

CITY OF DAYTON, KENTUCKY
ORDINANCE NO. 2021#15

AN ORDINANCE AMENDING CHAPTER 154 OF THE DAYTON CODE OF ORDINANCES, THE CITY'S ZONING CODE, INCLUDING AMEND SECTION 7.0, "WORDS AND PHRASES," TO CHANGE THE DEFINITIONS OF "CARRY OUT," "DRIVE IN," AND "SIT-DOWN RESTAURANTS" AND ADDING DEFINITIONS FOR "MOBILE FOOD VENDING," MOBILE FOOD VENDING CART," AND "MOBILE FOOD VENDING VEHICLE;" AMENDING SECTION 10.8 R-1JJ (RESIDENTIAL ONE-JJ) ZONE TO ADD MOBILE FOOD VENDING VEHICLE AS AN ACCESSORY USE; AMENDING SECTION 10.15 CENTRAL BUSINESS DISTRICT (CBD) ZONE TO CHANGE THE DEVELOPMENT CONTROLS FOR MOBILE FOOD VENDING AND OUTDOOR DINING; AMENDING SECTION 10.17 NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) ZONE TO MAKE OUTDOOR EATING AND DRINKING AND MOBILE FOOD VENDING VEHICLES ACCESSORY AND CONDITIONAL USES AND CHANGING THE DEVELOPMENT CONTROLS FOR MOBILE FOOD VENDING AND OUTDOOR DINING; AMENDING SECTION 10.19 MLU (MIXED LAND USE) ZONE TO MAKE MOBILE FOOD VENDING VEHICLE AN ACCESSORY USE.

WHEREAS, City filed an application to change the text of its zoning ordinance to allow for outdoor dining and mobile food vending on private property within the City of Dayton ("proposed text amendment");

WHEREAS, the Dayton Planning and Zoning Commission ("the Commission") conducted a public hearing on the proposed text amendment on July 12, 2021;

WHEREAS, the Commission has recommended to the Dayton City Council that it make amendments to the city's zoning ordinance as outlined in Section I below.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF DAYTON, KENTUCKY, THAT THE CHAPTER 154 OF THE CITY CODE OF ORDINANCES IS AMENDED AS FOLLOWS:

Section I.

SECTION 7.0 – WORDS AND PHRASES:

EATING ESTABLISHMENTS OR RESTURANTS. An establishment selling food items ordered from a menu, prepared on the premises for immediate consumption. These RESTAURANTS AND EATING ESTABLISHMENTS shall include:

1. **CARRY OUT or DRIVE THRU.** ~~An fast service restaurant which does not have sit-down eating arrangements and consumption of food on the premises is prohibited (or discouraged)~~ establishment offering food and beverages, which are prepared to be consumed off the premises.

2. ~~Combination~~—A restaurant which provides any combination of sit down, carry-out, and/or drive-in, services.
2. **DRIVE IN.** ~~An restaurant where consumption of food on the premises is encouraged (in car, no seating facilities), and where establishment offering food and beverages where the consumption is encouraged while in a vehicle on the premises.~~ Food is generally provided by “car-hop” or self-service.
3. **SIT-DOWN RESTURANTS.** Those restaurants which provide indoor seating arrangements, and prepares and sells foods and beverages to the customer in a ready to consume state with full or limited table service. This establishment may contain outdoor dining areas. This classification includes cafeterias and buffet-style service.

MOBILE FOOD VENDING. The sale of prepared food or beverages from a readily movable vehicle or cart. Mobile food vending shall not include the storage of any non-operational vehicle.

MOBILE FOOD VENDING CART. A cart that is designed to be readily movable by pedestrian (pushcart) or bicycle power, and equipped to prepare, or serve, and sell food and beverages, but which does not include Mobile Food Vending Vehicles as defined herein.

MOBILE FOOD VENDING VEHICLE. A retail food establishment that is not intended to be permanent and is a motorized wheeled vehicle, or a trailer that is licensed for use on public roadways, designed and equipped to serve food and beverages, operating in either a static or transitory location and serving the public. The sale and distribution of frozen milk, frozen dairy or ice confection products, candy, gum or other confection products shall be permitted for Mobile Food Vending Vehicles. Mobile Food Vending Vehicles shall include Food Trucks, Ice Cream Trucks, Mobile Canteens and similar, but does not include Mobile Food Vending Carts as defined herein.

SECTION 10.8 R-1JJ (RESIDENTIAL ONE-JJ) ZONE

B. ACCESSORY USES:

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5. Mobile Food Vending Vehicle as an accessory use to a permitted non-residential use

SECTION 10.15 CENTRAL BUSINESS DISTRICT (CBD) ZONE

J. OTHER DEVELOPMENT CONTROLS:

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5. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading or unloading areas, gas pumps, and incidental minor auto repairs (such as changing tires), mobile food vending, and outdoor dining.

SECTION 10.17 NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) ZONE

D. ACCESSORY USES: The following uses shall be permitted as accessory uses in conjunction with a permitted use in the NCD Zone, providing they are in general conformance with the criteria for evaluation of development in the NCD:

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4. Outdoor eating and drinking area with a capacity of no more than twenty (20) seats.
5. Mobile Food Vending Vehicle as an accessory use to a permitted non-residential use

E. CONDITIONAL USES:

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2. Outdoor eating and drinking areas with more than twenty (20) seats- provided that such area meets the following minimum requirements:
 - a. Such area shall be designed to clearly identify the limits of the outdoor dining area.
 - b. Such area shall not exceed seventy (70) percent of the maximum seating capacity of the premises and the total number of outdoor seats shall not exceed seventy-five (75).
 - c. Accessory structures associated with the use shall not be permitted to locate within any minimum required front, side, or rear yards, except where a variance has been approved by the Board of Adjustment.

I. OTHER DEVELOPMENT CONTROLS:

...

5. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading or unloading areas, gas pumps, ~~and~~ incidental minor auto repairs (such as changing tires), mobile food vending under D.,5, and outdoor dining under D.,4. or E., 2.

SECTION 10.19 MLU (MIXED LAND USE) ZONE

E. ACCESSORY USES:

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3. Mobile Food Vending Vehicle as an accessory use to a permitted non-residential use

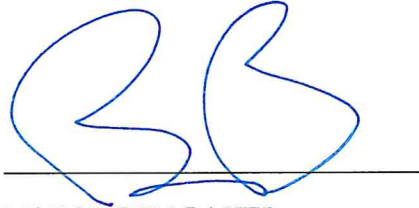
Section II.

This ordinance shall be in full force and effect from and after its adoption, approval, and publication as is required by law.

First Reading: Aug. 3, 2021

Second Reading: *Sept. 7, 2021*

PASSED this 7 day of Sept, 2021.



MAYOR BEN BAKER

ATTEST:



DONNA LEGER

CITY CLERK/TREASURER