

**ORDINANCE 635
CITY OF DAYTON, OREGON**

An Ordinance Amending Chapter 2 – Offenses, Chapter 6 – Public Improvements, and Chapter 8 – Utilities, of the Dayton Municipal Code to Make Changes to Section 2.4 Storage of Vehicles or Other Personal Property on Streets or Public Property, Section 2.8 Excessive Noise Defined (Residential and Commercial Zones), Section 6.12 Encroachments on City Property, and Section 8.0.8 Process for Terminating Utility Services.

WHEREAS, the City Council desires to amend Chapter 2 – Offenses, Chapter 6 – Public Improvements, and Chapter 8 – Utilities, of the Dayton Municipal Code to make changes to sections 2.4 Storage of Vehicles or Other Personal Property on Streets or Public Property, 2.8 Excessive Noise Defined (Residential and Commercial Zones), 6.12 Encroachments on City Property, and 8.0.8 Process for Terminating Utility Services as attached in Exhibit A; and

WHEREAS, the City Council considered said amendments in a public meeting on April 18, 2016; and

WHEREAS, on June 6, 2016, the City Council considered the information provided by staff and deliberated on the proposed action.

The City of Dayton ordains as follows:

Section 1. The City Council hereby adopts Ordinance 635; and

Section 2. The City Council adopts the amendments to Chapters 2, 6, and 8 of the Dayton Municipal Code attached as Exhibit A and incorporated by reference herein.

PASSED AND ADOPTED by the City Council of the City of Dayton on this 1st day of August, 2016.

Mode of Enactment:

Date of first reading: June 6, 2016 by title only.

Date of second reading: August 1, 2016 by title only.

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: John Bixler, John Collins, Trini Marquez, Elizabeth Wytoski

Opposed: Erin Taylor

Absent: Annette Frank, Darrick Price

Abstained: None

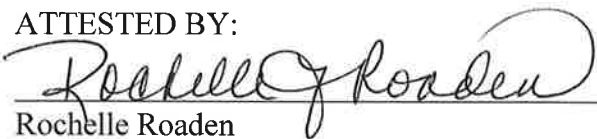


Mayor

8/18/16

Date of Signing

ATTESTED BY:



Rochelle Roaden
City Recorder

8/1/16

Date of Enactment

Exhibit A

(Additions in italics and deletions in strikethrough)

2.4 STORAGE OF VEHICLES OR OTHER PERSONAL PROPERTY ON STREETS OR PUBLIC PROPERTY

2.4.1 Exception. Basketball hoops are allowed in the public right-of-way only if the following conditions are met:

(a) The hoop must not block the sidewalk, pedestrian/bike path, or public roadway to the point that it impedes foot, bike, or vehicle travel.

(b) The hoop must not block access to fire hydrants or mailboxes.

(c) The use of the hoop is only allowed between the hours of 7 a.m. and 10:30 p.m.

(d) The hoop and any use of the hoop must not disturb the peace of those in the nearby vicinity and must not violate the City's noise provisions under Section 2.8 of this Chapter.

(e) The City is in no way responsible or liable to any individual for damage, injury, or loss to any person or property arising directly or indirectly out of the negligent or otherwise wrongful construction, maintenance, inspection, repair, use or supervision of use of any hoop placed in the public right-of-way or for any act or omission in violation of this Section 2.4.1.

(f) In the event any hoop is found to be in violation of this Section 2.4.1 the City may order the hoop removed. A person who fails to remove a hoop as ordered shall be liable to the City for its costs, including but not limited to labor and materials for removal of the hoop and any supporting apparatus as well as costs, disbursements, and attorney fees incurred for collection.

2.8 NOISE

2.8.2 Excessive Noise Defined (Residential & Commercial Zones)

Excessive noise in a Residential or Commercial Zone in violation of this section includes, but is not limited to:

- (a) The keeping of any bird or animal which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity.
- (b) The use of a vehicle or engine, either stationary or moving, so out of repair, loaded, or operated as to create any loud or unnecessary grating, grinding, rattling, or other noise.
- (c) The sounding of a horn or signaling device on a street, public place, or private place, except as a necessary warning of danger.
- (d) The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled.
- (e) The erection, including excavation, demolition, alteration, or repair of a building in residential districts, other than between the hours of 7:00 am and 6:00 pm, except in case of urgent necessity in the interest of the public welfare and safety and then only with a permit granted by the City ~~Administrator~~ *Manager* for a period not to exceed ten (10) days. Such permit may be renewed for periods of five (5) days while such emergency continues to exist. The actual owner of property may do work on property actually occupied by him between the hours of 6:00 pm and 10:30 pm without obtaining a permit as herein required.
- (f) The use of a gong or siren upon a vehicle, other than police, fire, or other emergency vehicle.
- (g) The discharge in the open air of the exhaust of a steam engine, internal combustion engine, motorboat, or motor vehicle except through an operational muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke.
- (h) The use or operation of an automatic or electric piano, phonograph, gramophone, victrola, radio, television, loudspeaker, or any instrument for sound- producing or any sound-amplifying device so loudly as to be heard more than 150 feet from the source during the hours of 7:00 am and 10:30 pm; or 50 feet from the source from 10:30 pm to 7:00 am.
- (i) The conducting, operating or maintaining of a commercial garage within 100 feet of a private residence, apartment, rooming house, or hotel in such manner as to cause loud or disturbing noises to be emitted therefrom between the hours of 10:30 pm and 7:00 am.
- (j) *No person shall make, continue, assist in making, or allow:*
 - (1) *Any unreasonably loud, disturbing, or raucous noise;*

(2) Any noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of reasonable persons of ordinary sensitivity; or

(3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

(i) The standard for judging loud, disturbing and unnecessary noises shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration: the proximity of the sound to sleeping facilities, whether residential or commercial; the land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived; the time of day or night the sound occurs; the duration of the sound; and whether the sound is recurrent, intermittent, or constant.

2.8.6 Remedy.

If, after proper notification of a violation of section 2.8 of the Code, the nuisance is not abated, the city manager or designee may proceed to abate the nuisance pursuant to the provisions in Section 5.13, Uniform Nuisance Abatement Procedure, of this Code. In addition to the remedies provided by Section 5.13, the city shall have all remedies available to it by law.

CHAPTER 6

6.12 ENCROACHMENTS ON CITY PROPERTY

6.12.1 License Necessary.

It is unlawful for any person to erect or cause to be erected any structure more permanent in nature in, over, or upon any city-owned property except that the city manager, or the city manager's designee, may grant permission for walls, fences, steps or other similar structures of a more permanent nature to be located on city-owned property subject to a revocable encroachment license to be issued by the manager and recorded with the Yamhill County Clerk's Office.

8.0 GENERAL

8.0.8 Process for Terminating Utility Services. (Amended ORD 627 – Effective 08/06/15)

- (1) Prior to terminating utility service, the City shall provide written notice to the customer that utility service to the property is subject to being discontinued unless the delinquent amounts are paid in full immediately. Written notice shall be provided in a manner prescribed by the City according to the following:

- (a) Written notice shall provide that utility service to the premises is subject to be terminated, the reason for potential termination of services, and terms by which said customer can avoid termination of services.
 - (b) Notice shall be deemed sufficient if mailed to the address listed on the application for utility services as listed in the City's records and shall be deemed complete on the date of deposit in the US Mail or upon personal delivery.
- (2) If full payment or arrangements satisfactory to the City are not timely made, the City may, without further notice or process, terminate utility service to the affected premises.
 - (3) Sewer services cannot be disconnected and charges shall continue to accrue at the current rate provided that a residence receiving both services, or only sewer services, is still occupied after termination of services. ~~All charges, less any deposit, shall immediately become a lien upon the property.~~
 - (4) *All charges, less any deposit, shall immediately become a lien upon the property.*