

**ORDINANCE NO. 665
CITY OF DAYTON**

**AN ORDINANCE AMENDING SECTIONS 7.1.2, 7.2.1, 7.2.3, 7.2.4, 7.3.1, 7.3.2, OF TITLE 7
(DAYTON LAND USE AND DEVELOPMENT CODE) OF THE DAYTON MUNICIPAL CODE**

WHEREAS, on September 12, 2024, the Dayton Planning Commission held a work session to review the 2023 Land Use Legislation Report and the 2024 Land Use Legislation Report produced by the Oregon Department of Land Conservation and Development (DLCD), and at the same meeting reviewed draft amendments the Dayton Land Use and Development Code (DLUDC) in response to applicable statute and rule provisions; and

WHEREAS, on October 10, 2024, the Dayton Planning Commission held a work session to consider revisions to the draft amendments to the City of Dayton Development Code dated October 10, 2024; and

WHEREAS, on October 9, 2024, the city provided required notice of draft amendments to the Department of Land Conservation and Development, identifying city case file LA 2024-02; and

WHEREAS, on October 24, 2024, public notice for LA 2024-02 was provided in accordance with DLUDC Section 7.3.204.05 for date, time and place of two hearings, the first before the Planning Commission on November 14, 2024, and the second before the City Council on December 2, 2024; and

WHEREAS, on October 24, 2024, public notice for LA 2024-02 was posted in the McMinnville News-Register, a newspaper of general circulation for the Planning Commission and Council hearing dates 20 days prior to the first public hearing; and

WHEREAS, on November 14, 2024, the Dayton Planning Commission conducted the first of two required public hearings for LA 2024-02 at which time interested parties were provided full opportunity to be present and heard; and

WHEREAS, on November 14, 2024, the Dayton Planning Commission voted unanimously in support of a recommendation to the City Council for adoption of LA 2024-02 as detailed in the staff report attached and incorporated herein as Exhibit A; and

WHEREAS, on December 2, 2024, the Dayton City Council initiated the second required public hearing for LA 2024-02 at which time interested parties were provided full opportunity to be heard, and

WHEREAS, on February 3, 2025, the Dayton City Council adopted LA 2024-02 identified in Exhibit A and set forth below.

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

Section 1. Development Code Amendments. The City of Dayton hereby adopts LA 2024-02 to the Dayton Land Use and Development Code shown as Exhibit A in the staff report dated December 2, 2024:

Section 2. Findings. The findings set forth in the staff report dated December 2, 2024, The City of Dayton hereby adopts LA 2024-02 as shown in Exhibit A of staff report dated December 2, 2024, and the findings therein.

Section 3. Unamended Provisions. All unamended provisions of the Dayton Land Use and Development Code shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall become effective thirty days after final passage and its signature by the Mayor.

PASSED AND ADOPTED by the Dayton City Council this 3 day of MARCH 2025, and effective on 3 day of APRIL 2025.

Mode of Enactment:

Date of first reading: February 3, 2025, In full _____ or by title only XX

Date of second reading: March 3, 2025, 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 of the ordinance 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, Mackin, Maguire, Pederson, Wildhaber

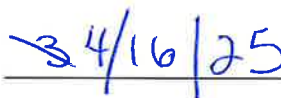
Opposed:

Absent: Teichroew

Abstained:

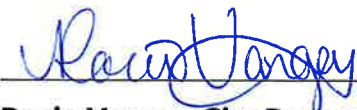


Annette Frank, Mayor



Date Signed

ATTEST:



Rocio Vargas, City Recorder



Date of Enactment

Attachment: Exhibit A



STAFF REPORT
LA 2024-02 PUBLIC HEARING BEFORE CITY COUNCIL
(CONTINUED)

<u>Hearing Date:</u>	February 3, 2025
<u>Subject:</u>	Text amendments to the Dayton Land Use Development Code to implement statute changes passed by the State Legislature during the 2023 and 2024 sessions (HB 3395 and SB 1537).
<u>Approval Criteria:</u>	Dayton Land Use Development Code, Section 7.3.112.03, A – D.
<u>Exhibits:</u>	Exhibit A: Proposed code amendments with changes tracked Exhibit B: Published public notice

I. REQUESTED ACTION

Conduct a public hearing on proposed legislative amendments to the Dayton Land Use Development Code (DLUDC), case file LA 2024-02. Options for action on LA 2024-02 include the following:

- A. Adopt the findings in the staff report and adopt LA 2024-02:
 1. As presented / recommended by staff; or
 2. As amended by the City Council (indicating desired revisions).
- B. Recommend that the City Council take no action on LA 2024-02.
- C. Continue the public hearing, preferably to a date/time certain.

II. BACKGROUND

In 2023 the Oregon Legislature passed HB 3395 which included the following requirements applying to Dayton:

- Cities between 2,500 – 10,000 residents are required to adopt ordinances to allow duplexes on any lot zoned for residential use that allows single-family detached housing;
- Local governments are required to approve Single Room Occupancy (SRO) developments with up to 6 units on each lot zoned for single-family detached housing;
- If the lot allows the development of 5 or more units, the SRO development must be approved up to the number of units allowed by the underlying density standard; and
- Cities cannot apply development standards for duplexes and single room occupancies that are more restrictive than the standards that apply to single family homes.

To assist cities in updating their ordinances to comply with the new regulation, DLCD awarded a grant to MWVCOG to complete these required updates to the Dayton Land Use and Development Code (DLUDC).

More recently, the legislature passed SB 1537 which included additional requirements that are addressed in these amendments, including:

- Requirements that local governments approve certain adjustments to local code for projects within a UGB that result in net new housing units;
- Requirements that local governments approve applications for replats, property line adjustments, and extensions, alterations, or expansions of nonconforming land use at the administrative level through a limited land use procedure;
- Removing local requirements for these application types and other limited land use decisions to undergo a quasi-judicial process with a public hearing. Other limited land use decisions subject to this requirement include subdivisions, partitions, and site design reviews.

Additional amendments are included to address general housekeeping needs and technical corrections, and address compliance with other ORS provisions, primarily ORS 197A.400 requirements that a local government may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of housing and that the standards, conditions, and procedure may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

III. PROCESS

Section 7.3.112.01 requires text amendments to the DLUDC to be approved through a Type IV review procedure as specified in Section 7.3.2.

On September 12, 2024, Planning Commission held a work session to review a first draft of code amendments described in Section IV.

On October 10, 2024, Planning Commission held a second work session to review a second draft of the code amendments and agreed to schedule the first of two required public hearings.

On October 9, 2024, staff issued the required 35-day notice to the Department of Land Conservation and Development. On October 24, 2024, written notice of the hearing before the Planning Commission and subsequent hearing before City Council was published in the McMinnville News Register.

The scope of the proposed text amendments associated with LA 2024-02 are included in Exhibit A and are shown in *italic bold* and ~~strikethrough~~ format.

IV. SUMMARY OF PROPOSED AMENDMENTS

The draft amendments in Exhibit A respond to the legislative priorities discussed above as follows:

Siting Duplexes – ORS 197.758

- All residential zones – All standards for siting duplexes made consistent with standards for single-family homes. Minimum lot size requirements, design, and development standards related to the siting of duplexes

Single Room Occupancies – ORS 197.286, ORS 197.314

- Added definition of single room occupancy from ORS 197
- Added single-room occupancies as defined in ORS 197 as a permitted use in all residential zones

Housing Land Use Adjustments – ORS 197A

- Section 7.3.103 Minor Variance – incorporates standards and qualifying conditions from Section 38 of SB 1537 (2024) for approving mandatory housing adjustments so that the minor variance procedure can be used for submitting, reviewing, and approving these requests.

Limited Land Use Decisions – ORS 197.195

- Section 7.3.101 Summary of Application Types and Review Procedures – Makes partitions, subdivisions, and site development review applications Type I limited land use actions.
- Section 7.3.202 Procedures for Type I Review – Added limited land use notice requirements to the Type I procedures.

Clear and Objective Standards for Housing Applications – ORS 197A.400

- All residential zoning sections, administrative procedures, and provisions of the DLUDC were reviewed to ensure applicable standards and procedures are clear and objective.

V. FINDINGS AND APPROVAL CRITERIA

7.3.112.01 Process

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed in accordance with the Type IV review procedures specified in Section 7.3.201.

7.3.112.03 Criteria for Approval

Amendments to the Comprehensive Plan or Development Code text shall be approved if the evidence can substantiate the following:

A. Impact of the proposed amendment on land use and development patterns within the city, as measured by:

1. Traffic generation and circulation patterns;

Findings: The proposed amendments do not impact traffic generation and circulation patterns. Staff find the impact to traffic generation and circulation patterns is negligible.

2. Demand for public facilities and services;

Findings: The proposed amendments do not impact demand for public facilities and services. Staff find the impact on public facilities and services is negligible.

3. Level of park and recreation facilities;

Findings: The amendments do not involve changes to the uses allowed in the underlying zoning districts that would affect the level of service provided by existing park and recreation facilities. Staff find no impact to park and recreation facilities.

4. Economic activities;

Findings: The proposed amendments do not impact economic activities. Staff find the impact to economic activity is negligible.

5. Protection and use of natural resources;

Findings: The proposed amendments do not impact the protection and use of natural resources. Staff find the impact to natural resources is negligible.

6. Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.

Findings: The proposed amendments do not impact compliance with existing adopted special purpose plans or programs. Staff find this criterion is satisfied.

B. A demonstrated need exists for the product of the proposed amendment.

Findings: The need for the proposed amendments are to comply with HB 3395, SB 1537, ORS 197A.400, and related housekeeping items are in response to needs identified by staff and Planning Commission.

C. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

Applicable Statewide Planning Goals.

Goal 1, Citizen Involvement.

Findings: A public hearing on the proposed amendments is scheduled before the Planning Commission on November 14, 2024, at City Hall at 6:30 p.m. and a second public hearing is scheduled before City Council on December 2, 2024. Public notice has been provided in accordance with noticing requirements in the Dayton Land Use and Development Code for legislative public hearings by the Planning Commission and the City Council. Goal 1 is satisfied.

Goal 2. Land Use Planning.

Findings: Goal 2 requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. These are in place. The scope of this legislative proposal does not involve any amendments to the Comprehensive Plan policies. Existing Comprehensive Plan land use map designations and base zoning designations are unchanged. The modifications to the uses allowed by existing zoning are made to be consistent with state law to lower regulatory barriers to encourage more diverse housing types. The proposal does not involve exceptions to the Statewide Goals. Staff finds Goal 2 is satisfied.

Goal 3 & 4. Agricultural Lands and Forest Lands

Findings: Goal 3 and 4 primarily pertain to rural areas, typically outside urban areas. Staff finds Goals 3 and 4 to be not applicable due to the limited scope of the proposed text amendments.

Goal 5. Natural Resources, Scenic and Historic Areas, and Open Spaces.

Findings: Staff observe how the proposed amendments do not impact natural resources or open spaces. Staff incorporate the scope of work description above in response to Goal 2. This amendment proposal does not add, subtract, or modify the list / description of historic resources identified in the Historical Property Overlay Zone. Staff find that Goal 5 is satisfied.

Goal 6. Air, Water and Land Resources Quality.

Findings: The proposal does not address Goal 6 resources. Based on the limited scope of proposed text amendments, staff find Goal 6 to be not applicable.

Goal 7. Areas Subject to Natural Hazards.

Findings: The proposal does not address Goal 7 resources. Based on the limited scope of the proposed text amendments, staff finds Goal 7 to be not applicable.

Goal 8. Recreation Needs.

Findings: The proposal does not address Goal 8 resources. Based on the limited scope of work included in this report staff finds Goal 8 to be not applicable.

Goal 9. Economic Development.

Findings: Proposed amendments do not change the permitted employment uses in employment zones or impact identified future employment areas identified through past Economic Opportunities Analysis. Accordingly, staff find that Goal 9 does not apply.

Goal 10. Housing.

Findings: The amendment proposal responds to statute and rule changes introduced via housing bills (HB 3395 and SB 1537). These bills were adopted during the 2023 and 2024 legislative sessions. HB 3395 introduces Single Room Occupancy (SROs) as a new residential type. SROs and duplexes are now to be permitted in residential zones (applicable to all local jurisdictions with population of 2,500 and greater) using standards and procedures that are no more restrictive than standards that apply to single family development. Staff therefore conclude the amendment proposal to conform with Goal 10.

Goal 11. Public Facilities and Services.

Findings: Public facilities under Goal 11 include water, sanitary sewer, police, and fire protection. Other services (e.g., health, communication services) are also listed in Goal 11. The proposed amendments do not have any direct impact on any of the master planning documents required under Goal 11. The proposed amendments are consistent with Goal 11.

Goal 12. Transportation.

Findings: The proposed amendments to the DLUDC do not involve changes or amendments to local transportation requirements or road classifications. Goal 12 is met.

Goal 13. Energy Conservation.

Findings: Based on the limited scope of work described in this report, staff finds Goal 13 to be not applicable.

Goal 14. Urbanization.

Findings: Based on the limited scope of the text amendments described in this report, staff finds Goal 14 to be not applicable. No change to the existing Urban Growth Boundary (UGB) is proposed.

Goal 15 for the Willamette River Greenway and Goals 16 – 19 for the Coastal Goals.

Findings: Staff observe Goals 15 through 19 to apply only to specific regions of the state (*Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, Ocean Resources*). Goals 15 – 19 do not apply because the city is not on the Willamette River or in a coastal area.

The proposed amendments are consistent with the applicable Statewide Planning Goals. This criterion is met.

D. The amendment is appropriate as measured by at least one of the following criteria:

- 1. It corrects identified error(s) in the provisions of the plan.*
- 2. It represents a logical implementation of the plan.*
- 3. It is mandated by changes in federal, state, or local law.*
- 4. It is otherwise deemed by the council to be desirable, appropriate, and proper.*

Findings: As discussed throughout this Staff Report, the amendment is mandated by changes to state law-HB 3395 and SB 1537, and to comply with existing policies in ORS 197A.400 requiring clear and objective standards for housing applications. Staff find this criterion is met.

VI. CITY COUNCIL ACTION – Sample Motion

A City Counciler may make a motion to either:

1. Adopt the staff report and recommend the City Council approve the amendments. A sample motion is:

I move the City Council adopt the staff report and recommend the City Council approve the amendments.

2. Adopt a revised staff report with changes by the City Council and recommend the City Council approve the revised amendments. A sample motion is:

I move the City Council adopt a revised staff report with the following revisions...state the revisions...and recommend the City Council approve the revised amendments.

3. Recommend the City Council deny the proposed amendments. A sample motion is:

I move the City Council recommend the City Council deny the proposed amendments for the following reasons...and state the reasons for the denial.

4. Continue the hearing to a date/time certain. A sample motion is:

I move the City Council to continue the hearing to a date (state the date) and time (state the time) to obtain additional information and state the information to be obtained.

EXHIBIT A

7.1.200.03 Definitions

The following words and phrases, when used in this Code, shall have the meanings ascribed to them in this Section:

Density: The number of dwellings units per acre of land. “Land” includes all property within an “area” as defined in this section.

Density:

Gross Density or Units per Gross Acre: The number of dwelling units or lots per acre prior to calculation of net density.

Net Density or Units per Net Acre: The number of dwelling units or lots per acre based on net area, which is the area of a parcel or tract that excludes land dedicated for public rights-of-way or stormwater easements, common open space, land dedicated for public parks, flood plains, and unbuildable natural areas. Density shall be calculated using lots or units per net acre unless a specific standard specifies otherwise.

Middle Housing: Duplexes, triplexes, quadplexes, townhouses, and single room occupancies.

Dwelling, ~~Multi-Family~~Multiple family: A building containing ~~three or more~~ **more than four** dwelling units designed for occupancy by families living independently of each other.

Short-Term Rental, Owner Occupied: A single or two-family dwelling where the owner resides and rents no more than three guest rooms in a single dwelling to overnight guests for a period less than 30 consecutive days. The owner occupies the primary dwelling during the overnight rental period. The room (s) for rent may include rooms within an accessory dwelling unit or attached duplex.

Single Room Occupancy: A residential development with no fewer than four attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.

Site, Development, or Complex: A group of structures or other development that is functionally or conceptually integrated, regardless of the ownership pattern of the development or underlying land.

7.2.102 Single Family Residential – (R-1)

7.2.102.01 Purpose

The purpose of the R-1 zone is to allow ~~the~~ development of single-family homes, ~~duplexes, and single-room occupancies~~ on individual lots provided with urban services at urban densities. Other uses compatible with residential development are also appropriate. These areas are designated as Residential in the Comprehensive Plan.

7.2.102.02 Permitted Uses

The following uses, ~~when developed under the applicable development standards in this Code,~~ are permitted in the R-1 zone: ~~when developed under the applicable development standards in this Code:~~

- A. One detached single-family dwelling on a separate lot or parcel.
- B. ~~One two-family (duplex) dwelling on a single lot or parcel.~~
- ~~C. Residential care homes.~~
- ~~D. Single room occupancies with up to six units on a lot.~~
- ~~GE.~~ Child ~~day care~~ daycare service, including family ~~day care~~ daycare provider, for 12 or fewer children.
- ~~F. The following uses, subject to the applicable standards in Section 7.2.4:~~
 - ~~1. Accessory structures and uses allowed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~
 - ~~2. Accessory dwelling units - Section 7.2.402.~~
 - ~~3. Attached dwelling units - Section 7.2.403.~~
 - ~~4. Manufactured homes on individual lots - Section 7.2.404.~~
 - ~~5. Manufactured home parks with Site Development Review and subject to Section 7.2.405.~~
 - ~~6. Home occupations - Section 7.2.406.~~
 - ~~7. Owner-occupied short-term rentals - Section 7.2.417.~~

7.2.102.03 ~~Special Permitted Uses Reserved~~

~~The following uses, when developed under the applicable standards in this Code and special development requirements, are permitted in the R-1 zone:~~

- ~~A. Partitions, subject to the provisions in Section 7.2.307.~~
- ~~B. Subdivision, subject to the provisions in Section 7.2.307.~~
- ~~C. Accessory Dwelling Unit (one per detached single-family dwelling), subject to the provisions in Section 7.2.402.~~
- ~~D. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~

~~E. Two-family dwellings (duplexes) subject to the following:~~

~~1. The duplex shall be located on a corner lot.~~

~~2. Access shall be subject to the following:~~

~~a. Where both adjacent streets are of the same street designation (e.g. local street) the duplex may obtain access from each adjacent street or share a single access.~~

~~b. Where the adjacent streets are of a different street designation (e.g. local and collector) a shared access shall be required from the lower street designation.~~

~~F. The following uses, subject to the applicable standards in Section 7.2.4:~~

~~1. Manufactured homes on individual lots (Section 7.2.404)~~

~~2. Home occupations (Section 7.2.406).~~

~~3. Owner occupied short-term rentals (Section 7.2.417)~~

7.2.102.04 Conditional Uses

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Private or public elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis, and similar recreation facilities; and other public or semi-public uses.
- C. Child day-care services for 13 or more children.
- D. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 7.2.407.
- E. ~~Small wind energy systems, subject to the provisions in Section 7.2.413. Small wind energy systems including compliance with Section 7.2.413.~~
- F. ~~A manufactured home on a residentially zoned individual lot or parcel immediately adjacent to a significant historical resource as identified in the Dayton Comprehensive Plan subject to the provisions of Section 7.2.404.E.~~

7.2.102.05 Dimensional Standards

- A. Minimum Lot Dimension and Height Requirements

DIMENSION	Residential Uses	Non-Residential Uses
Lot Size	7,000 sq. ft. Single Family 9,000 sq. ft. Duplex	(1)
Average Width	50	(1)
Average Depth	80	(1)

Maximum Height	35 feet
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1. Adequate to comply all applicable development standards

B. Minimum Yard Setback Requirements

SETBACKS	Residential Uses	Non-Residential Uses
Front and street side	15 feet	20 feet
Side	5 feet	10 feet
Rear	15 feet -1-story 20 feet -2-story	20 feet
Street-side	15 feet	20 feet
Garage (1)	20 feet	20 feet

1. The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.
2. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

7.2.102.06 Development Standards

All development in the R-1 Zone shall comply with the ~~applicable provisions of this Code. The following references additional~~ development requirements:

- A. ~~Off-street~~~~Off-street~~ Parking: Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.
- C. Site Development Review: Manufactured home parks and non-residential uses shall require a Site Development Review, pursuant to Section 7.3.1.
- D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures, and paved parking shall be ~~as follows:~~~~65% of the site area.~~

Maximum building coverage (primary building):	35%
Maximum parking area coverage (including garage):	30%

Combined maximum lot and parking area coverage:

60%

- E. Landscaping: ~~Undeveloped areas~~ of the property ***not covered by buildings, accessory structures, and paved parking*** shall be landscaped, including all required yards. Landscaping shall be provided pursuant to ***the*** requirements in Section 7.2.306.
- F. ~~Density: Subdivisions Land divisions~~ shall be ***developed-permitted*** at a minimum density of four ~~dwelling-units-lots~~ per ***net*** acre ~~and-with~~ a maximum density of six ~~dwelling-units-lots~~ per ***net*** acre.
- G. Redevelopment Plan: A redevelopment plan shall be required ***when units are proposed at densities less than four units per net acre.*** ~~to place a single-family home on a parcel containing more than 1 acre. This plan shall be approved by the City prior to the issuance of a building permit.~~ The following shall apply:
1. The redevelopment plan shall indicate how the remaining ***undivided or undeveloped*** portion of the property could be developed ***at-with a density consistent with the requirements of the R-1 zone four units per net acre.***
 2. ~~A redevelopment plan shall be required to place a single-family home or duplex on a lot/parcel containing more than 1 acre. This plan shall be approved by the City before the issuance of a building permit.~~
 2. ***The pPlans*** may be revised or modified at the time of development provided the revised plan complies with the applicable development requirements of the R-1 zone.

7.2.103 Limited Density Residential – (R-2)

7.2.103.01 Purpose

The R-2 zone is intended to provide single family homes, middle housing, and multiple family development for detached and attached dwellings on a lot or multiple dwellings on ~~a~~ lots at an intermediate density. Other uses compatible with residential development are also appropriate. R-2 zones are located in areas designated Residential in the Comprehensive Plan.

7.2.103.02 Permitted Uses

The following uses, ~~when developed under the applicable development standards in the Code,~~ are permitted in the R-2 zone when developed under the applicable development standards in the Code:

- A. One detached single family dwelling on a separate lot or parcel. Single-family dwellings, attached and detached.
- B. Middle housing types, including single room occupancies. Buildings with two or more dwelling units.
- ~~C. Combination of permitted attached or detached dwellings on a lot.~~
- C. Multiple family development.
- D. Residential care homes and facilities.
- E. Child ~~day care~~ daycare service, including family ~~day care~~ daycare provider, for 12 or fewer children.
- F. The following uses, subject to the applicable standards in Section 7.2.4:
 - 1. Accessory structures and uses allowed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
 - 2. Accessory dwelling units - Section 7.2.402.
 - 3. Attached dwelling units - Section 7.2.403.
 - 4. Manufactured homes on individual lots - Section 7.2.404.
 - 5. Manufactured home parks according to Section 7.2.405 with Site Development Review.
 - 6. Home occupations - Section 7.2.406.
 - 7. Short-term rentals - Section 7.2.417.

7.2.103.03 Special Permitted Uses

~~The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the R-2 zone:~~

- ~~A. Partitions, subject to the provisions in Section 7.2.307.~~
- ~~B. Subdivision, subject to the provisions in Section 7.2.307.~~

~~C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~

~~D. The following uses, subject to the applicable standards in Section 7.2.4:~~

~~1. Accessory dwelling unit (Section 7.2.402).~~

~~2. Attached dwelling units (Section 7.2.403).~~

~~3. Manufactured homes on individual lots (Section 7.2.404).~~

~~4. Manufactured home parks (Section 7.2.405).~~

~~5. Home occupations (Section 7.2.406).~~

~~6. Owner occupied short-term rentals (Section 7.2.417).~~

7.2.103.04 Conditional Uses

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Public or private elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day-care services for 13 or more children.
- D. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 7.2.407.
- E. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provision for ~~multi-family~~**multiple family** residential development.
- F. ~~Small wind energy systems including compliance with Section 7.2.413.~~**Small wind energy systems, subject to the provisions in Section 7.2.413.**

7.2.103.05 Dimensional Standards

- A. Minimum Lot Dimension and Height Requirements.

DIMENSION	Detached s Single f Family <i>middle housing, multiple family and manufactured home parks</i> <i>Duplex</i>	<i>Attached Single Family (Townhomes)</i>	<i>Multi-Family</i> Non-Residential
Lot Size	6000 sq. ft. (1)	<i>3500 sq. ft.</i>	9000 sq. ft. (2)

	7000-sq. ft.		(3)
Lot Width	50 feet	25 feet	50 feet
Lot Depth	80 feet	80 feet	80 feet
Maximum Height	35 feet		

~~1. Attached single family dwellings shall have a minimum lot area of 3500 square feet.~~

~~12. Multi-family~~Multiple family development and manufactured home parks must comply with the density standard in Section 7.2.103.06.

~~3. Parcel size shall be adequate to contain all structures within the required yard setbacks.~~

B. Minimum Yard Setback Requirements

SETBACKS	Single Family, and middle housing.	Multi-Family <u>Multiple family</u>	Non-Residential
Front	15 feet	15 feet	20 feet
Side	5 feet (1)	(3) <u>10 feet</u>	10 feet
Rear	15 feet <u>(2)</u>	15 feet <u>(3)</u>	20 feet
Street-side	15 feet	15 feet	20 feet
Garage (4)	20 feet	20 feet	20 feet <u>N/A</u>

1. Zero side yard dwelling units are subject to the setback provisions in Section 7.2.404.

~~2. The rear yard setback shall be as follows: 15 feet for a 1-story home; 20 feet for 2 or more stories.~~

~~3. The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.~~

~~24.~~ The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

35. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

7.2.103.06 Development Standards

All development in the R-2 Zone shall comply with the ~~applicable provisions of this Code. The following references additional~~ development requirements:

- A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.
- C. Site Development Review: Manufactured home parks, ~~multi-family~~**multiple family** residential development and non-residential uses shall require a Site Development Review, pursuant to Section 7.3.1.
- D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be ~~as follows:~~**70% of the site.**

~~Maximum building coverage (primary building): 40%~~

~~Maximum parking area coverage (including garage): 35%~~

~~Combined maximum lot and parking area coverage: 70%~~

- E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306. Multiple family developments shall comply with provisions in Section 7.2.306.06.
- F. Density: The following density provisions shall apply:
 - 1. ~~Land Sub~~ divisions: ~~The minimum density~~ shall be ~~required to provide a minimum of 5 units lots~~ per ~~net~~ acre ~~and a the~~ maximum density ~~shall be of 7 lots units~~ per ~~net~~ acre.
 - 2. Manufactured home parks ~~and multiple family development~~: The minimum density shall be 6 units per ~~net~~ acre ~~and~~; the maximum density shall be 1~~20~~ units per ~~net~~ acre.
 - 3. ~~Multi-family development: The minimum density shall be 8 units per acre; the maximum density shall be 12 units per acre.~~
- G. Redevelopment Plan: A redevelopment plan shall be required to place a ~~single family~~**single-family** home, ~~duplex or single room occupancy~~ on a parcel containing more than 1 acre. This plan shall be approved by the City prior to the issuance of a building permit. The following shall apply:
 - 1. The redevelopment plan shall indicate how the remaining undeveloped portion of the property can be developed at a density consistent with the requirements of the R-2 zone.
 - 2. The plan may be revised or modified at the time of development provided the revised plan complies with the density requirement of the R-2 zone.

7.2.104 Medium Density Residential – (R-3)

7.2.104.01 Purpose

The R-3 zone is intended for multiple-family development ~~on a parcel~~ at higher residential densities. Other uses compatible with residential development are also appropriate. ~~RM-R-3~~ zoned property is suited to locations near commercial areas and along ~~collector, and preferably,~~ arterial streets. The appropriate Comprehensive Plan designation is Residential.

7.2.104.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the R-3 zone:

- A. Multiple family development and Rresidential buildings containing two or more dwelling units.
- B. Attached single family dwellings.
- C. Single room occupancies.
- D. Residential care homes and facilities
- E. Child daycare service, including family daycare provider, for 12 or fewer children.
- F. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- G. Manufactured home parks - Section 7.2.405.
- H. Home occupations - Section 7.2.406.
- I. Owner-occupied short-term rentals - Section 7.2.417.

7.2.104.03 ~~Special Permitted Uses~~ Reserved

7.2.104.04 Conditional Uses

The following uses require a Conditional Use Permit and are subject to a Site Development Review:

- A. Public or private schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis, and similar recreational facilities, and other public and semi-public uses.
- C. Child ~~day care~~ daycare service for 13 or more children.
- D. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses ~~set forth in~~ outlined in Section 7.2.407.
- E. Assisted living centers, nursing homes, and similar institutions. These facilities are subject to the development provisions for ~~multi-family~~ multiple family residential development.
- F. ~~Small wind energy systems, subject to the provisions in Section 7.2.413. Small wind energy systems including compliance with Section 7.2.413.~~

7.2.104.05 Dimensional Standards

- A. Minimum Lot Dimensions and Height Requirements

DIMENSION	Residential	Non-Residential
Lot Size	6,000 square feet (1) (2)	Adequate to comply with all applicable development standards
Maximum Height	35 feet	

1. ~~Multi-family~~**Multiple family** development must comply with the density standard in Section 7.2.104.06.

2. Manufactured home parks must comply with the density requirements in Section 7.2.104.06 and the minimum area requirements in Section 7.2.403.

B. Minimum Yard Setback Requirements

SETBACKS	Residential	Non-Residential (1)
Front and street side	(1) 15 feet where the front of the dwelling units face the street; otherwise 20 feet	20 feet
Side	(2) 10 feet	10 feet
Rear	(2) 15 feet	20 feet
Street Side	20 feet	20 feet
Garage (3)	20 feet	20 feet N/A

1. Non-residential setbacks may be increased with a Conditional Use Permit.

1. 15 feet where the front of the dwelling units face the street; otherwise 20 feet.

2. The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.

3. The garage setback shall be measured from the **nearest street side** property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

4. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

7.2.104.06 Development Standards

All development in the R-3 Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

A. Off street Parking: Parking shall be as specified in Section 7.2.303.

B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.

C. Site Development Review: All uses shall require a Site Development Review, pursuant to Section 7.3.1.

D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be **75% of the site area. as follows:**

Maximum building coverage (primary building):	45%
Maximum parking area coverage (including garage):	35%
Combined maximum lot and parking area coverage:	75%

E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306. Multiple family developments shall comply with provisions in Section 7.2.306.06.

F. Density: The following density provisions shall apply:

1. Manufactured home park: The minimum density shall be 6 units per acre~~;~~ the maximum density shall be 10 units per acre.
2. ~~Multi-family~~**Multiple family** development: The minimum density shall be 12 units per acre; the maximum density shall be 20 units per acre.

7.2.105 Commercial Residential (CR)

7.2.105.01 Purpose

To provide areas for the development of a mixture of single family, ~~multi-family~~*multiple family*, and manufactured homes, and limited retail and service commercial uses.

7.2.105.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the CR zone:

- A. The following residential uses are permitted in the CR zone:
1. ~~Detached S~~*single family dwellings, detached*
 2. ~~Middle housing types Duplexes.~~
 3. ~~Multi-family~~*Multiple family dwellings development.*
 4. ~~Residential units over ground floor commercial.~~
 5. ~~The following uses, subject to the applicable standards in Section 7.2.4:~~
 - a. ~~Accessory structures and uses allowed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~
 - b. ~~Accessory dwelling unit (Section 7.2.402).~~
 - c. ~~Attached dwelling units (Section 7.2.403).~~
 - d. ~~Manufactured homes on individual lots (Section 7.2.404).~~
 - e. ~~Home occupations (Section 7.2.406).~~
 - f. ~~Owner occupied short-term rentals (Section 7.2.417).~~
 - g. ~~Short-term rentals (Section 7.2.417).~~
 - h. ~~Small wind energy systems, subject to the provisions in Section 7.2.413.~~
 64. Residential care homes and facilities
 75. Child ~~day-care~~*daycare* service, including family ~~day-care~~*daycare* provider, for 12 or fewer children.
 86. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provisions for ~~multi-family~~*multiple family* residential development.
- B. The following commercial uses are permitted:

1. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; television and radio broadcast studios (excepting a broadcast antennae or dish), and, miscellaneous offices such as detective agencies, drafting services or contractors offices.
2. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
3. Banks and other financial institutions.
4. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, artist supplies, hobby or photography store, florist, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, clothing, jewelry, gift, and other types retail activities but excluding liquor stores.
5. Restaurants, bakeries, coffee and snack shops but excluding taverns, bars and similar establishments.
6. Retail and service-related stores such as TV and radio sales and service, bicycle shop, gunsmiths, upholstery shop s or other similar activities where a service department is customarily a secondary activity to the retail use.
7. **Service-related** businesses such as barber shops, beauty shops, tailors, advertising agencies, travel agencies, art or craft studios, self-serve laundry, dry cleaning (except bulk dry cleaning plants), parcel service, printing or photocopying, video rental, or other activities where the primary activity is the providing of a service to retail customers.
8. Accessory structures and uses customarily provided for retail activities.

7.2.105.03 Special Permitted Uses Reserved

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the CR zone:

A. — Partitions, subject to the provisions in Section 7.2.307.

B. — Subdivision, subject to the provisions in Section 7.2.307.

C. — Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.

D. — The following uses subject to the applicable standards in Section 7.2.4:

1. — Accessory dwelling units (Section 7.2.402).

2. — Attached dwelling units (Section 7.2.403).

3. — Manufactured homes on individual lots (Section 7.2.404).

~~4. Home occupations (Section 7.2.406).~~

~~5. Owner occupied short-term rentals (Section 7.2.417).~~

~~6. Short-term rentals (Section 7.2.417).~~

~~E. Small wind energy systems, subject to the provisions in Section 7.2.413.~~

~~F. Drive-through windows and walk-up windows as part of a permitted use, subject to the provisions in Section 7.2.414 and 7.2.415 respectively.~~

7.2.105.04 Conditional Uses

The following uses require a Conditional Use Permit:

- A. Public or private schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child ~~day care~~ daycare service for 13 or more children.
- D. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 7.2.407.
- E. Park and Ride Lot: Parking spaces cannot count as required parking or be used for vehicle storage.
- F. Commercial activities which do not comply with the provisions in Section 7.2.105.02.B.
- G. Wineries with retail sales.

7.2.105.05 Dimensional Standards

The following dimensional standards shall be the minimum requirements for all development in the CR District.

A. Minimum Lot Area and Density Standards

1. Single-family dwelling, detached	75,000 square feet
Single-family dwellings, attached	3,500 square feet
2. Other middle housing types and multiple family development Duplex	7,000 square feet
3. Multi-family Multiple family dwelling (Multi-family development must comply with the density standards in Section 7.2.105.06).	9,000 square feet
4. Commercial Use	3,500 5,000 square feet

5. Mixed commercial and residential:	7,000 square feet Shall comply with the minimum for multi-family development.
6. Public utility structures:	Lot area shall be adequate to contain all proposed structures within the required yard setbacks.

B. Minimum Yard Setback Requirements

1. Residential Uses	
a. Front Yard	15 feet
b. Garage setback	20 feet
c. Rear Yard	10 feet
d. Side Yard (interior)	5 feet
e. Side Yard (adjacent to street)	15 feet
2. Commercial Uses	
a. Front Yard	None
b. Rear Yard	
i. Abutting a non-residential district	None
ii. Abutting a residential district	10 feet
c. Side Yard	
i. Abutting a non-residential district	None
ii. Abutting a residential district	10 feet
3. Mixed commercial and residential	
a. Front Yard	5 feet
b. Rear Yard	
i. Abutting a non-residential district	5 feet
ii. Abutting a residential district	10 feet
c. Side Yard	
i. Abutting a non-residential district	5 feet

ii. Abutting a residential district	10 feet
4. Public	
a. Front Yard	15 feet
b. Garage setback	20 feet
c. Rear Yard	10 feet
d. Side Yard (interior)	5 feet
e. Side Yard (adjacent to street)	15 feet

	<i>Residential</i>	<i>Commercial</i>	<i>Mixed Residential/Commercial</i>	<i>Public</i>
<i>Front Yard</i>	<i>15 feet</i>	<i>None</i>	<i>5 feet</i>	<i>15 feet</i>
<i>Rear Yard</i>	<i>10 feet</i>			<i>15 feet</i>
<i>Abutting non-residential</i>		<i>none</i>	<i>5 feet</i>	
<i>Abutting a residential district</i>		<i>10 feet</i>	<i>10 feet</i>	
<i>Side Yard (interior)</i>	<i>5 feet</i>			<i>5 feet</i>
<i>Abutting non-residential</i>		<i>none</i>	<i>5 feet</i>	
<i>Abutting a residential district</i>		<i>10 feet</i>	<i>10 feet</i>	
<i>Street Side</i>	<i>15 feet</i>			<i>15 feet</i>
<i>Garage</i>				

1. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

C. Maximum Structure Height

1. Principal Structure	35 0 feet
2. Accessory Structure	20 feet

7.2.105.06 Development Standards

A. Use Restrictions. ***The following use restrictions shall apply:***

- ~~1.~~ No permitted, ***special permitted***, or conditionally permitted use shall in any way involve the slaughter, rendering, or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses, and similar products may be allowed as part of a permitted or conditionally permitted commercial business.

B. Commercial Uses. Commercial uses in the CR zone shall comply with the following additional conditions:

1. All business, service, processing, or merchandise displays shall be conducted wholly within an enclosed building, except for the following:
 - a. Off-street parking and loading.
 - b. Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation, or areas of a permitted drive-through window or walk-up window.
 - c. Outdoor seating for a permitted eating and drinking establishment, subject to screening and buffering provisions in Section 7.2.306.04. The greater of 12 seats or 75 percent of the indoor seating capacity of the establishment is allowed for outdoor seating.
2. The maximum lot size for any commercial use shall be one acre.
3. Any new commercial structure shall maintain a residential appearance. Metal buildings, pole barns, and similar structures are prohibited within the CR zone.
4. Commercial uses shall not engage in the manufacturing, processing, assembly, or compounding of products other than those **clearly** incidental to the business conducted on the premises.
- ~~5. The commercial use shall have a maximum floor area of 2,500 square feet per lot.~~
6. Any outside storage space maintained in the CR Zone shall be enclosed by a **6-foot** sight-obscuring fence or a hedge row not less than 3 feet high and capable of attaining a height of 6 feet.

C. Mixed Commercial and Residential Uses. Development of mixed commercial and residential uses shall be subject to the provisions in item B., above.

D. Unless otherwise exempted, all development in the CR Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

1. Off-street parking. Parking shall be as specified in Section 7.2.303.
2. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.
3. Subdivisions and Partitions. Land divisions shall be reviewed in accordance with the provisions of Section 7.2.307.
4. Site Development Review: ~~Multi-family~~**Multiple family** and/or commercial uses within the CR Zone shall be subject to the Site Development Review

requirements and procedures in Section 7.3.1. In addition, any conversion of an existing residence ~~which that~~ includes a commercial use shall require a site development review.

5. Lot Coverage: The maximum coverage allowed for buildings, accessory structures, and paved parking shall be as follows:

a. Residential	75%
b. Commercial <i>and Mixed Residential and Commercial</i>	85%
c. <i>Mixed Residential and Commercial</i>	80%

6. Landscaping: All ~~areas not covered by buildings, accessory structures, and paved parking required yards~~ shall be landscaped. Landscaped areas shall be landscaped as provided in Section 7.2.306.

Multiple family developments shall comply with provisions in Section 7.2.306.06.

7.2.310 Single-Family *and Middle Housing* Dwelling Design Standards

All new single-family, *two-family, and single-room occupancy* dwellings, including manufactured homes located on individual lots, shall contain at least three (3) of the following design elements on the side of the house which fronts the street, to provide architectural relief:

- A. Dormer(s) or gable(s).
- B. Cupola(s).
- C. Bay or bow window(s).
- D. Exterior shutters.
- E. Recessed entry or entries.
- F. Front porch at least 100 square feet in area.
- G. Covered porch entry or entries.
- H. Pillars or posts in the front entry or entries.
- I. Eave(s) (minimum 6").
- J. Off-set(s) on building face or roof (minimum 16")

7.2.404 Manufactured Homes On Individual Lots

Individual manufactured homes shall be permitted in any zone where single-family dwellings are permitted. The manufactured home shall comply with the following standards:

Where permitted as a special use, manufactured homes located on individual lots outside of a mobile home park shall meet the following requirements:

- A.** *The manufactured home shall meet all provisions of the Dayton Land Use and Development Code as applicable to other dwellings in the same zone, including but not limited to development standards, architectural requirements, and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subject.* ~~Construction Date. The manufactured home shall have been manufactured after June 15, 1976, and exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards.~~
- ~~**B.** *Minimum Area. The manufactured home shall be multi-sectional with a minimum area of 1,000 square feet.*~~
- ~~**6B.** *The manufactured home shall be installed according to the Oregon Manufactured Dwelling Installation Specialty Code.*~~ **Foundation.** *The manufactured home shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with either concrete, concrete block, brick, stone, pressure-treated wood, or combination thereof. No more than 24 inches of the enclosing material may be exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, or within an identified flood hazard zone, the 24-inch limitation shall not apply.*
- ~~**D.** *Roof. The manufactured home roof shall have a nominal pitch of 3 feet for each 12 feet in width.*~~
- ~~**E.** *Exterior Material. The manufactured home shall have an exterior that is residential in appearance.*~~
- ~~**F.** *Garage. The manufactured home shall have a garage with exterior material that is residential in appearance, or, a carport with a concrete parking surface. The garage or carport shall be placed on the property prior to occupancy of the manufactured home.*~~
- 6C.** **Energy Efficiency.** *The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code.*
- ~~**H.** *Lot Development Standards. The manufactured home shall meet all applicable development standards, such as setbacks and height limitations, in the Development Code.*~~
- 1D.** **Transportation Equipment.** *The tongue, axles, wheels, and traveling lights shall be removed from the manufactured home.*

JE. A Conditional Use permit shall be required to place a manufactured home on a residentially zoned individual lot or parcel immediately adjacent to a significant historical resource as identified in the Dayton Comprehensive Plan. The application shall be subject to the criteria contained in DMC 7.3.107 as well as the following factors:

1. Location. The dwelling shall be situated to maintain the greatest possible distance from the immediately adjacent historical site or structure while maintaining compliance with the setback requirements.
2. Orientation. If the primary entrance of the immediately adjacent historical building faces a public street, the primary entrance to the manufactured home shall also face the same public street. This provision does not apply if either lot or parcel is a "corner lot" as defined by this Code.
3. Screening. Screening and buffering shall be required. Screening may include fencing, berms, vegetation, or any combination thereof. The screening shall be designed to maintain the visual integrity of the immediately adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.
4. Intent. It is not the intent of this section to grant a conditional use permit in all circumstances, even if factors 1 to 3 above are successfully met. The Conditional Use shall be granted only under those circumstances **which** **that** are unique to the subject property and will not impair or adversely impact the integrity of the immediately adjacent historical site. The burden of proof shall be placed by the applicant to ensure these concerns are adequately addressed.
5. The following a-e clarify the term "immediately adjacent:"
 - a. Immediately adjacent does not include a property separated from the Designated Landmark property by a public right-of-way, including but not limited to an alley or a street.
 - b. Immediately adjacent does not include a property whose only immediate adjacency is a property corner touching a property corner of the Designated Landmark property.
 - c. Except as set forth in DMC 7.2.404.J, 5(e) below, immediately adjacent does not include a property whose side or rear property line, or portion thereof, touches a designated Landmark property, but whose frontage is on a different street from the Designated Landmark property.
 - d. Immediately adjacent does not include a property whose frontage is on the same street as a Designated Landmark property and whose side or rear property line, or a portion thereof, touches a Designated Landmark property, but is separated from the Designated Landmark property by another property.
 - e. Immediately adjacent includes a corner property whose side or rear property line, or a portion thereof, touches a Designated Landmark

property that is also a corner property, and a manufactured home is not allowed on the immediately adjacent corner property regardless of which frontage the manufactured home faces.

7.3.101 Summary Of Application Types And Review Procedures

[7.3.101.01 Type I Action](#)

[7.3.101.02 Type II Actions](#)

[7.3.101.03 Type III Actions](#)

[7.3.101.04 Type IV Actions](#)

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures. See Land Use Application process, Table 1.

LAND USE APPLICATION PROCESS

LAND USE ACTION	TYPE	STAFF	PLANNING COMMISSION	CITY COUNCIL
Minor Variance	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Lot Line Adjustment	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Partition (inc. Expedited Review)	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Historic Exterior Alteration or New Construction (unless determined to required a Type II procedure by the City Manager) <i>Added ORD 600 11-4-10</i>	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Site <i>Development Plan</i> Review	II	<i>Final Decision Recommendation to Commission</i>	<i>Appeal of Staff Decision Final Decision</i>	Appeal of Commission Decision
Conditional Use (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Major Variance (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision

Subdivision (inc. Expedited Review)	I†	<i>Final Decision Recommendation to Commission</i>	<i>Appeal of Staff Decision Final Decision</i>	Appeal of Commission Decision
Historic Demolition and Moving <i>Added ORD 600 11-4-10</i>	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Historic Exterior Alteration or New Construction (if referred by the City Manager) <i>Added ORD 600 11-4-10</i>	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Comprehensive Plan Map Amendment	III	Recommendation to Commission	Recommendation to Council	Final Decision
Zone Change	III	Recommendation to Commission	Recommendation to Council	Final Decision
Annexation	III	Recommendation to Commission	Recommendation to Council	Final Decision
Historic Landmark and District Designation <i>Added ORD 600 11-4-10</i>	III	Recommendation to Commission	Recommendation to Council	Final Decision
Text Amendments Legislative Zone and Plan Map Changes	IV	Recommendation to Commission	Recommendation to Council	Final Decision

7.3.101.01 Type I Action

Type I actions are administrative reviews processed by the City staff. The review standards are generally clear and objective and allow little or no discretion. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

1. Minor Variance
2. Property Line Adjustment

3. Partitions

4. Subdivisions

3-5. *Site Development Review*

4-6. Historic Exterior Alteration or New Construction (unless determined to require a Type II procedure by the City Manager).

7.3.101.02 Type II Actions

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Staff has an advisory role. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

1. *Site Plan Review*

2-1. Conditional Use, including Flood Plain

3-2. Major Variance, including Flood Plain

4-3. ***Subdivision***, Planned Unit Development ***and a Partition including a Private Street***

5-4. Historic Demolition and Moving

6-5. Historic Exterior Alteration or New Construction (if referred to the Planning Commission by the City Manager))

7.3.101.03 Type III Actions

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. Staff and the Planning Commission have advisory roles. Public notice is provided and public hearings are held before the Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

1. Comprehensive Plan Map Amendments (involving 5 or fewer adjacent land ownerships or less than 10 acres)
2. Zone Changes (involving 5 or fewer adjacent land ownerships or less than 10 acres)
3. Annexation

7.3.101.04 Type IV Actions

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot apply for a Type IV action; it must be initiated by City staff, the Planning Commission, or City Council. Public notice and hearings are provided in a Type IV process. The following actions are processed under a Type IV procedure:

1. Text Amendments to the Comprehensive Plan and Development Code
2. Enactment of new Comprehensive Plan or Development Code text

3. Comprehensive Plan Map Amendments (involving more than 5 separate land ownerships or more than 10 acres)
4. Zone Changes (involving more than 5 separate land ownerships or more than 10 acres)

7.3.103 Minor Variances

7.3.103.05 Criteria And Procedure

Staff may grant a minor variance in accordance with the Type I review procedures. Approval of a minor variance shall require compliance with the following:

1. The intent and purpose behind the specific provision being varied is either clearly inapplicable under the circumstances or the particular proposed development otherwise clearly satisfies the intent and purpose of the provision being varied.
2. The proposed development will not unreasonably impact adjacent existing or planned uses and development.
3. The minor variance does not expand or reduce a quantifiable standard by more than 10 percent and is the minimum necessary to achieve the purpose of the minor variance.
4. There has not been a previous land use action prohibiting an application for a minor variance; *or*
5. ***The application meets all qualifications, criteria, and standards for a mandatory adjustment to housing development standards made a part of ORS 197A by Section 38 of SB 1537 (2024).***

7.3.106 Site Development Review

7.3.106.01 Purpose

The Site Development Review Process is intended to ~~guide~~**ensure** future growth and development in accordance with the Development Codes; provide an efficient process and framework to review development proposals; ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and resolve potential conflicts that may arise between proposed developments and adjacent uses.

The site development review provisions are not intended to preclude uses that are permitted in the underlying zones.

7.3.106.02 Applicability Of Provisions

- A. Applicability. Site Development Review shall be applicable to all new developments and major remodeling, except:
 - 1. Single-family detached dwellings and Accessory Dwelling Units (ADUs);
 - 2. ~~Middle housing types on lots zoned for single family homes~~**A duplex; or**
 - 3. Any commercial, industrial or public facility expansion or remodel that does not exceed 25 percent of the total square footage of the structure existing at the time of the adoption of this Code and/or does not expand the activity/business area on the subject property beyond 25 percent (i.e. outdoor uses);~~;~~
 - 4. Wireless Communication Facilities for properties within a Public (P) zone district.
- B. When the discontinuation or abandonment of a previously approved use requires new site development review. If use of a property subject to a previous site development review approval is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than two years, it shall be deemed abandoned and shall no longer be an approved use. For purposes of calculating the two-year period, a use is considered discontinued when:
 - 1. The use of land is physically vacated;
 - 2. The use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;
 - 3. Any lease or contract under which the development has occupied the land is terminated;
 - 4. A request for final reading of water and power meters is made to the applicable utility districts;
 - 5. The owner's utility bill or property tax bill account became delinquent; or
 - 6. An event occurs similar to those listed in subsections 1-5, above, as determined by the City Manager.

- C. Underlying Zone. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

7.3.106.03 Review And Approval Process

Site Development Review applications shall be reviewed ~~under in accordance with~~ the Type II review procedures specified in Section 7.3.20~~21~~.

7.3.106.04 Application And Fee

An application for Site Development Review shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.106.05 Submittal Requirements

The following information shall be submitted as part of a complete application for Site Development Review:

- A. Proposed grading and topographical changes;
- B. All existing and proposed structures, roadway access, adjacent roads, bikeways, pedestrian facilities, public or private, easements or right-of-way to, or within 200 feet of the subject property and utilities including ~~finished architectural and~~ floor elevations and setbacks;
- C. Motor vehicle, bicycle and pedestrian circulation patterns, parking, loading and service areas;
- D. Proposed access to public roads, bikeways, pedestrian facilities, railroads or other transportation systems
- E. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
- F. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- G. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks; and,
- H. ~~A written narrative report documenting compliance with the applicable approval criteria contained in Section 7.3.106.06. The expected development schedule.~~
- I. The location of any flood boundary.
- J. ~~Other information determined by the City Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal's conformance with this Code.~~

7.3.106.06 ~~Evaluation Of~~ Site Development Plan Approval Criteria

An application for Site Development Review shall be approved if the proposal meets all of the following criteria. The City Planning Official, in approving the application, may impose reasonable conditions of approval, consistent with the applicable criteria.~~The review of a Site Development Plan shall be based upon consideration of the following:~~

- A. The application is complete, in accordance with Section 7.3.106.05, above;
- B. The application complies with all of the applicable provisions of the underlying zone, including, but not limited to, building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards;
- C. The application complies ~~Conformance~~ with the applicable General Development Provisions of Section 7.2.2 and the General Development Standards in Section 7.2.3.
- ~~DB. Adequacy of public and private facilities:~~The application complies with any applicable supplemental standards for special uses in Section 7.2.4
- ~~C. E.~~ E. For non-residential uses, all adverse impacts to adjacent properties, such as light, glare, noise, odor, vibration, smoke, dust, or visual impact, are avoided; or where impacts cannot be avoided, they are minimized; and~~Traffic safety, internal circulation and parking;~~
- ~~D. F.~~ The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.~~Provision for adequate noise and/or visual buffering from non-compatible uses.~~
- ~~E. Conformance with development requirements of the underlying zone.~~

7.3.202.01 Procedures For Type I Review

- A. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
 - 1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of issuing a staff report and related timing provisions either:
 - 1. Upon receipt of the additional information to complete the application; or
 - 2. If the applicant refuses to submit the information the application shall be deemed complete for review purposes on the 31st day after the original submittal.
- C. Referrals may be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies at the Manager's option. When a land use development has either direct access or creates an additional 20% average daily traffic on a county road or state highway, then a referral shall be sent to the Yamhill County Public Works Department or ODOT, as appropriate. (*Amended ORD 608 effective 10/06/11*)
- D. **Written notice of the application shall be posted to the City website and mailed to the applicant and owners of property, within 200 feet of the boundaries of the subject property. The content of the written notice shall include the following:**~~**Within thirty (30) days of receipt of a complete application, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.**~~
 - 1. Provide a 14-day period for submission of written comments prior to the decision;**
 - 2. State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;**
 - 3. List, by commonly used citation, the applicable criteria for the decision;**
 - 4. Set forth the street address or other easily understood geographical reference to the subject property;**
 - 5. State the place, date and time that comments are due;**
 - 6. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;**

- 7. Include the name and phone number of a local government contact person.**
- E. Approvals of a Type I action may be granted subject to conditions and performance agreement requirements.
- F. **Notice of the decision shall comply with the provisions in Section 7.3.204. Notice of the decision shall be posted to the City website for 15 days following the date of the final decision and provided to the applicant and any person who submits comments under subsection (B)(1) of this paragraph. The notice of decision must include an explanation of appeal rights and briefly summarize the local decision making process for the limited land use decision being made.**
- G. **The City may provide for a hearing on appeal of a limited land use decision under this section.**
1. **A Type I land use decision may be appealed to the Planning Commission, by either the applicant, ~~or~~ persons receiving notice of the decision or by a member of City Council or Planning Commission.**
 2. **The appeal shall be filed within 15 days from the date of the final decision pursuant to the provisions of Section 7.3.207.**
 3. **The hearing may be limited to the record developed pursuant to the initial decision under this section or may allow for the introduction of additional testimony or evidence.**
 4. **A hearing on appeal that allows the introduction of additional testimony or evidence shall comply with the requirements of ORS 197.797 (Local quasi-judicial land use hearings).**
 5. **Written notice of the decision rendered on appeal shall be given to all parties who appeared, either orally or in writing, before the hearing. The notice of decision shall include an explanation of the rights of each party to appeal the decision.**

7.3.204.01 Type I Action

Consistent with State statutes, written notice of a Type I decision shall be mailed to the applicant and all property owners, including county and state agencies responsible for road and highways, within ~~100-200~~ feet of the subject property. Written notice for a Type I Action shall include the following: (Amended by Ordinance 589 – Effective 4/2/09)

1. Summary of the request.
2. Relevant decision criteria.
3. Findings of fact indicating how the request does or does not comply with the decision criteria.
4. Conclusionary statement indicating approval or denial of the request including (where appropriate) conditions of approval.

5. Information regarding the appeal process including who may appeal, where appeal must be submitted, fees and the appeal deadline.



Legislative Amendment Proposal, City Case File LA 2024-02

NOTICE of PUBLIC HEARINGS before the PLANNING COMMISSION and the CITY COUNCIL

to consider proposed changes to the Dayton Land Use and Development Code

The City of Dayton will hold public hearings on **Thursday November 14, 2024**, at 6:30 p.m. (before the Planning Commission) and on **Monday, December 2, 2024**, at 6:30 p.m. (before City Council) regarding the adoption of proposed updates to the Dayton Municipal Code under city case file LA 2024-02 that apply citywide.

The recommendation by the Planning Commission and decision by the City Council shall be based on consideration of the approval criteria under Dayton Municipal Code 7.3.112.03.

Proposed code changes are available for inspection at Dayton City Hall located at 416 Ferry Street, Dayton, OR 97114 at no cost, and available for purchase at a reasonable cost. More information about LA 2024-01 is available by contacting Rocio Vargas, City Recorder, at 503-864-2221 / rvargas@daytonoregon.gov

PLANNING COMMISSION PUBLIC HEARING

The Planning Commission conducts the first public hearing to consider making a recommendation to the City Council to adopt the proposed amendments.

PLANNING COMMISSION PUBLIC HEARING:	Thursday, November 14, 2024
TIME:	6:30 p.m.
PLACE:	Dayton City Hall Annex 408 Ferry Street Dayton, OR 97114

CITY COUNCIL PUBLIC HEARING

If the Planning Commission makes a recommendation on the date above, the City Council conducts a second public hearing to consider adopting the proposed amendments, based upon the Planning Commission recommendations and in receipt of public testimony.

CITY COUNCIL PUBLIC HEARING:	Monday, December 2, 2024
TIME:	6:30 p.m.
PLACE:	Dayton City Hall Annex 408 Ferry Street Dayton, OR 97114