

**ORDINANCE NO. 659
CITY OF DAYTON, OREGON**

AN ORDINANCE OF THE DAYTON CITY COUNCIL AMENDING CHAPTER 2 OF THE DAYTON MUNICIPAL CODE ALLOWING THE CONSUMPTION OF ALCOHOLIC BEVERAGES IN COURTHOUSE SQUARE PARK DURING COMMUNITY EVENTS AND ADDING A PARKS OPERATING POLICY.

WHEREAS, on February 5, and February 20, 2024, the City Council considered the information provided by staff in a public meeting and deliberated on the proposed action; and

WHEREAS, the Dayton City Council strategic goals include to “capitalize on Dayton’s facilities and resources to provide recreational and cultural opportunities” and to “use Dayton’s heritage and historic resources to forward our image as an authentic and charming town”; and

WHEREAS, the Dayton City Council strategic goals identify objectives to support community events such as Cinco de Mayo, Old Timers Weekend, Dayton Friday Nights, etc.; and

WHEREAS, in September of 2023, the City of Dayton distributed an economic development questionnaire to Dayton residents resulting in support of more local events including allowing the consumption of alcohol at such events; and

WHEREAS, the local business community has expressed interest in holding community events at Courthouse Square Park to stimulate economic activity by offering alcoholic beverages in conjunction with such events; and

WHEREAS, the City of Dayton maintains and operates Courthouse Square Park, Andrew Smith Park, Alderman Park and Legion Field; and

WHEREAS, the City of Dayton has experienced an uptick in criminal activity in Courthouse Square Park during the late evening hours in the winter to include vandalism throughout the park, the bathroom and Miller fountain; and

WHEREAS, the City of Dayton installed a new bathroom facility at Andrew Smith Park to address the needs of its residents. The park's proximity to residential zones raises concerns about potential vandalism and unauthorized activity, especially during late-night hours.

NOW, THEREFORE, THE CITY OF DAYTON ORDAINS AS FOLLOWS:

Section 1: The City Council adopts the amendments to Chapter 2 of the Dayton Municipal Code attached as Exhibit A and incorporated by reference herein.

Section 2: This Ordinance is effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Dayton on this 1st day of April, 2024.

Mode of Enactment:

Date of first reading: March 4, 2024 In full _____ or by title only XX

Date of second reading: April 1, 2024 In full _____ or by title only XX

XX No Council member present at the meeting requested that the ordinance be read in full.

_____ A copy of the ordinance was provided to each Council member; three copies were provided for public inspection in the office of the City Recorder no later than one week before the first reading of the Ordinance.

Final Vote:

In Favor: Frank, Hildebrandt, Maguire, Marquez, Sandoval-Perez

Opposed: Mackin

Absent: Wildhaber

Abstained:



Trini Marquez, Mayor

4/8/2024

Date of Signing

ATTESTED BY:



Rocio Vargas, City Recorder

4/1/2024

Date of Enactment

Attachment: Exhibit A

Exhibit A

DAYTON MUNICIPAL CODE 2.10 City Parks and Recreation Areas

2.10.1 Definition

For the purposes of this subsection, the following terms shall have the following meaning: **Public Park:** means real property owned or controlled by the City of Dayton for public recreational use, including, but not limited to, Courthouse Square Park (bounded by Third and Fourth Streets, and Ferry and Main Streets), Andrew Smith Park, Legion Field, and Alderman Park.

- A. **Smoking:** means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, electronic cigarette, pipe, hookah, plant or any other smoking, tobacco, nicotine, or tobacco-like product or substance in any manner or any form.
- B. **Tobacco Use:** means smoking, chewing, vaping, inhaling, or any other means of ingestion or consumption of any tobacco product.
- C. **Tobacco:** means any tobacco product, cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, electronic cigarettes and any other form of tobacco or nicotine product that may be utilized for smoking, chewing, vaping, inhaling, or any other means of ingestion or consumption.
- D. **Authorized Liquor Concessionaire** means a person who has obtained a special permit from the City of Dayton and any required license from the State Liquor Control Commission.

2.10.2 General Rules Of Use

- A. Prohibited Acts. The following activities shall be prohibited, except under specified conditions:
 - 1. Use of alcoholic beverages in parks. It is unlawful for any person to possess or consume any alcoholic beverage in a park, except under the following conditions:
 - a. The alcoholic beverage is obtained from an authorized liquor concessionaire at a park, as defined in section 2.10.1.
 - b. The alcoholic beverage is packaged in an individual container.
 - c. The alcoholic beverage is consumed in an area specifically designated by the City Manager or the City Manager's designee; and
 - d. At no time will any person who is visibly intoxicated enter or remain in the park.
 - 2. Disorderly conduct, noisy disturbances or disregard for park rules and regulations shall result in removal from the Public Park by authorized city personnel.
 - 3. No peddling, soliciting or commercial activities are permitted within a Public Park without prior approval of the City Council or their designee.

4. Damages. Park users shall be liable for damages to park grounds or facilities caused by themselves, their children, or their pets.
5. Firearms, other than those permitted by ORS 166.210, BB guns, air rifles, knives, other than cooking cutlery and pocketknives in the possession of an adult, slingshots, or similar objects capable of inflicting bodily harm shall not be allowed in Public Parks except as otherwise permitted by City Council or their designee.
6. Smoking and tobacco use is prohibited on and around all Public Parks. This policy does not prohibit use of FDA-approved nicotine replacement therapy products such as nicotine patches, gum and lozenges which are intended to help quit tobacco use and minimize symptoms of nicotine additions. (Added ORD 625 – Adopted 06/01/15)
7. Accessibility: No person shall block a walkway or sidewalk causing inaccessibility.
8. Park traffic regulations. It is unlawful for any person to drive any automobile or other vehicle as defined in the state motor vehicle code, within parks contrary to the rules and regulations set for in the state motor vehicle code or any ordinance of the city for the operation of vehicles operating within city limits. It is unlawful for any person to disobey any of the signs erected for the direction of traffic within such parks pursuant to this article, or any rules made pursuant to this chapter.
9. Solid Waste, Disposal, and Fires. No person shall build any fire, including fires to cook food in a park, except in permanent barbecue stoves or fireplaces maintained by the City, or in propane gas or electric barbecue stoves within 20 feet of the covered eating pavilion located in the northwest corner of Courthouse Square Park; or for historical or educational demonstration purposes as determined in advance by the City Council or their designee. Waste disposal fires or uncontained fires of any kind are expressly prohibited.
10. Protected Plantings. No person shall injure or remove any vegetation from Public Parks. Notwithstanding the provisions of Section 5.6 of this Code, no person may affix any placard, bill, advertisement or poster on trees or other plantings within public parks. No person shall damage, remove, or penetrate temporary barriers erected in public parks to protest new growth until it is established.
11. Miller Fountain. No person shall wade, swim, bathe or wash clothing, dishes, or utensils in Miller Fountain. No person shall intentionally place, insert or toss foreign materials into the water and plumbing equipment, including but not limited to, soap, dyes, live animals/fish, dirt, rocks, etc.
12. Animals. It is unlawful for any person to permit any domestic or other animal to run at large in a park, except as allowed within designated off-leash dog parks. Handlers/keepers must remove and dispose of their animal's waste. Horseback riding shall be confined solely to vehicle roadways and designated bridle paths. Where permitted horses shall be thoroughly broken and properly restrained, ridden with due care and not be allowed to graze or go unattended.

13. Vandalism. It is unlawful for any person to break, destroy or damage any shrubs, grass, trees, plants, flowers, fences, buildings, tables, benches, seats or other lands or property or improvements of any kind within city parks.
14. Dumping refuse or debris in parks. It is unlawful for any person to throw, leave or deposit any bottle, broken glass, ashes, wastepaper, or other rubbish, or break any glass in any park, except as such places or in such receptacles as may be designated or provided by the city.
15. Bodily fluids. No person shall blow, spread, or place any nasal or other bodily discharge or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings or any portion of a public convenience station located in any part in the city, or in any other place in such park, except directly into the particular fixture provided for that purpose.
16. Block plumbing fixtures. No person shall place a bottle, can, cloth, rag, or metal, wood, stone substance, or foreign object in the plumbing fixtures in such stations.
17. Intimidation. No person shall participate in intimidating behavior, such as blocking a walkway or walking more than three people abreast while not yielding to pedestrians.
18. Limitation or prohibition of animals. During those events with large attendance (Including but not limited to: Old Timers Weekend, Cinco de Mayo, Dayton Friday Nights, etc.), the City Manager shall have the right to limit or prohibit animals and the use of bicycles, skateboards, skates, or recreational scooters in all city parks. Service dogs on leashes are exempt.

2.10.3 Operating Policy

1. Except for unusual and unforeseen emergencies, city parks shall be open to the public every day of the year during designated hours. Public parks open thirty minutes before sunrise and close thirty minutes after sunset. No person shall be within a Public Park between thirty minutes after sunset and thirty minutes before sunrise, except for historical or educational demonstration purposes as determined in advance by City Council.
2. A park, or portion thereof, may be reserved for picnics, reunions, concerts, noncommercial activities, or public gatherings. Reservations shall be made through the City Manager on an approved application form, subject to the conditions listed below:
 - a. That the proposed activity or use of the park will not unreasonably interfere with or detract from the promotion of public health, welfare, safety or recreation;

- b. That the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
 - c. That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
 - d. That the proposed activity will not entail unusual, extraordinary activity, burdensome expenses or police operation by the city;
 - e. That the facility desired has not been reserved for other use at the day and hour requested in the application;
 - f. That any applicable permit fees have been paid prior to the date of the requested usage of the park facility; That the applicant agrees to any other conditions reasonably imposed on an application form approved by the city manager;
3. A park, or portion thereof, may be used for commercial purposes only after obtaining a written permit from the city. Permits shall be issued by the City Manager upon a finding that the applicant has met the conditions set forth in subsection (b) of this section, plus the following conditions:
 - a. Provide an application fee per the Fee Schedule.
 - b. For any person selling or dispensing food or beverage of any kind, submits documentation that he has obtained all health, sanitary and permit licenses from the state and county;
 - c. Provides proof of public liability insurance in the amount of \$100,000.00 to \$300,000.00 bodily injury and \$50,000.00 property damage or a \$300,000.00 combined single limit policy (an amount not less than applicable Oregon Tort Claims limits);
 - d. Provides a signed indemnity agreement agreeing to hold the city harmless for the person's or acts and for the acts of any employees or agents;
 - e. Agrees to any other conditions reasonably imposed on an application form approved by the City Manager;
4. In lieu of requiring individual applications for commercial activities, a single permit may be granted to sponsors of public events in which two or more commercial applicants will be in attendance. A permit shall be issued upon a finding that the sponsor has met the conditions set forth in subsection (b) of this section and the following conditions:
 - a. Provides an application fee per the Fee Schedule.

- b. Provides documentation of the required state and county health, sanitary and permit licenses for those commercial activities selling or dispensing food or beverages;
 - c. Provides proof of public liability insurance in the amount of \$100,000.00 to \$300,000.00 bodily injury and \$50,000.00 property damage or a \$300,000.00 combined single limit policy (an amount not less than applicable Oregon Tort Claims limits);
 - d. Provides a signed indemnity agreement agreeing to hold the city harmless for acts of the sponsor, its employees or agents acting in behalf of the sponsor of the public event;
 - e. Agrees to any other conditions reasonably imposed on an application form approved by the City Council.
5. Duration of permits. Any permit granted in accordance with subsection (b) or (c) of this section shall be for a period not to exceed five (5) consecutive days. No person shall be allowed to obtain more than four (4) permits within any calendar year, unless agreed to by the City Manager.
6. Fees. Fees for use of city parks shall be adopted by resolution of the City Council.
7. The offense described in this section is a Dayton Municipal Code Class B violation.

2.10.4 Trespass

In addition to the other measures provided for violation of this Code, or any of the laws of the State of Oregon, any peace officer, as defined by ORS 133.005(3), as amended, or any City employee may exclude any person who violates any provision of this Code, any City ordinance, or any of the laws of the State of Oregon from any City park for a period of not more than 30 days.

- A. Written notice shall be given to any person excluded from any City park. Such notice shall specify the dates and places of exclusion. It shall be signed by the issuing party. Warning consequences shall be prominently displayed on the notice.
- B. A person receiving such notice may appeal to the City Council to have the written notice rescinded or the period shortened. Notwithstanding any other provision of this Code, the appeal shall be filed within 5 days of receipt of the exclusion notice, unless extended by the City Council for good cause shown.
- C. An appeal properly filed under (B) automatically stays the exclusion period until the City Council issues a decision on the appeal.
- D. At any time within 30 days, a person receiving such notice may apply in writing to the City Manager for a temporary waiver from the effects of the notice for good reason.

2.10.5 Permits Subject to Ordinances and Regulations

- A. All permits issued by the city shall be subject to city ordinances. The person to whom such permits are issued shall be bound by the rules, regulations, and ordinances as fully as though the same were inserted in such permits. Any person or persons to whom such permits shall be issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall be issued. The City Manager shall have the power to revoke any permit upon a finding that a person has violated any rule, regulation, or ordinance of the city.

2.10.6 Permits to be Exhibited

- A. Any person claiming to have a permit from the city shall produce and exhibit such permit upon the request of any authorized person who may desire to inspect the same.

2.10.7 Penalty For Violation

- B. A violation of any provision of Dayton Municipal Code Section 2.10 is a Class B violation. See Section 2.10.10 for additional measures.

Updated: *ORD 625 – Adopted 06/01/15 and ORD 659 Adopted 05/01/24*