimal obstruction to pedestrian passage, and maximum protection against pedestrian fall or collision hazard.
- C. The committee shall prepare a report for review and consideration by the city engineer. If the city engineer approves placement of the facility, it shall authorize issuance of a permit to occupy public right-of-way. Conditions of the permit shall include liability insurance in a form and amount required by the city, and a hold-harmless agreement to the benefit of the city in a form required by the city.
- D. A permit to occupy public right-of-way is revocable by the city at any time for any or no cause. When an outdoor dining facility is removed for any reason, whether on the initiative of the owner, or due to revocation of the permit by the city, it shall be the responsibility of the owner to restore the sidewalk to a condition acceptable to the City of Dayton engineer and Public Works Director.
- E. If alcohol is to be served in these outdoor dining areas, the owner must identify such request in the application. Applicable permitting and requirements as outlined by the Liquor and Cannabis Control Board must be met per Title 314 WAC, with documentation verifying full compliance submitted with the original site plan and application.
- F. Any violation of the requirements as set forth in this section lead to right-of-way permit revocation per 11-04.100(D) and is subject to the provisions of Title 21: Code Compliance
- G. Application and permit fees applicable to outdoor dining are to be paid by the applicant per the City of Dayton fee schedule.

SECTION 12

Section 11-05.020 of the Dayton Municipal Code is hereby amended to read as follows:

11-05.020. - Uses.

All uses in the industrial zone shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as indicated in this section of the DMC. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use that is permitted as a similar use.

SECTION 13

Section 11-05.090 of the Dayton Municipal Code is hereby amended to read as follows:

11-05.090. - Exterior lighting, glare and heat.

Exterior lighting in the industrial zone shall be shielded and directed away from residential zoned areas. Exterior lighting on poles shall not exceed a height of 30 feet above finished grade. Any operation producing intense glare or heat shall be conducted within an enclosure that prevents significant glare or heat on adjacent streets or property.

SECTION 14

Section 11-06.020 of the Dayton Municipal Code is hereby amended to read as follows:

11-06-020. - Uses.

All uses in the open space/recreation and public zones shall either be permitted as a principal use, as an accessory use, as a conditional use, or prohibited as listed in the chart below. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use that is permitted as a similar use.

Uses in Open Space/Recreation and Public Zones	Zones	
	OR	PU
Pre-Existing Inert Waste Sites	P	X

SECTION 15

Section 11-06.030 of the Dayton Municipal Code is hereby amended to read as follows:

11-06.030. - Standards—Height and setbacks.

The minimum lot setbacks and structure heights required or permitted are listed below. Greater standards may be required as part of a conditional use permit approval:

Standards	Zones	
	OR	PU

Building height exceptions. The building height limitations above do not apply to the height of water reservoirs, church spires and other similar structures or facilities.

SECTION 16

Section 11-06.040 of the Dayton Municipal Code is hereby amended to read as follows:

11-06.040. - Vision clearance area requirements.

At street intersections and at intersections of streets and alleys, in the area adjacent to each intersection, shall be maintained in a clear and open condition to provide for safe vision of traffic on the intersecting streets. The requirements apply to all areas within a sight triangle, measured ten feet back from the intersecting property lines along each street front or alley property line. Within this triangle area no fences, bushes, structures or other vision obstructing elements may be more than three feet higher than the finished grade of the adjacent streets and no signs, tree limbs or other vision obstructing elements may be less than eight feet above the finish grade of the adjacent streets.

SECTION 17

Section 11-09.010 of the Dayton Municipal Code is hereby amended to read as follows:

11-09.010. - Intent and purpose.

Within the zones established by this title or subsequent amendments thereto, there exists lots, structures and uses, which were lawfully established or created, but which would be prohibited, regulated or restricted under the terms of this title or future amendments. It is the intent of this title to permit nonconforming lots, structures and uses to continue. Nonconformities are declared by this title to be incompatible with permitted uses, structure and lots in the zones involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which a building permit has been issued as long as substantial construction has been started within six months of the issuance of the permit provided that work is carried out diligently.

SECTION 18

Section 11-09.030 of the Dayton Municipal Code is hereby amended to read as follows:

11-09.030. - Nonconforming buildings and structures.

Where a lawful structure exists as of November 16, 2001 that does not conform to the requirements in this title, such structure may be continued to be used and maintained so long as it remains otherwise lawful, subject to the following provisions:

- A. If a nonconforming structure or nonconforming portion of structure is destroyed by any means to an extent that its replacement cost will exceed 75 percent of its value at the time of destruction, it may only be reconstructed in conformity with the provisions of this title.
- B. Pre-existing nonconforming structures may be enlarged and or altered if the following criterion are met:
 - a. The building height will not be increased beyond the current maximum height allowed in that zone; and,
 - b. The current intrusion into the setback as determined by Title 11 will not increase; and,
 - c. The expansion/enlargement will not intrude upon other applicable setback requirements; and,
 - d. The expansion/enlargement will not encroach within the setbacks of a Floodplain, Floodway, Critical Area, and/or other Shoreline of the State; and,
 - e. The lot coverage maximum will not exceed the maximum allowed per Title 11; and,

- f. The remaining provisions of the zone are met as provided within this Title.
- C. If the structure is moved for any reason, for any distance, it must be brought into conform to the regulations for the zone in which it is located.
- D. Value. The value of a nonconforming building or structure shall be determined from the International Conference of Building Officials (ICBO) building permit valuation tables in use on the date the damage occurs. The owner of a damaged building or structure may obtain an independent appraisal from a certified professional appraiser.
- E. Maintenance and alterations.
 - a. Ordinary maintenance and repair of a nonconforming building or structure are allowed.
 - b. Alterations required by law to meet health and safety regulations are allowed.

SECTION 19

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the other remaining parts which shall remain in full force and effect.

SECTION 20

Effective Date. A summary thereof of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF DAYTON, WASHINGTON, AT A REGULAR MEETING THIS 8TH DAY OF

August, 2018.

APPROVED:

/s/

Craig George, Mayor

ATTEST:

/s/

Trina D. Cole, City Clerk

APPROVED AS TO FORM:

/s/

Quinn Plant, City Attorney

**ORDINANCE SUMMARY BY TITLE ONLY FOR PUBLICATION PURPOSES
ORDINANCE NO. 1937**

**AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON AMENDING
TITLE 11: ZONING, OF THE DAYTON MUNICIPAL CODE.**

The full text of Ordinance No. 1937, amending Title 11: Zoning of the Dayton Municipal Code, adopted the 8th day of August , 2018, is available for examination at the City of Dayton, 111 S. 1st Street, Dayton, WA during normal business hours, 8:00 a.m. to 4:30 p.m., Monday – Friday.

By: /s/ Craig George, Mayor

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

Approved as to from: /s/ Quinn Plant, City Attorney

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