

**ORDINANCE 625
CITY OF DAYTON, OREGON**

An Ordinance Amending Chapter 2 – Offenses, of the Dayton Municipal Code to Make Changes to Section 2.10 Public Parks to Prohibit Smoking in all Public Parks, and to make other miscellaneous adjustments.

WHEREAS, the City Council desires to amend Chapter 2 – Offenses of the Dayton Municipal Code to make changes to section 2.10 Public Parks to prohibit smoking in all public parks within the City, and to make other miscellaneous adjustments as attached is Exhibit 1; and

WHEREAS, the City Council considered the amendments to Chapter 2 regarding smoking in public parks in a public meeting on February 17, 2015; and

WHEREAS, on May 4, 2015, the City Council considered the information provided by staff and deliberated on the proposed action.

WHEREAS, the City finds that an emergency should be declared so that this Ordinance may take effect immediately upon its adoption by the Council and approval by the Mayor.

The City of Dayton ordains as follows:

Section 1. The City Council hereby adopts Ordinance 625; and

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

Section 3. Because it is necessary for the peace, health and safety of the people of the City of Dayton, that this ordinance be effective immediately, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect upon its passage by the Council and approval by the Mayor as provided by the Charter of the City of Dayton.

PASSED AND ADOPTED by the City Council of the City of Dayton on this 1st day of June, 2015.

Mode of Enactment:

Date of first reading: May 4, 2015 In full _____ or by title only X

Date of second reading: June 1, 2015 In full _____ or by title only X

X 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: **Bixler, Collins, Marquez, Price, Wytoski**

Opposed: **None**

Absent: **Frank, Taylor**

Abstained: **None**

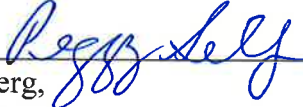


Elizabeth Wytoski, Mayor

6/3/15

Date of Signing

ATTESTED BY:



Peggy Selberg,
City Recorder

6/1/2015

Date of Enactment

Exhibit 1

Exhibit A
(Additions in *italics* and deletions in ~~strike through~~)

Field Code Changed

2.1 Enacting Ordinance. Unless otherwise indicated in code sections, Chapter 2 of Dayton Code is enacted by Dayton City Ordinance #481, adopted 07/18/94, and effective 08/18/94; and amended by Ordinance #487, adopted and effective 02/06/95; and Ordinance #496, adopted and effective 04/07/97. On June 2, 1997, Ordinance #498 adopted a complete rewrite of the Chapter, which was effective on 06/02/97; then amended by Ordinances #508 and #509, adopted and effective 11/02/98; and Ordinance #528, adopted and effective 03/05/01.

2.10 Public Parks.

2.10.1 Definition. *For the purposes of this subsection, the following terms shall have the following meaning:*

*(a) "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), ~~11th Street Park~~ **Andrew Smith Park**, and Alderman Park.*

(b) "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.

(c) "Tobacco use" means smoking, chewing, vaping, inhaling, or any other means of ingestion or consumption of any tobacco product.

(d) "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.

2.10.2 General Rules of Use.

- (a) Disorderly conduct, noisy disturbances or disregard for park rules and regulations shall result in removal from ~~city park~~ *Public Parks* by authorized city personnel.
- (b) No peddling, soliciting or commercial activities are permitted within a ~~P~~*public P*ark without prior approval of the City Council or their designee.
- (c) Possession or use of intoxicating beverages within ~~Public city~~ *Public P*arks is expressly prohibited.
- (d) *Public* Park users shall be liable for damages to park grounds or facilities caused by themselves, their children, or their pets.
- (e) Firearms, other than those permitted by ORS 166.210, B.B. guns, air rifles, knives, other than cooking cutlery and pocket knives in the possession of an adult, slingshots or similar objects

capable of inflicting bodily harm shall not be allowed in Public City Parks except as otherwise permitted by City Council or their designee.

~~(e) 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 addiction. No smoking or carrying a burning smoking instrument within the borders of any park or upon any adjacent sidewalks.~~

2.10.3 Hours. Public Parks are open for the use of the public from 7:00 am until 10:30 pm. No person shall be within a Public Park between 10:30 pm and 7:00 am, except for historical or educational demonstration purposes as determined in advance by City Council.

2.10.4 Solid Waste Disposal and Fires.

(a) No person shall build any fire, including fires to cook food, in a Public 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.

(b) Waste disposal fires or uncontained fires of any kind are expressly prohibited.

2.10.5 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 protect new growth until it is established.

2.10.6 Vandalism. No person shall intentionally damage any plant or fixture in a Public Park.

2.10.7 Prohibited Conduct in Courthouse Square Park. It is unlawful to do any of the following in Courthouse Square Park: *(Amended ORD 609 10 3 11, effective 11 2 11)*

(a) Wading, swimming, bathing, or washing clothing, dishes or utensils; in Miller Fountain.

(b) Intentionally placing, inserting, or tossing foreign materials into the water and pumping equipment, including but not limited to, soap, dyes, live animals/fish, dirt, rocks, etc. in Miller Fountain.

~~(e) Smoking or carrying a burning smoking instrument within the~~

~~border of the park or upon any adjacent sidewalks, inside the border or within 25 feet of the Children's Play Area. The border of the Children's Play Area is determined by the sidewalks that surrounding the Children's Play Area.~~

~~(ed)~~ Smoking or carrying a burning smoking instrument in the designated restrooms.

~~(de)~~ For the purposes of this section, "smoking instrument" means any cigar, cigarette, pipe or other smoking equipment of any type.