



CITY OF DAYTON DEPARTMENT OF PLANNING  
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## Code Interpretation - CI15-016

### Utilities Boxes & Transformers

#### Background

Dan Andrews of REA approached the City in October 2015 requesting approval of a transformer to be located on City of Dayton property (Caboose Park). Additionally, REA intends to reposition their existing utility vault so that it is located totally on the city property and no longer on a portion of the adjacent Depot property. The specific location of the transformer and vault is to be located within a utility easement granted by the City of Dayton for utility lines.

The transformer will be within a utility box, 33" wide x 29" deep x and 24" high resting on a cement pad approximately 6" high.

The initial question posed:

*Is it the intent of the Zoning Code to require a conditional use permit (CUP) for a small utility transformer within a utility box under Dayton Municipal Code (DMC) 11-04.020 B.?*

*DMC 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 which is permitted as a similar use.*

*Uses in Central Commercial (CC) Zone*

*B. Community Facilities:*

*Utility transformers, pump station, etc. - CUP*

The question is analyzed below:

#### Discussion

1. The property is zoned Central Commercial (CC). Under this zone, DMC 11-04.020 B. states that "utility transformers" are allowed only with the approval of a conditional use permit. Residential zones zoned Agricultural Residential (AR) and Urban Residential (UR) also list utility transformers as a use allowed only with CUP approval, DMC 11-03.020 C.
2. Presently, there are no known examples of when a utility provider was required to obtain CUP approval for a similar small utility transformer. Yet, there are examples of similar utility transformers existing in the in the CC, AR and UR zones.

3. The current code language addressing “utility transformers” has been in effect since 2001, (Ordinance 1841, adopted Nov. 26, 2013 and Ordinance 1662 adopted Dec. 18, 2001). Prior to 2001, the zoning code adopted by Ordinance 1559 on Nov. 9, 1993 included broader language addressing the need for a CUP for “public utility services” in UR and AR zones (repealed DMC 5-12.110 and DMC 5-12.180). This previous code was silent relative to utility boxes, utility structures, and utility facilities in the CC zone.
4. Typically other jurisdictions only require a CUP for utility facilities in residential, commercial and some other zones when the proposal includes a building or large equipment associated with telephone exchanges; water pumping or treatment stations; electrical substations; water storage reservoirs or tanks; regional surface water flow control and water quality facilities; natural gas pipelines, gate stations and limiting stations; propane, compressed natural gas and liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users; wastewater lift stations, pump stations, regulator stations or odor control facilities; and telecommunication structures and associated antennas.
5. The current Zoning Code states that a “utility box” is not a structure, no matter what type of varying equipment it might house.

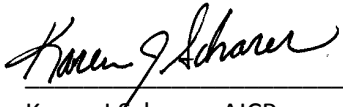
DMC 11-01.050 I. - *“Structure” means anything which is built or constructed (above or below grade), an edifice of building of any kind, or any piece of work artificially built-up or composed of parts joined together in some definite manner excluding vehicles, lawn/yard furniture, statuary, utility boxes/lights, minor utility apertures, planter boxes, fences seventy-two inches (72” or 6-foot) or under in height, and residential tent structures.”*

6. The purpose of the Zoning Code is to “implement the city’s comprehensive plan” and to “further the growth and development of the city consistent with the adopted comprehensive plan and its implementing elements”. The code also promotes “the health, safety, morals, convenience, comfort, prosperity, and general welfare of the city’s population...” DMC 11-01.030 A. Specific zones and regulations are designed to in part, provide “adequate public facilities and services, including utilities ... in conjunction with development”; “ensure that land use decisions are made in accordance with the public interest”; and “encourage the most “appropriate use of land throughout the city”, DMC 11-01.030 B.
7. Recognizing small utility boxes and transformers as permitted outright in residential and commercial zones will best promote the health, safety, convenience, and general welfare of the city’s population. Such an interpretation assures adequate and timely installation of public facilities and services in in conjunction with many types of development proposals within the City. The public interest is served by eliminating lengthy processing requirements for what are actually minor utility improvements associated with development of property.

**Decision**

Based on the discussion above, the Planning Director issues the following interpretation:

1. This code interpretation is determined to be non-project specific, as it has application to placement of utilities boxes and transformers in a number of zones.
2. Under DMC 11-03.020 C. (Uses in the Residential Zones) and DMC 11-04.020 B. (Uses in the Central Commercial Zone) small utility boxes and transformers under three (3) feet in height and a footprint less than 12 square feet are appropriately allowed as permitted uses.
3. The interpretation will remain in effect until either: a) adoption of a code amendment addressing utility boxes and transformers in DMC 11-03.020 C. and DMC 11-04.020 B, b) this interpretation is superseded by a subsequent code interpretation, or c) the interpretation is revised as a result of an appeal.



Karen J Scharer, AICP  
Director  
Dayton Planning Department

November 3, 2015

Dated

**This decision is final, unless appealed.**

**Right to Appeal:**

An appeal of this Code Interpretation may be filed within 10 days after the publication of the decision notice in the Waitsburg Times. Appeals must be delivered to the City Clerk before 4:00 p.m. on the last business day of the appeal period (Nov. 23, 2015 before 4 pm). Appeals received by mail after 4:00 p.m. on the last day of the appeal period will be denied and returned to the party by the city clerk. See DMC 10.06.040 for required appeal documents and procedures. Appellants are responsible for all Hearing Examiner costs.

Publication Scheduled for November 12, 2015