

CHAPTER 2 – OFFENSES

- 2.1 **Enacting Ordinance.** Unless otherwise indicated in code sections, Chapter 2 of the 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 11/02/09; and Ordinance #528, adopted and effective 03/05/01.
- 2.2 **Motor Vehicle Offenses.**
- 2.2.1 **Statutory Traffic Offenses.** Oregon Revised Statutes Chapters 801 through 822 (the Oregon Vehicle Code), Chapter 153 and Chapter 823, as they currently exist and as they may be subsequently amended, are incorporated by reference within the Dayton Code, as though they were set forth fully.
- 2.2.2 **Penalty for Violation.** Any violation defined by the statute chapters listed Dayton Code Section 2.2.1 shall be an identical violation of Dayton Code.
- 2.2.3 **Impoundment of Vehicle.** A police officer who reasonably believes that a person is driving an uninsured vehicle in violation of ORS 806.010, is driving without a valid driver's license in violation of ORS 807.010(1), or is driving while their driver's license is suspended in violation of ORS 811.175 and 811.182, as these are incorporated within Dayton Code, and who issues a citation to the driver for that offense or any traffic crime, may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the municipal court judge orders that the vehicle be released. The police officer shall give notice that the vehicle has been impounded to the same parties, in the same manner and within the same time limits as provided in ORS 819.180, as it has been incorporated into Dayton Code, for notice after removal of a vehicle.
- 2.2.4 **Conditions for Release.** A vehicle impounded under Dayton Code Section 2.2.3 shall be released to a person entitled to lawful possession upon proof of compliance with financial responsibility requirements for the vehicle, payment to the City Recorder of the associated administrative fee and payment of any towing and storage charges. (Revised ORD 615 – Effective 11/06/13)
- 2.2.5 **Trial for Uninsured Vehicle.** The impounding police officer shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, as it is incorporated within Dayton Code. If the judge finds that the impoundment of the vehicle was proper, the judge shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. If the judge finds that impoundment of the vehicle was improper, the judge shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession of the vehicle is not liable for any towing or storage costs resulting from the impoundment; and if there is a lien on the vehicle for towing and storage charges, the judge shall order it paid by the city.
- 2.2.6 **Avoiding Traffic Control Device.** No person shall drive a vehicle off a public right of way, across private property and back onto a public right of way, with the intention of avoiding a traffic control device on the public right of way. Any violation of this provision of the Dayton Municipal Code is a Class B violation.
- 2.2.7 **Vehicles Injuring Animals.** Any person operating a vehicle within the City who shall run over, strike, injure, maim or kill any domestic animal shall make due and diligent inquiry to determine

the owner of such animal and notify them of the occurrence. Any violation of this provision of the Dayton Municipal Code is punishable as stated under the applicable Oregon Revised Statutes.

2.3 **Prohibited Parking.**

2.3.1 **Courthouse Square Park.** No person or entity shall allow a vehicle registered in his or her name to be parked along the west side of 3rd Street, between Main and Ferry Streets; along the north side of Ferry Street, between 3rd and 4th Streets; along the east side of 4th Street, between Main and Ferry Streets; and along the south side of Main Street, between 3rd and 4th Street, for more than two (2) hours. In addition, no person or entity shall allow a vehicle registered in his or her name to be parked in the two northern most parking spaces along the west side of 3rd Street, between Main and Ferry Streets, for more than half an hour.

2.3.2 **Truck Parking Restrictions.** No person or entity shall allow a diesel truck or tractor, registered in his or her name to be parked with any motor running in a residential zone between the hours of 10:00 pm and 7:00 am. No person or entity shall allow a refrigerated truck or trailer, registered in his or her name to be parked with the refrigeration unit operating in a residential zone, between the hours of 10:00 pm and 7:00 am.

2.3.3 **Areas Conditionally Prohibited to Parking.** It is unlawful to park or stop a vehicle in any of the following places:

- (a) In any restricted parking zone, except for such persons, purposes, or classes of vehicles, or during such hours as may be designated by appropriate parking control devices restricting the use of such zone;
- (b) In any alleyway, except for the purpose of loading or unloading passengers or cargo, and then only for a period of time not in excess of thirty (30) minutes;
- (c) In any parking zone for the principal purpose of:
 - (1) Displaying the vehicle, combination of vehicles, boat or boat and trailer for sale;
 - (2) Displaying advertising from the vehicle, combination of vehicles, boat or boat and trailer;
 - (3) Repairing, constructing, reconstructing, or servicing the vehicle, combination of vehicles, boat or boat and trailer, except repairs necessitated by an emergency;
 - (4) Selling merchandise from the vehicle, combination of vehicles, boat or boat and trailer, except those businesses duly registered with the City of Dayton.
- (d) In such a manner that it damages or causes to be damaged any public improvement within the City of Dayton including streets, alley, parking strips, rights-of-way or other public ways.
- (e) In such a manner that it restricts access to water meters, water valves, sewer manholes, and storm drains.
- (f) In such a manner that it obstructs any street, alley, parking strip, right-of-way or other public way for more than 15 minutes, except for vehicles loading or making deliveries.
- (g) If the vehicle or combinations of vehicles is or includes a motor truck, motor bus, semi-trailer, is in excess of 23 feet in overall length, or is in excess of 8 feet in overall width:

(1) In any public right-of-way in a residential district between the hours of 10:00 pm and 7:00 am of the following day;

(2) On any street which is 30 feet or less in overall width.

2.3.4 **Vehicles Not Designed for Self-Propulsion.** It shall be unlawful for any person to park on a public right-of-way a vehicle which is not designed for self-propulsion and which is not attached to a vehicle which is self-propelled or designed for self-propulsion for any period in excess of seventy-two (72) consecutive hours. Violation of this provision of the Dayton Municipal Code is a Class C violation.

2.3.5 **Damaging Parking Control Devices.** It shall be unlawful for any person to willfully destroy, damage, deface, alter, tamper with, or in any way impair the usefulness, temporarily or permanently, of any parking control device. Any violation of this provision of the Dayton Municipal Code is punishable as stated in the applicable Oregon Revised Statutes.

2.3.6 **Obstructing Enforcement.** It shall be unlawful for any person to:

(a) Cover, erase, or otherwise render indistinguishable any mark placed on the tires of a vehicle by any peace officer or enforcement official having enforcement responsibility for the Dayton Municipal Code. Any violation of this provision of the Dayton Municipal Code is a Class B violation.

(b) Knowingly and willfully give any false, untrue, or misleading information to such an officer who is acting in the discharge or apparent discharge of the officer's duty with the intent to hinder, delay, mislead, or impede such officer in the prosecution of the officer's official work or with the intent to obstruct justice. Any violation of this provision of the Dayton Municipal Code is punishable as stated in the applicable Oregon Revised Statutes.

(c) Discard, mutilate, or destroy any parking citation which charges a violation of this ordinance if such charge has not yet been finally resolved by payment of fine or final court action. Any violation of this provision of the Dayton Municipal Code is a Class B violation.

2.3.7 **Unauthorized Parking Control Devices.** It shall be unlawful for any person to place, erect, paint, inscribe or otherwise establish any parking control device on a public right-of-way which purports to restrict or control parking, except such parking control devices as are authorized by the City of Dayton or the laws of the State of Oregon. Any violation of this provision of the Dayton Municipal Code is a Class B violation.

2.3.8 **Parking Citation.** Any peace officer may serve a citation into municipal court for a Dayton Code Section 2.3 violation by conspicuously affixing a copy of the citation to the parked vehicle, or by personally serving the citation on the operator of the vehicle, and by filing the original and proof of service with the clerk of the municipal court. Parking citations need not be uniform citations but shall conform to the citation requirements of ORS 133.065, as it currently exists and as it may be subsequently amended.

2.3.9 **Responsibility for Violations.**

(a) The registered owner of a vehicle or boat parked in violation of Dayton Municipal Code shall be responsible for the offense, except where the use of the vehicles or boat was secured by the operator without the registered owner's consent.

(b) In a prosecution involving a vehicle or boat charged with a violation of this ordinance, proof that at the time of the alleged violation the vehicle or boat was registered with the

appropriate motor vehicle or marine licensing authority of any state as belonging to the defendant shall raise a disputable presumption that the defendant was the owner in fact.

2.3.10 **Bail.**

- (a) Any person charged with a violation of this section of the Dayton Municipal Code may, without personal appearance before the Municipal Judge or such other judge as the Council may designate from time to time, make a payment for the bail in the amount shown on the citation charging such offense. *(Revised ORD 615 – Effective 11/06/13)*
- (b) The Municipal Judge or such other judge as the Council may designate from time to time may, in the exercise of the judge’s discretion and where the judge deems cause to exist therefor in a particular case, remit all or any portion of the bail set forth in this section, or require any additional sum the judge deems necessary.

2.3.11 **Recorded Lien.** Upon the failure of a registered owner of a vehicle to either (1) plead guilty to the prohibited parking charge and pay the maximum fine prior to the court date, or (2) appear in court at the time indicated on the citation and pay any fine that might be imposed, the municipal judge may record a lien against the vehicle with the Department of Motor Vehicles to secure payment of the maximum fine.

2.4 **Storage of Vehicles or Other Personal Property on Streets or Public Property.** No person shall store or permit to be stored a vehicle or other personal property on a street, alley or other public property for a period in excess of seventy-two (72) consecutive hours without the permission of the City Council. Failure to move a vehicle or other personal property within a 72-hour period constitutes prima facie evidence of storage. As used in this section, “failure to move” is meant movement of the motor vehicle more than two hundred (200) linear feet from its last position. Non-vehicular property stored for any amount of time in a regulated parking area is a nuisance and may be summarily abated. In addition to the citation for a Code violation, the City may use the provisions of ORS 819.100 in following the procedure to remove a vehicle after due notice as provided in statute when a vehicle is in violation of this section. *(Amended ORD 528-Effective 03/05/01)*

2.4.1 **Exception.** *(Added ORD 635-Effective 08/01/16)* 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 7:00 am and 10:30 pm.
- (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 of 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.

2.5 **Curfew.** (Revised ORD 590 – Effective 3/2/09)

- 2.5.1 **Curfew Imposed.** No minor under 18 years of age shall be on a street, highway, park, alley or other public place between the hours specified unless:
- (a) The minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by law to have custody of the minor; or
 - (b) The minor is traveling to or from a place of employment, or is responding to an emergency, or is acting under direction of a parent or guardian; or
 - (c) The minor is emancipated under ORS 109.550 to 109.565.
- 2.5.2 **Curfew Hours.** The hours between 11:00 pm and 5:00 am are the hours of juvenile curfew.
- 2.5.3 **Daytime Curfew Imposed.** No minor between the age of seven (7) and eighteen (18) years and who has not completed the twelfth grade shall be in or upon any street, highway, park, alley or other public place during regular school hours, as required by ORS 339.010 to 339.065, unless:
- (a) The minor is accompanied by a parent, guardian, or other person 18 years of age or over who has been authorized by the parent or by law to have care of the minor;
 - (b) The minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during regular school hours and is authorized by the minor's parent, guardian, or other person having the legal care and custody of such minor;
 - (c) The minor is lawfully emancipated pursuant to ORS 419B.550 to 419B.558;
 - (d) The minor is authorized and approved to be away from the school as provided in ORS 339.065, but is not suspended or expelled;
 - (e) The minor is exempt from compulsory school attendance under ORS 339.030; or
 - (f) The minor is exercising First Amendment rights protected by the United States Constitution.
 - (g) These exemptions extend to those who are home schooled as that term is defined by Oregon Revised Statutes.
- 2.5.4 **Regular School Hours.** For the purpose of this section, regular school hours are the hours during which the child is scheduled to be in classes.
- (a) A child being home schooled shall comply with the regular hours and schedule established by the home school.
- 2.5.5 **Parental Responsibility.** No parent, guardian, or person having the care and custody of a minor who is under the age of 18 years and who is not otherwise exempted from the provisions of this section, shall allow such minor to be in or upon any street, highway, park, alley, or other public place between the hours specified in this ordinance, except as otherwise provided in this ordinance.
- 2.5.6 **Police Custody.** A police officer or any other law enforcement officer is hereby authorized and empowered to take charge of any person under the age of 18 years violating the provisions of section 2.5.1 of this ordinance as provided by ORS 419B.150.

2.5.7 **Police Custody – Daytime Curfew.** A police officer or any other law enforcement officer who has stopped and detained a minor is to immediately attempt to notify the parent or guardian of the minor, that the minor has been detained by an officer. Upon parental consent the officer may then release the minor to the principal or other designated official at the school at which the minor is enrolled or the officer may hold or make provision for the minor to be held until the parent or other persons in charge of the minor is able to pick up the minor being detained.

2.5.8 **Penalty for Violation.** A violation of any provision of section 2.5 of the Dayton Municipal Code is a Class B Violation.

2.6 Discharge of Weapons.

2.6.1 **Discharge Prohibited.** No person, other than a peace officer, may fire or discharge within the City any air gun, pellet gun, BB gun, bow and arrow, cross bow or any device defined as a weapon under Oregon Revised Statutes, except in defense of human life.

2.6.2 **Penalty of Violation.** A violation of any provision of section 2.6 of the Dayton Municipal Code is punishable as a Class A violation under the City’s Fee Schedule. *(Revised ORD 636-Effective 10/17/16)*

2.7 Fireworks.

2.7.1 **Oregon Fireworks Law.** Oregon Fireworks Law, ORS 480.110 to 480.165 and subsequent amendments, is incorporated into Dayton Code as though fully set forth.

2.7.2 **Penalty for Violation.** A violation of any provision of section 2.7 of the Dayton Municipal Code is a Class B violation.

2.8 Noise.

2.8.1 **Excessive Noise Prohibited.** No person shall cause excessive noise within the City.

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 or operation of any vehicle, engine, horn or other signaling device, mechanical device, sound-amplifying device, sound-producing instrument, or any other type of noise that produces any sound than can 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. *(Revised ORD 638 – Effective 02/02/17)*

(c) 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 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.

(d) 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 there from between the hours of 10:30 pm and 7:00 am.

(e) No person shall make, continue, assist in making, or allow: *(Added ORD 635-Effective 08/01/16)*

- (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 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; or
 - A) 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.

2.8.3 **Excessive Noise Defined (Industrial Zone).** Excessive noise in an Industrial Zone includes, but is not limited to, sounds discernable outdoors by the human ear more than 150 feet from the source of the sound.

2.8.4 **Excessive Noise Defined (Sound Amplification from a Vehicle).** A person commits the offense of causing unreasonable sound amplification from a vehicle if the person operates, or permits the operation of any sound amplification system which is plainly audible outside of a vehicle from 50 or more feet when the vehicle is on a public highway or on premises open to the public, unless that system is being operated to request assistance or warn of a hazardous situation.
(Added ORD 508 – Effective 11/02/98)

2.8.4.1 **Definition.** As used in Section 2.8.4, “plainly audible” means any sound for which the information content of that sound is unambiguously communicated to the listener including, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensive musical rhythms or vocal sounds.

2.8.4.2 **Exceptions.** Section 2.8.4 does not apply to:

- a) Emergency vehicles as defined in ORS 801.260;
- b) Vehicles operated by utilities defined under ORS 757.005, 758.505 or 759.005;
- c) Audio alarm systems installed in vehicles; or
- d) Federal communications Commission licensed two-way radio communication systems.

2.8.5 **Exception for Significant Outdoor Community Events.** (Added ORD 638 – Effective 02/02/17)
The City Manager may approve an exception to this section 2.8 of the Dayton Municipal Code for significant outdoor community events. A significant outdoor community event is any planned gathering occurring on public property that is open to the general public wherein there are 100 or more people present. Examples of significant outdoor community events may include, but are not limited to the following:

- a) Parades
- b) Wedding ceremonies.

- c) Church/ religious services.
- d) Concerts
- e) Festivals/Fairs
- f) Sponsored Races/Walks
- g) Car Shows.

2.8.5.1 **School Events.** School sporting events or other large school sponsored gatherings that happen on a regularly scheduled basis are approved exceptions to this section 2.8 of the Dayton Municipal Code and do not require additional approval by the City. *(Added ORD 638 – Effective 02/02/17)*

2.8.6 **Penalty for Violation.** A violation of any provision of Section 2.8 of the Dayton Municipal Code is a Class B violation.

2.8.7 **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, or this Code. In addition to the remedies provided by Section 5.13, the City shall have all remedies available to it by law. *(Added ORD 635-Effective 08/01/16)*

2.9 **Burning.**

2.9.1 **Wrongful Burning.** No person shall burn trash, brush or other items outdoors except on designated burn days as they are determined by the Oregon Department of Environmental Quality.

2.9.2 **Penalty for Violation.** A violation of any provision of Section 2.9 of the Dayton Municipal Code is a Class B violation.

2.10 **Public Parks.**

2.10.1 **Definition.** For the purposes of this subsection, the following terms shall have the following meaning: *(Added ORD 625 – Adopted 06/01/15)*

- (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), 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.** *(Revised ORD 625 – Adopted 06/01/15)*

- (a) Disorderly conduct, noisy disturbances or disregard for park rules and regulations shall result in removal from the Public Park by authorized city personnel.
- (b) No peddling, soliciting or commercial activities are permitted within a Public Park without prior approval of the City Council or their designee.
- (c) Possession or use of intoxicating beverages within Public Parks is expressly prohibited.
- (d) 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, BB 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 Parks except as otherwise permitted by City Council or their designee.
- (f) Smoking and tobacco use is prohibited on and around all Public Parks. This policy does not prohibit use of FDA-approved nicotine replacement therapy products such as nicotine patches, gum and lozenges which are intended to help quit tobacco use and minimize symptoms of nicotine additions. *(Added ORD 625 – Adopted 06/01/15)*

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 barbeque 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 protest 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: *(Revised ORD 625 – Adopted 06/01/15)*

- (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.

2.10.8 **Animals.** No person shall permit any animal, belongs to him or her, to be in a public park unless the person is in constant control of the animal's behavior. Pets or other animals allowed to run at large or to create a nuisance shall be removed and the owner cited.

2.10.8.1 **Removal of Feces.** The person in control of an animal in a public park is responsible to remove any feces within five minutes of the time they are dropped by the animal.

2.10.8.2 **Horses.** No person shall lead, ride or drive any horse or other animal within any public park except for historical or educational demonstration purposes as determined in advance by the City Council or their designee.

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

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

(a) Written notice shall be given to any person excluded from any City park. Such notice shall specify the dates and places of exclusion. It shall be signed by the issuing party. Warning consequences shall be prominently displayed on the notice.

(b) A person receiving such notice may appeal to the City Council to have the written notice rescinded or the period shortened. Notwithstanding any other provision of this Code, the appeal shall be filed within 5 days of receipt of the exclusion notice, unless extended by the City Council for good cause shown.

(c) At any time with the 30 days, a person receiving such notice may apply in writing to the City Administrator for a temporary waiver from the effects of the notice for good reason.

2.11 Public Indecency.

2.11.1 **Statutory Offense.** Oregon Revised Statutes Section 163.465(1) is incorporated by reference within Dayton Code as though it were fully set forth.

2.11.2 **Urination, Defecation.** No person while in, or in view of a public place shall urinate or defecate, unless he or she is urinating or defecating into a functioning toilet that is plumbed into the municipal sewer system or that is a temporary, portable public toilet facility to accommodate a large gathering.

2.11.3 **Penalty for Violation.** A violation of any provision of Dayton Municipal Code Section 2.11 is a Class B violation.

2.12 **Failure to Supervise a Child.** A person commits the offense of failing to supervise a child if the person is the parent, lawful guardian or other person lawfully charged with the care or custody of a child under 18 years of age and the child:

(a) Commits an act that brings the child within the jurisdiction of the juvenile court under ORS 419C.005;

(b) Violates the curfew ordinance of the City of Dayton;

(c) Fails to attend school as required under ORS 339.010; or

(d) Receives, retains, conceals or disposes of property of another knowing or having a good reason to know that the property was the subject of theft.

- (e) Knowingly or intentionally possesses a controlled substance, as defined in ORS 475.005, as amended, without a legal prescription.

2.12.1 **Application to Child-Caring Agency & Foster Parents.** Nothing in this section applies to a child-caring agency as defined in ORS 418.205 or to foster parents.

2.12.2 **Prosecution.** In a prosecution of a person for failing to supervise a child under Section 2.12 of this Code, it is an affirmative defense that the person:

- (a) Is the victim of the act that brings the child within the jurisdiction of the juvenile court;
- (b) Reported the act to the appropriate authorities; or
- (c) Took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise the child.

2.12.3 **Restitution.** In a prosecution of a person for failing to supervise a child under Section 2.13 of this Code, the Municipal Court may order the person to pay restitution under ORS 137.103 to 137.109 to a victim for pecuniary damages arising from the act of the child that brings the child within the jurisdiction of the juvenile court.

2.12.3.1 *(Removed ORD 615 – Effective 11/06/13)*

2.12.4 **Penalties.**

2.12.4.1 No Previous Conviction.

- (a) If a person pleads guilty or is found guilty of failing to supervise a child under this Section and if the person has not previously been convicted of failing to supervise a child, the court:
 - 1) Shall warn the person of the penalty for future convictions of failing to supervise a child and shall suspend imposition of the sentence;
 - 2) May or may not order the person to pay restitution under this section.

2.12.4.2 One Prior Conviction.

- (a) If a person pleads guilty or is found guilty of failing to supervise a child under this section and if the person has only one prior conviction for failing to supervise a child, the court, with the consent of the person, may suspend imposition of sentence and order the person to complete a parent effectiveness program approved by the court. Fees for such a program, if any, shall be borne by the person pleading or found guilty. Upon the person's completion of the parent effectiveness program to the satisfaction of the court, the court may discharge the person. If the person fails to complete the parent effectiveness program to the satisfaction of the court, the court may impose a sentence authorized by this Section.
- (b) There may be only one suspension of sentence under this section with respect to a person.

2.12.4.3 *(Removed ORD 615 – Effective 11/06/13)*

2.13 **Graffiti.**

2.13.1 **Definitions:**

- (a) **Graffiti.** Any unauthorized painting, writing, drawing, carving or inscription which can be seen from any public right-of-way, sidewalk, alley or park and which damages, defaces or destroys any real or personal property, including trees and other plants, through the use of paint, spray paint, delible or indelible marker, ink, knives or any similar method, regardless of the content of the message delivered or nature of the material used in the commission of the act.
- (b) **Graffiti Implement.** Graffiti implement means paint, ink, chalk, dye or other substance or any instrument or article designed or adapted for spraying, marking, etching, scratching or carving surfaces.

2.13.2 **Possession of Graffiti Implement.** No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement.

2.13.3 **Property Owner Responsibility.** It is every property owner's duty and responsibility to remove graffiti promptly from their property in a manner acceptable to the City. When graffiti is located upon private property, the City shall cause written notice to be posted on the property and served upon the owner of the property or person in charge of the property requiring removal of the graffiti. The notice shall include a statement of the action(s) necessary to bring the property into compliance with this section. Unless additional time is granted by the City Administrator due to a hardship in complying, the property owner or person in charge of the property shall have ten (10) calendar days after the date of the posting and service of the notice to remove the graffiti.

2.13.4 **Remedy.** If, after proper notification has been given and the specified time period has elapsed, the graffiti remains on the property, the City Administrator 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.

2.14 **Disorderly Conduct and Related Offenses.**

2.14.1 **Assault.** No person shall:

- (a) Intentionally, knowingly or recklessly cause physical injury to another.
- (b) With criminal negligence cause physical injury to another by means of a deadly weapon.

2.14.2 **Menacing.** No person shall by word or conduct intentionally attempt to place another person in fear of imminent serious physical injury.

2.14.3 **Recklessly Endangering Another Person.** No person shall recklessly engage in conduct which creates a substantial risk of serious physical injury to another person.

2.14.4 **Disorderly Conduct.**

- (a) No person shall, with intent to cause public inconvenience, annoyance or alarm, create a violent response, or by recklessly creating a risk thereof:
 - 1) Engage in fighting or in violent, tumultuous or threatening behavior.
 - 2) Make unreasonable noise.

- 3) Use abusive or obscene language or make an obscene gesture in a public place.
 - 4) Disturb any lawful assembly of persons without lawful authority.
 - 5) Obstruct vehicular or pedestrian traffic in or on a public way or public place.
 - 6) Congregate with other persons in a public place and refuse to comply with a lawful order of a peace officer to disperse.
 - 7) Initiate or circulate a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency.
 - 8) Create a hazardous or physically offensive condition by any act which he/she is not licensed or privileged to do.
- (b) No person shall knowingly permit any disorderly conduct on any premises owned or controlled by him/her.

2.14.4.1 **Disorderly Conduct at Fires.**

- a) It shall be unlawful for any person at or near a fire to obstruct or impede the fighting of the fire, interfere with fire department personnel or fire department apparatus, to behave in a disorderly manner, or refuse to observe promptly an order of a member of the fire department or peace officer.
- b) For purposes of this section, members of the fire department are endowed with the same powers of arrest as are conferred upon peace officers for violations of city ordinances.

2.15 **Drinking in Public Places.** It is unlawful for any person to drink alcoholic liquor upon any street, sidewalk, or other public right-of-way. It is unlawful for any person to have in his or her possession while upon any street, sidewalk, or other public right-of-way any bottle, can or other receptacle containing any alcoholic liquor which has been opened or seal broken or the contents of which have been partially removed. Violation of this provision of the Dayton Municipal Code is a Class B violation.

2.16 **Loitering.** No person shall loiter in or about a public place frequented by children, including swimming pools, school bus stops, playgrounds, and parks and public premises adjacent thereto for the purpose of annoying, bothering or molesting children.

2.17 **Harassment.** No person shall, with intent to harass, annoy or alarm another person:

- (a) Subject another to offensive physical contact.
- (b) Publicly insult another by abusive or obscene words or gestures in a manner likely to provoke a violent or disorderly response.
- (c) Communicate with a person, anonymously or otherwise, by telephone, mail or other form of written communication, in a manner likely to cause annoyance or alarm.
- (d) Engage in a course of conduct that alarms or seriously annoys another person and which serves no legitimate purpose.

2.18 **Abuse of Venerated Objects.** No person shall intentionally abuse a public monument or structure, a place of worship or burial, or the national, state or city flag. Any violation of this section of the Dayton Municipal Code is punishable as stated under the applicable Oregon Revised Statutes.

2.18.1 **Definition.** As used in this section “abuse” means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

2.19 **Expectoration.** No person shall spit or expectorate on a sidewalk or building or in a public place except in receptacles provided for that purpose, or defile in any manner a drinking fountain used by the public. Any violation of this provision of the Dayton Municipal Code is a Class C violation.

2.20 **Offensive Physical Contact Prohibited.** No person shall cause or attempt to cause another person reasonably to apprehend that they will be subjected to any offensive physical contact either to their person or to personal property in their immediate possession.

2.21 **Camping Prohibited in Public Places.**

(a) It is unlawful for any person to camp in or upon any sidewalk, street, alley, lane, public right-of-way, or any other place to which the general public has access, or under any bridge-way, unless otherwise specifically authorized by this Code or by declaration of the City Council in emergency circumstances.

(b) As used in this Section, the following terms shall have these meanings:

1) ‘to camp’ means to set up, or to remain at or in, a campsite.

2) ‘campsite’ means any place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire, is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

2.21.1 **Penalty for Violation.** Any violation of this Section of the Dayton Municipal Code is a Class C violation.

2.22 **Misrepresentation of Age.** No person shall, being less than a certain, specified age, knowingly represent him/herself to be of any age other than her/hers true age with the intent of securing a right, benefit or privilege which by law is denied to a persons under that certain, specified age.

2.23 **Obstructing Governmental Administration.**

2.23.1 **Unsworn Falsification.** No person shall knowingly make any false written statement to a public servant in connection with an application for any benefit or service.

2.23.2 **Obstructing Government Administration.**

(a) No person shall intentionally obstruct, impair or hinder the administration of law or other governmental function by means of intimidation, force or physical interference or obstacle.

(b) This section shall not apply to the obstruction of unlawful governmental action or interference with the making of an arrest.

2.23.3 **Tampering with Public Records.** No person shall, without lawful authority, knowingly destroy, mutilate, conceal, remove, make a false entry in or falsely alter any public record.

2.23.4 **Impersonation.** No person shall, with intent to obtain a benefit or to injure or defraud another, falsely impersonate a public servant and do an act in such assumed character. Violation of this provision of the Dayton Municipal Code is a Class A violation.

2.23.5 **False Reports.**

- (a) No person shall knowingly initiate a false alarm or report which is transmitted to a fire department, law enforcement, law enforcement agency or other organization that deals with emergencies involving danger to life or property. Violation of this provision of the Dayton Municipal Code is a Class A violation.
- (b) No person shall knowingly make or file with the City Council, City Administrator, City Attorney, or any peace officer engaged in their official duties a false, misleading or unfounded statement or report concerning the violation or alleged violation of a city ordinance or the commission or alleged commission of a crime. Violation of this provision of the Dayton Municipal Code is a Class A violation.

2.23.6 **Resisting or Obstructing a Peace Officer.**

- (a) No person shall resist any person known to that individual as a peace officer acting in the performance of their duties; or by any means whatsoever hinder, delay or obstruct any such officer acting in the performance of their duties.
- (b) It is no defense to a prosecution under this section that a peace officer lacked legal authority to make an arrest; provided, he/she was acting under the color of his/her official authority.

2.23.6.1 **Definition.** As used in this section, “resist” refers to the ordinary meaning of the term.

2.24 **Escape.**

- (a) No person shall:
 - (1) Knowingly escape or attempt to escape from official detention.
 - (2) Knowingly cause, aid, assist, abet or facilitate an escape from official detention.

2.24.1 **Definitions.**

- (a) Escape means unlawful departure.
- (b) Official Detention means:
 - (1) Arrest by a peace officer.
 - (2) Detention in a vehicle or facility for the transportation or custody of persons under arrest, charge or conviction of an offense.
 - (3) Detention for extradition or deportation.
 - (4) Other detention because the person detained is charged with or convicted of an offense.

2.25 **Offenses Relating to Property.**

2.25.1 **Trespass.** No person shall enter or remain unlawfully in or upon premises.

2.25.2 **Mischief.** No person shall, with intent to cause substantial inconvenience to the owner or to another person, having no right to do so nor reasonable ground to believe he has such right,

tamper or interfere with property of another. Violation of this provision of Dayton Code is punishable as a Class C Misdemeanor under the applicable Oregon Revised Statute.

2.25.3 **Aggravated Mischief.**

- (a) No person shall violate Section 2.25.2 and as result thereof damage property in an amount exceeding \$100. Violation of this provision of Dayton Code is punishable as a Class A Misdemeanor under the applicable Oregon Revised Statute.
- (b) No person shall, while having no right to do so nor reasonable ground to believe that he has such right, intentionally damage property of another, or recklessly damage property of another in an amount exceeding \$100.

2.26 **Willful Detention or Damage of Library Property.** It shall be unlawful for any person willfully or maliciously to damage or detain any library materials belonging to the Mary Gilkey Public Library (hereafter called Library) or lawfully in the Library's possession for thirty (30) days after notice in writing from the City given after the expiration of the time when the materials were to be returned.

- (a) The person borrowing a book from the Library shall be responsible for its return and if not returned upon receiving 30 days written notice, whether willfully detained or not, the person in whom the Library books were entrusted shall be responsible for the value thereof.
- (b) Violation of this ordinance shall be punishable, upon conviction, by a fine of not less than \$25, plus, in addition thereto, restitution to the Library for the value of the article damaged or not returned. Such conviction, payment of fine and payment of restitution shall not be construed to relieve the person convicted of any obligation to return to the Library such material.

2.27 **Drug Offenses.** *(Added by ORD 606- Effective 5/4/11)*

2.27.1 **General Provisions.**

2.27.1.1 **Possession of Less Than One Avoirdupois Ounce of Marijuana.** A person commits the offense of possession of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae (marijuana), if he/she knowingly and unlawfully possesses less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis Family Moraceae (marijuana). Penalty see 2.27.2.6.

2.27.1.2 **Exemption.** The provisions of this chapter relating to marijuana offenses shall not apply when exempted by ORS 475.300 to 475.340.

2.27.2 **Sale of Drug Paraphernalia.**

2.27.2.1 **Definitions.** For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) **Controlled Substance.** A drug or its immediate precursor classified in Schedule I through V under the Federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035.
- (b) **Deliver or Delivery.** The actual, constructive or attempted transfer, other than by administering or dispensing, from one person or another of a controlled substance, whether or not there is an agency relationship.
- (c) **Drug Paraphernalia.** All equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating,

cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act of Oregon (ORS 475.005 to 475.285 and 475.991 to 475.995). It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body; such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

- (ii) Water Pipes;
- (iii) Carburetion tubes and devices;
- (iv) Smoking and carburetion masks;
- (v) Roach clips; meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small to too short to be held in the hand;
- (vi) Chamber pipes;
- (vii) Carburetor pipes;
- (viii) Electric pipes;
- (ix) Air-driven pipes;
- (x) Chillums;
- (xi) Bongos;
- (xii) Ice pipes or chillers.

- (d) **Marijuana.** All parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

2.27.2.2 **Factors to be Considered.** In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use;
- (b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any municipal, state, or federal law relating to any controlled substance;
- (c) The proximity of the object in time and space, to a direct violation of this subchapter or the Uniform Controlled Substances Act of Oregon;
- (d) The proximity of the object to controlled substances;
- (e) The existence of any residue of controlled substances on the object;
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows intend to use the object to facilitate a violation of municipal, or state law; the innocence of an owner, or of anyone in control of the object, as to a violation of this law or

state law shall not prevent a finding that the object is intended for use, or designed for use as a drug paraphernalia;

- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;
- (i) National and local advertising concerning its use;
- (j) The manner in which the object is displayed for sale;
- (k) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (m) The existence and scope of legitimate uses for the object in the community;
- (n) Expert testimony concerning its use.

2.27.2.3 **Offenses and Penalties.**

- (a) Possession of drug paraphernalia. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce in the human body a controlled substance.
- (b) Manufacture or delivery of drug paraphernalia. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce in the human body a controlled substance.
- (c) Delivery of drug paraphernalia to a minor. Any person 18 years of age or older who violates division (B) of this section by delivering drug paraphernalia to a person under 18 years of age who is at least three years his junior is guilty of a misdemeanor offense.

2.27.2.4 **Nuisance.**

- (a) Drug paraphernalia are public nuisances. Any peace officer shall summarily seize any such paraphernalia and shall deliver it to the Chief of Police, who shall hold it subject to the order of the court.
- (b) Whenever it appears to the court that drug paraphernalia has been possessed in violation of this subchapter, the court shall order the Chief of Police to destroy the paraphernalia.
- (c) In such event that the City of Dayton contracts its law enforcement agency to provide contract law enforcement services it shall be the responsibility of such

law enforcement agency to maintain and destroy paraphernalia in accordance with subsections (a) and (b) above.

2.27.2.5 **Infraction Procedure.** Violation of 2.27.2.3(a) and (b) of this chapter is an infraction. Citations shall be issued and court procedures followed that are in accordance with ORS 153.110 to 153.280.

2.27.2.6 **Penalty.** The penalty for the conviction of 2.27.1.1, 2.27.2.3(a), 2.27.2.3(b) and 2.27.2.3(c) of this chapter shall be punishable according to the fines set forth in the City's fee schedule. *(Amended ORD 615-Effective 11/06/13)*

2.28 **Medical Marijuana Facilities.** The establishment, maintenance, or operation by a person, business or other entity of a medical marijuana facility is prohibited within the jurisdiction of the City of Dayton. *(Added ORD 618, Effective 04/07/14-Expires 10/03/14)*

2.28.1 **Violation and Enforcement.**

(a) Violation of this section 2.28 of the Dayton Municipal Code shall subject the violator to any and all enforcement remedies available to the City under law and/or the Dayton Municipal Code including but not limited to enforcement pursuant to section 5.13 and/or pursuit of appropriate action in a court of competent jurisdiction.

2.50 **Schedule of Penalties.** Unless otherwise defined in a specific section of Dayton Code, a sentence to pay a fine of a Dayton Municipal Code violation shall be set forth in the City's Fee Schedule. *(Amended ORD 615, 10/07/13-Effective 11/06/13)*

2.60 **Each Day Separate Offense.** Each day on which a violation occurs shall constitute a separate offense.

2.70 **Citation in Lieu of Abatement.** A police officer may issue and serve a uniform citation to appear in municipal court, in lieu of other remedies that may be set forth for any violation defined by Dayton Municipal Code. Uniform citations are those authorized by ORS 1.525, as it currently exists and as it may be subsequently amended.

2.80 **Failure to Appear.** A defendant commits a Dayton Municipal Code Unclassified Misdemeanor, in addition to any violations defined by Oregon revised Statutes, by failing to appear in Municipal Court, as he or she is cited to do.

2.90 **Giving False Information to a Peace Officer for an Ordinance Citation.**

(1) A person commits the offense of giving false information to a peace officer for an ordinance citation if the person knowingly uses or gives a false or fictitious name, address or date of birth to any peace officer for the purpose of the officer's issuing or serving a citation under authority of the Dayton Municipal Code.

(2) A person who violates this provision of the Dayton Municipal Code commits an Unclassified Misdemeanor.