



CITY OF DAYTON, WASHINGTON

NOTICE OF PUBLIC HEARING

October 10, 2016 at 6:00 p.m.

**AMENDMENT OF TITLE 11, ZONING CODE
TO PROHIBIT
MEDICAL CANNABIS COOPERATIVES**

NOTICE IS HEREBY GIVEN of the public hearing to be held on **October 10, 2016 at 6:00 p.m.**, or soon thereafter, at a regular meeting of the City Council of the City of Dayton, at Dayton City Hall, Council Chambers, 111 S. 1st Street, Dayton, WA 99328. The purpose of this public hearing is to consider an ordinance of the City of Dayton, Washington, amending Title 11, Zoning, prohibiting medical cannabis cooperatives pursuant to RCW 36.70A.390, RCW 69.50 AND RCW 69.51A. Opportunity will be provided to present oral and/or written testimony.

Prior to the public hearing, written testimony, comments and/or questions may be submitted to the Planning Director, City of Dayton, 111 S. 1st Street, Dayton, WA 99328 or by email to kscharer@daytonwa.com.

More information is available upon request, by calling
Karen Scharer at **509-540-6747** or at the address provided.

Draft Ord. Attached

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON, AMENDING
TITLE 11, ZONING, PROHIBITING MEDICAL CANNABIS COOPERATIVES
PURSUANT TO RCW 36.70A.390, RCW 69.50 AND RCW 69.51A

WHEREAS, pursuant to Article 11, § 11 of the state Constitution, the general police powers granted to cities empower and authorize the City of Dayton to adopt land use controls within the city and to provide that such uses shall be consistent with applicable law; and

WHEREAS, one of the primary purposes of the Growth Management Act is to empower cities planning under the Act to develop and adopt land use controls reflecting the local needs of the community. As provided in RCW 36.70A.010: “It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning”; and

WHEREAS, Chapter 69.51A RCW, as amended by 2SSB 5052 which became effective July 1, 2016, recognizes the authority and ability of municipalities to regulate medical cannabis within their jurisdictions, and RCW 69.51A.250 (3)(c) authorizes cities to prohibit medical cannabis cooperatives; and

WHEREAS, the City Council finds and determines that the prohibition of the production, distribution and/or dispensing of medical cannabis, including operation of cooperatives is subject to the authority and general police power of the city to develop specific and appropriate land use controls regarding such uses, and the City Council reserves its powers and authority to appropriately amend, modify and revise such prohibition to implement such land use controls in accordance with applicable law; and

WHEREAS, the City Council finds and determines that such amendments authorized herein are not intended to regulate the individual use of cannabis for medical purposes by qualifying patients and designated providers as authorized pursuant to Chapter 69.51A RCW; and

WHEREAS, the City Council finds and determines that prohibiting medical cannabis cooperatives within the City of Dayton, will not unduly restrict access to medical cannabis by city residents, and

WHEREAS, the City Council finds and determines that the prohibition of marijuana and medical cannabis production, processing and collectives within the City of Dayton is the only effective means to protect residential districts, recreational facilities, families and children within the City of Dayton; and

WHEREAS, the City Council finds and determines that Title 11 of the Dayton Municipal Code should be amended to prohibit medical cannabis cooperatives for consistent policy and implementation of zoning regulations within the City of Dayton; and

WHEREAS, on October 10, 2016, the City Council conducted a public hearing regarding this ordinance pursuant to the notice and applicable procedures of the City of Dayton. They considered the record as referenced, and all evidence and testimony presented; and

WHEREAS, on 9/8/2016 the city issued an addendum to the City's Determination of Non-Significance for SEP14-003, stating that the "proposal does not substantially change the analysis of significant impacts in the existing Environmental Checklist and DNS prepared for SEP14-003. Therefore, the SEPA Determination of Non-Significance remains unchanged."

WHEREAS, the City Council finds and determines that prohibiting medical cannabis cooperatives is in the best interests of residents of the City of Dayton and will promote the general health, safety and welfare; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON DO ORDAIN AS FOLLOWS:

Section 1. Dayton Municipal Code Section 11-01.050 J. is hereby amended:

11-01.050. - Definitions and interpretation of language. All words, unless defined below, are defined by the "Webster's New World Dictionary of the American Language." As used in this title:

... J. All definitions contained in this subsection apply to this title only in relation to *marijuana related use* and, except as otherwise revised below, shall have the meanings established pursuant to RCW Chapter 69.50, RCW Chapters 69.51A and WAC 314-55-010, as the same exist now or as they may later be amended. Select definitions have been included below for ease of reference.

"*Marijuana*" or "*marihuana*" or "*cannabis*" means all parts of the plant ~~cannabis~~Cannabis, whether growing or not, with a THC concentration greater than ~~zero point three~~0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plants, 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 seeds of the plant which is incapable of germination.

"*Marijuana processor*" means a person licensed by the state liquor control and cannabis board to process marijuana into marijuana concentrates, usable marijuana and marijuana-infused products, package and label ~~usable~~usable marijuana concentrates, useable marijuana, and marijuana-marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, usable marijuana and ~~marijuana~~marijuana-infused products at wholesale to marijuana retailers.

"*Marijuana producer*" means a person licensed by the state liquor control and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

"Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in RCW 69.50.101.

~~"Marijuana products" or "cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this chapter and shall not be considered applicable to any criminal laws related to marijuana and cannabis.~~

"*Marijuana retailer*" means a person licensed by the state liquor control and cannabis board to sell marijuana concentrates, usable marijuana and ~~marijuana~~marijuana-infused products in a retail outlet.

~~"Marijuana, useable" or "cannabis, usable" means dried flowers of the cannabis plant having a tetrahydrocannabinol (THC) concentration greater than three tenths of one percent per weight or volume. Useable cannabis excludes stems, stalks, leaves, seeds and roots. For purposes of this definition, "dried" means containing less than 15 percent moisture content by weight. The term useable cannabis does not include cannabis infused products.~~

~~"Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer that has been issued a medical marijuana endorsement by the state liquor and cannabis board pursuant to RCW 69.50.375.~~

~~"Medical cannabis cooperative" or "cooperative" means a cooperative per RCW 69.51A.250, titled "Qualifying patients or designated providers may form—Requirements—Restrictions on locations—State liquor and cannabis board may adopt rules."~~

~~"Qualifying patient" means a person who has the meaning provided in RCW 69.51A.010.~~

- ~~1. Is a patient of a health care professional licensed by the State of Washington; and~~
- ~~2. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition; and~~
- ~~3. Is a resident of the State of Washington at the time of such diagnosis; and~~
- ~~4. Has been advised by that health care professional about the risks and benefits of the medical use of marijuana; and~~
- ~~5. Has been advised by that health care professional that they may benefit from the medical use of marijuana. The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision; and~~
- ~~6. Possesses "valid documentation" of meeting the above criteria as defined in RCW chapter 69.51A.~~

Section 2. Dayton Municipal Code Sections 11--03.020 B. and D. are hereby amended:

CHAPTER 11-03. - RESIDENTIAL ZONES

11-03.020. - Uses. All uses in residential zones shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as indicated in the Use Chart of this section. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use which is permitted as a similar use.

Use Chart	Residential Zones	
	AR	UR
... B. Agricultural Uses.		
Feedlots	X	X
General farming	P ²	A ²
Large sized livestock	P ²	X
Moderate sized livestock	P ²	X
Small production animals	P ²	A ²
Marijuana producers and production	X	X

Medical cannabis producers and production	X	X
Medical cannabis collective gardens <u>cooperative</u>	X	X
... D. Commercial Uses. (Limitations on Commercial Uses—See 11-03.060)		
Bed and breakfast guest house	A	A
Inn	X	C
Communication towers including phone, radio, TV and similar	A	A
Community residential facilities (CRF)	X	C
Day care facilities		
Day care center	C	C
Mini Day Care Center	C	C
Family day care home	A	A
Home business or occupation	A	A
Kennels	A	X
Marijuana processor and processing	X	X
Marijuana retailers and retail stores	X	X
<u>Marijuana retailer with a medical marijuana endorsement</u> Medical cannabis dispensary	X	X
Nursing homes	C	C
Professional, administrative and service offices	A	A
Retail nurseries and greenhouses	A	A
Veterinary clinic	X	C
¹ Accessory only to one primary single-family dwelling, also see DMC 11-01.020(G)		
² See DMC 11-03.100 for limitations to pets, livestock and production animals		

P—Permitted use; C—Conditional use; A—Accessory use; X—Not allowed

Section 3. Dayton Municipal Code Sections 11--04.020 A.1. and A.5. are hereby amended:

CHAPTER 11-04. - COMMERCIAL ZONES

11-04.020. - Uses. All uses in commercial zones shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as indicated in Use Chart below. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use which is permitted as a similar use.

Uses in Commercial Zones	Zones	
	CC	FC
A. Commercial uses.		
1. General retail sales and services:		
Grocery stores and general merchandise stores	P	P
Lumber, building supplies, nurseries and greenhouses	A	P
Marijuana retailers and retail stores	X	X
"Marijuana retailer with a medical marijuana endorsement" Medical cannabis dispensary	X	X
Pedestrian oriented specialty retail stores or lower volume in and out customer service such as books, music, stationary, jewelry, pet shops not including kennels, printing, second hand shops, and similar shops with related services	P	A
Specialty retail shops primarily providing in and out service that do not need major warehouse space such as cleaners, copying, laundries, convenience stores and similar	A	P
Specialty retail that needs customer and delivery access such as household appliances, heating, plumbing, hardware, locksmiths, retail nursery, paint and glass and similar	A	P
Specialty food shops such as bakeries, confectionery, ice cream and similar specialty foods	P	P
... 5. Other commercial operations:		
Bus station, and other public transportation facilities	C	P
Communication towers including phone, radio and TV	C	C
General warehouse	A	P
Light manufacturing and production such as cabinet shops, production bakeries and meat processing	A	P
Marijuana processors and processing	X	X
Marijuana producers and production	X	X
Medical cannabis processing facilities	X	X
Medical cannabis production facilities	X	X
Medical cannabis collective gardens <u>cooperative</u>	X	X
Mini-storage	A	P
Parking and general outdoor sales lots	A	P

P—Permitted use; X—Not allowed; A—Accessory use; C—Conditional use

Section 4. Dayton Municipal Code Section 11--05.020 A. is hereby amended:

CHAPTER 11-05. - INDUSTRIAL ZONE

11-05.020. - Uses. All uses in the industrial zone shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as indicated in this section of the DMC. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use which is permitted as a similar use.

Uses in the Industrial Zone	Zones
	IN
A. Industrial and fabrication uses including:	
Agricultural product value added processing such as:	
Vegetable, fruit and grain processing	P
Production of food and beverages including baked goods, meat and dairy products	P
Processing leather and production of leather products	P
Fabrication of equipment, machinery, tools, instruments, vehicles and other mechanical fabrication.	P
Hazardous waste processing and storage (not permitted in flood plain or within 200 feet of a water way, in an aquifer recharge area or in a well head protection area)	C
Lumber and planing mills.	P
Manufacturing of products from natural resources including wood products, concrete, glass, pottery, and gravel and other similar processes.	P
Marijuana processors and processing	X
Marijuana producers and production	X
Medical cannabis processing facilities	X
Medical cannabis production facilities	X
Medical cannabis collective gardens <u>cooperatives</u>	X
Production of apparel or other finished products	P
Production printing, publishing and binding	P
Salvage, recycling operations, wrecking or junk yards less than 2,500 square feet in area (not permitted in flood plain or within 200 feet of a water way, in an aquifer recharge area or in a well head protection area)	A
Salvage, recycling operations, wrecking or junk yards 2500 square feet or larger (not permitted in flood plain or within 200 feet of a water way, in an aquifer recharge area or in a well head protection area)	C
Vehicle restoration, rebuilding repair shops and commercial garage.	P

P—Permitted principal use; X—Prohibited use; A—Accessory use; C—Conditional use

Section 5. Dayton Municipal Code Section 11--06.020 is hereby amended:

11-06.020. - Uses.

All uses in the open space and public zone shall either be permitted as a principal use, as an accessory use or as a conditional use, or prohibited as listed in the chart below. If a use is not listed, it is prohibited unless the planning director determines that a proposed use is similar in aspects such as size, density, effect and impact on surrounding users as a listed use. All restrictions that apply to a listed use shall apply to any use which is permitted as a similar use.

Uses in Open Space and Public Use Zones	Zones	
	OS	PU
Community centers, theaters, lodge halls and museums	C	P
Fire and police stations	X	P
Governmental equipment repair and maintenance shops	X	P
Governmental offices	X	P
Hospital	X	P
<u>Marijuana processing and production</u>	<u>X</u>	<u>X</u>
<u>Marijuana retailers and retail stores</u>	<u>X</u>	<u>X</u>
<u>Marijuana retailer with a medical marijuana endorsement</u>	<u>X</u>	<u>X</u>
<u>Medical cannabis cooperatives</u>	<u>X</u>	<u>X</u>
<u>Medical cannabis processing and production facilities</u>	<u>X</u>	<u>X</u>
Parks, playgrounds, golf courses and other outdoor recreation uses	P	P
Open space	P	P
Religious facilities, faith centers and churches	C	P
Schools	C	P
Utility transformers, pump station, etc.	C	P

P—Permitted principal use; X—Prohibited use; A—Accessory use; C—Conditional use

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. Transmittal to Department. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce.

Section 8. Effective Date. This Ordinance shall be published and shall take effect and be in full force five (5) days after the date of publication.

PASSED by the City Council of the City of Dayton this _____ day of September, 2016.

City of Dayton

By: Craig George, Mayor

Authenticated By:

Trina Cole, City Clerk-Treasurer

Approved as to form:
Menke Jackson Beyer, LLP

Quinn Plant, City Attorney