

CITY OF DAYTON WA

ORDINANCE NO. 1864

AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON, ADOPTING REGULATIONS PURSUANT TO RCW 36.70A.390, WASHINGTON STATE INITIATIVE NO. 502, AND RCW 69.51A RELATING TO LAND USE AND ZONING, PROHIBITING STATE ALLOWED RECREATIONAL MARIJUANA AND MEDICAL CANNABIS RELATED USES; LIFTING THE MORATORIUM ON MARIJUANA RELATED USES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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 to provide for the regulation of land uses 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, RCW 69.51A.140 authorizes cities to adopt and enforce zoning requirements regarding production and processing of medical cannabis; and

WHEREAS, in 1998, the voters of the State of Washington approved Initiative Measure No. 692, now codified as Chapter 69.51A RCW, entitled the Medical Use of Marijuana Act, which created an affirmative defense to state criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances; and

WHEREAS, the legislature adopted E2SSB 5073, with certain provisions vetoed by the governor, which became effective July 22, 2011, which enacted provisions authorizing establishment and operation of "collective gardens" for medical cannabis purposes subject to land use powers of municipalities within the State of Washington; and

WHEREAS, Chapter 69.51A RCW, as amended by E2SSB 5073, recognizes the authority and ability of municipalities to regulate medical cannabis within their jurisdictions and to adopt comprehensive land use regulations and licensing regulations concerning the establishment and operation of medical cannabis uses and facilities within such jurisdictions; and

WHEREAS, Congress passed the *Comprehensive Drug Abuse Prevention and Control Act of 1970*, Pub.L. No. 91-513, 84 Stat. 1236, to create a comprehensive drug enforcement regime it called the *Controlled Substances Act*, 21 U.S.C. § 801-971. Under the Controlled Substances Act (also “CSA”), Congress established five “schedules” of controlled substances. Controlled substances are placed in specific schedules based upon their potential for abuse, their accepted medical use in treatment, and the physical and psychological consequences of abuse of the substance. See 21 U.S.C. § 812(b); and

WHEREAS, marijuana is currently listed as a “Schedule I” controlled substance, 21 U.S.C. § 812(c), Schedule I(c)(10). For a substance to be designated a Schedule I controlled substance, it must be found: (1) that the substance “has a high potential for abuse”; (2) that the substance “has no currently accepted medical use in treatment in the United States”; and (3) that “[t]here is a lack of accepted safety for use of the drug or other substance under medical supervision.” 21 U.S.C. § 812(b)(1). The Controlled Substances Act sets forth procedures by which the schedules may be modified. See 21 U.S.C. § 811(a); and

WHEREAS, under the Controlled Substances Act, it is unlawful to knowingly or intentionally “manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance,” except as otherwise provided in the statute. 21 U.S.C. § 841(a)(1). Possession of a controlled substance, except as authorized under the Controlled Substances Act, is also unlawful; and

WHEREAS, the United States Supreme Court has held in *Gonzales v. Raich*, 545 U.S. 1, 125 S.Ct. 2195, 162 L.Ed. 2d 1 (2005), that Congress was within its rights and powers under the Commerce Clause to regulate marijuana as a Schedule I controlled substance pursuant to the Controlled Substances Act, and that, under the Supremacy Clause of the U.S. Constitution, the federal Controlled Substances Act will prevail over any conflicting state law; and

WHEREAS; the Washington State Court of Appeals Division I issued a decision in *Cannabis Action Committee, et al. v. City of Kent* (March 31, 2014) that ESSB 5073 did not legalize medical cannabis, collective gardens and dispensaries; and

WHEREAS, Section 1102 of E2SSB 5073 specifically authorizes municipalities of the State of Washington to adopt and enforce zoning requirements regarding the production, processing and dispensing of cannabis or cannabis products within their jurisdictions; and

WHEREAS, the City Council of the City of Dayton finds and determines that Title 11 of the Dayton Municipal Code amendments are necessary to specifically prohibit the production, distribution and/or dispensing of medical cannabis, including operation of collective gardens defined in Chapter 69.51A RCW and E2SSB 5073, Laws of 2011 of the State of Washington; and

WHEREAS, the City Council finds and determines that the prohibition of the production, distribution and/or dispensing of medical cannabis, including operation of collective gardens 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, on November 6, 2012, the voters of the State of Washington approved Initiative Measure No. 502 ("Initiative 502"), now codified within Chapters 69.50, 46.04, 46.20, 46.21 and 46.61 RCW, which provisions (a) decriminalized possession and use of certain amounts of marijuana and marijuana paraphernalia; (b) amended state laws pertaining to driving under the influence of intoxicants to include driving under the influence of marijuana; and (c) authorized promulgation of regulations and issuance of licenses by the Washington State Liquor Control Board ("WSLCB") for the production, processing and retailing of marijuana; and

WHEREAS, WAC 314-55-020(11) promulgated by the WSCLB under the authority of Initiative 502 describes the license permit process and includes the following limitation:

(11) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements;

and,

WHEREAS, the City Council finds and determines that Initiative 502 does not preempt the City of Dayton from exercising and administering its constitutional and statutory land use regulatory authority to either allow and regulate land uses within the city limits, or to prohibit and ban such uses; and

WHEREAS, on January 16, 2014, the Washington State Attorney General issued an opinion (AGO 2014-2) concluding that Initiative 502 does not preempt counties, cities and towns from banning marijuana production, processing, and retail business within their jurisdictions, and concluding that the issue of a license from the Liquor Control Board does not entitle licenses to locate or operate a marijuana processing, producing or retail business in violation of local rules or without necessary approval from local jurisdictions, concluding that local jurisdictions are permitted under the law to prohibit such activities; and

WHEREAS, the City Council finds and determines that the prohibition of marijuana production, processing and retailing as defined by Initiative 502 and regulations promulgated thereunder is consistent with federal law and not in conflict therewith; and

WHEREAS, the City Council finds and determines that prohibiting within the City of Dayton the production, processing and retailing of marijuana, as set forth in Initiative 502 and its implementing regulations, will maintain adequate access in areas in the vicinity of the city for marijuana production, processing and retailing for residents within the City of Dayton, and is consistent with the provisions of Initiative 502 and its implementing regulations; and

WHEREAS, the City Council finds and determines that documented secondary effects associated with analogous medical marijuana dispensaries in other cities and counties include murders, robberies, burglaries, drug dealing, sales to minors, loitering, heavy foot and vehicle traffic, increased noise, odors, health hazards such as proliferation of molds; See, "White Paper on Marijuana Dispensaries," California Police Chiefs Association's Task Force on Marijuana Dispensaries (April 22, 2009) was issued ("CAPCA White Paper"); *City of Riverside v. Inland Empire Patients Health and Welfare Center*, 56 Cal.4th 729, 756, 300 P.3d 494 (2013); and

WHEREAS, the City Council finds and determines that the prohibition of marijuana production, processing and retail uses 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 of the City of Dayton finds and determines that Title 11 of the Dayton Municipal Code should be amended to prohibit marijuana production, processing and retailing, as defined in Initiative 502 and its implementing regulations, within the City of Dayton; and

WHEREAS, the City Council finds and determines that the prohibition of recreational marijuana production, processing and retailing 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 marijuana as authorized by Initiative 502 ; and

WHEREAS, the Planning Commission has held and conducted an open record public hearing on May 20, 2014 and continued the hearing to June 24, 2014 and July 17, 2014., all pursuant to notice and applicable procedures of the City of Dayton and received oral and written testimony supporting Dayton City Council action to prohibit both medical

cannabis and recreational marijuana related uses. Testimony received is incorporated herein by this reference; and

WHEREAS, the City Council has held and conducted an open record public hearing on August 25, 2014 and considered the recommendation of the Planning Commission, the record herein, and all evidence and testimony presented; and

WHEREAS, the City Council finds and determines that prohibiting both medical cannabis and recreational marijuana related uses is in the best interests of residents of the City of Dayton and will promote the general health, safety and welfare,

WHEREAS, nothing in this Ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law;

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

Section 1. Dayton Municipal Code Section 11--01.050 is hereby amended to include the following revisions and additions:

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:

- A. Words in the present tense include the future;
- B. Words in the singular include the plural;
- C. The word "*person*" includes an individual, family, household, association, firm, partnership, trust, company or corporation;
- D. Words designating gender include all genders unless otherwise specified;
- E. The word "*lot*" includes parcel;
- F. The word "*structure*" includes buildings;
- G. The words "*shall*", "*must*", and "*will*" are always mandatory, and
- H. The word "*may*" is permissive.
- I. The words and phrases set out in this subsection, unless the context of the title otherwise requires, shall have the meaning provided herein:

"Abut" means to be contiguous with or touching property lines or right-of-way

"Accessory dwelling unit" (ADU) means a habitable living unit created within, attached to, or detached from a principle single-family residence that provides the basic requirements of shelter, heating, cooking and sanitation within the unit. The primary dwelling or ADU must be occupied by the owner of property.

"Accessory use or structure" means a use or structure on the same lot, parcel or tract with and subordinate to the permitted principal use or structure. Examples of generally accepted and permitted accessory buildings and uses related to a primary residence are garages for vehicles owned and operated by residence occupants, ADU's, shops for hobby work or repairing personal property, garden buildings, shelters for pets.

"Alley" means a service drive providing a secondary means of access to abutting property and not intended for general traffic circulation.

"Aquifer recharge area" means an area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into underground water supplies.

"Adult family home" means a family home occupied by persons who are providing personal care, room, and board to more than one but not more than four unrelated adults per RCW 70.128.010

"Amateur radio tower" means an antenna and tower which transmits non-commercial communication signals and is licensed as an amateur radio tower by the Federal Communications Commission. Guy wires for amateur radio towers are considered part of the structure for the purposes of meeting development standards.

"Amendment" means a change in the wording of this title, adoption of a zoning map hereunder, a change in the zone boundaries upon zoning.

"Automobile Repair" means fixing, incidentals body or fender work, painting, upholstering, engine tune-up, major engine or transmission repair, adjusting lights or brakes, brake repair, other similar repair work and supplying and installing replacement parts of or for passenger vehicles and light trucks.

"Automobile Towing/Storage Operation" means any person, corporation or enterprise engaged in the moving of inoperable motor vehicles and storing (long-term or short-term) in an enclosed area. All such operation shall be in compliance with minimum State standards prior to commencing.

"Automobile Wrecking" means any person, corporation or enterprise engaged in the dismantling or wrecking of motor vehicles or trailers, or in the storage, sale or dumping of dismantled or wrecked vehicles or their parts.

"Beauty Salon" means a service business operating to provide services related to hair, skin, nail and cosmetology care.

"Basement" means the usable portion of a building that is below the first story of a building and at least partly below grade.

"Bed and breakfast guest house" means a dwelling unit which serves as the primary residence for the owner/operator within in which three to no more than five (3-5) bedrooms are available for paying guests. Nightly lodging accommodations may serve guests and/or travelers for a period of no longer than thirty days and may serve breakfast only to those people registered to use the facility for lodging.

"Boarding house" or "rooming house" means a residential use consisting of at least one dwelling unit together with three to six rooms, that are rented or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units, primarily evidenced by not having separate kitchen facilities. A boarding house is distinguished from a Bed and Breakfast guest home in that the boarding house is designed to be occupied by long-term residents (at least month to month tenants) as opposed to overnight or weekly guests.

"Building" means a structure designed to be used to provide a place of business, residence, storage or shelter to occupants for the purposes of setback standards, it does not include minor utility structures, light poles, utility boxes, benches, signs or other similar structures.

"Building or structure height" means the vertical distance measured from the ground elevation of the finished grade (finished foundation(s)) to the highest point of the structure or building roof. For sloped property the average of the lowest and highest ground elevation shall be considered the point of measurement. Architectural elements that do not add floor area to a building such as chimneys, vents or antennae are not part of the height of a building, but all portions of the roof are included.. Maximum height limits based on the proximity to property lines(s) are measured by calculating vertical distance from finished grade of an exterior wall(s) to the top of the wall plate for only that portion of the building within the regulated height/setback area from a property line.

"Building, principal" means a building in which the principal use on the lot is conducted.

"Church or Religious Use Facility" is a structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held.

"Church and Religious Use Facility, Accessory" Uses which are secondary to the religious purpose of the religious use facility and are considered as providing services to members and other individuals. The uses include, but are not limited to, bookstores, cafeterias, child day cares, educational classes, social services, and limited retail sales of only religious use facility related materials. A caretaker's quarters or living quarters for an employee and family is also permissible as an accessory use.

"Communication tower" means any tower, pole, mast, whip, or antenna, or any combination thereof used for radio, cellular phone, pager, or television transmission or line-of-site relay. This definition includes towers erected for use in the amateur radio service.

"Community Center" means a facility used for and providing recreational and/or social programs, but not including overnight shelters.

"Community Residential Facilities (CRF)." include housing for over 5 persons with disabilities, children and domestic abuse shelters, as well as, transitional housing for victims of domestic violence, for children, or for the disabled. CRFs do not include overnight shelters, halfway houses or transitional housing for other populations.

"Conditional use" is a use that may be compatible only under certain conditions in specific locations in a zone and if the site is regulated in a certain manner in order to achieve the purposes of this title to protect health, safety and general welfare of the public.

"Day care" means child care facilities, including: family day care homes, mini-day care centers, and day care centers, defined as:

- "Family day care home" means a person regularly providing care during part of the twenty-four-hour day to six (6) or fewer children in the family abode of the person or persons under whose direct care the children are placed.
- "Mini-day care center" means a person or agency providing care during part of the twenty-four-hour day to twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through twelve children in the family abode of such person or persons.
- "Day care center" means a person or agency that provides care for thirteen or more children during part of the twenty-four-hour day.

"Driveway" means an access which serves a single lot or parcel, and the structures or parking surface on the lot or parcel"

"Dwelling Unit, Duplex" means two dwelling units within one building on one lot, parcel or tract, designed for occupancy by two separate and independent households. This definition does not include ADU's.

"Dwelling Unit, Multifamily Residential" means three or more dwelling units within one building, designed for occupancy by three or more households on one lot, parcel or tract.

"Dwelling Unit, Single Family" means any building which contains independent living facilities, including provisions for living, sleeping, eating, cooking and sanitation, intended for occupancy by not more than one family.

"Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore the norm. An emergency shall not include noncompliance to the extent caused by lack of preventative maintenance.

"Emergency Construction" means construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with development processes. Emergency construction does not include development of new permanent structures where none previously existed. Where new structures are deemed by the Planning Director to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, obtained. All emergency construction shall be consistent with the policies of the Comprehensive Plan. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

"Espresso/Coffee Stand" means a pedestrian walk-up or auto-oriented (drive-through) business that dispenses primarily hot and/or cold beverages.

"Essential public facilities" means capital facilities typically hard to site (see WAC 365-195-340).

"Family" means a person or group of people who are related to each other by birth or marriage or adoption or related in another similar legally recognized manner or a household of up to five non-related people who are living in a single dwelling unit.

"Farming, general" means the cultivation, breeding, raising and production for commercial purposes of plants, animals, fish and products from plants, animals and fish, but excluding feedlots.

"Feedlot" means any land, structure, pen or corral where more than five animals are maintained in close and confined quarters with less space than required in DMC Section 11-03.100 A. (animal densities).

"Fence" means an accessory structure, including landscape planting, designed and intended to serve as a barrier, or as a means of enclosing a yard or other area or other structure, or to serve as a boundary feature separating two or more properties.

"Floodplain" means any land area susceptible to being inundated in a 100-year flood (base flood) as delineated in the "flood boundary and floodway map."

"Floodway" means, as delineated in the "flood boundary and floodway map," the channel of a watercourse and adjacent land areas that must be kept open in order to permit the discharge of a 100-year flood without raising the surface elevation more than one foot.

"Floor area" means total floor area within the walls of all buildings on a lot or building site, except for the spaces therein devoted to vents, shafts and light courts and except for the area devoted exclusively to loading and unloading facilities and to parking of motor vehicles. "Food Processing" means an industrial production of food from a natural state to a packaged state through approved FDA processes and standards.

"Garage, private" means an accessory building or portion of a main building used for the parking or temporary storage of private automobiles, trailers, recreational vehicles, boats, or other vehicles

owned or used by occupants of the residence or main building. Carports are also included in this definition.

"Garage, commercial" means a building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

"Gasoline/Service Station" means a building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale at retail only; auto repair is incidental and no storage or parking space is offered for rent.

"General Repair Services" means the repair of appliances, stereo equipment, electronic equipment, and computers. This term does not include the repair of motor vehicles in any form.

"Glare" means the reflection of harsh, bright light, or the physical effect resulting from high luminance or insufficiently shielded light sources in the field of view.

"Grading" means any excavation, filling, removing the duff layer or any combination of top soils thereof.

"Grade, finished" means the average of the finished ground level at the center of all exterior walls of the building, unless otherwise specified.

"Group home" means a publicly or privately operated residential facility, limited to: group homes for children, for those with disabilities, or for the elderly; homes for recovering, non-using alcoholics and addicts; or shelters for domestic violence victims. Group homes are single-family structures, allowed in all residential and commercial zones. They may house up to five (5) residents plus two (2) caregivers, with the special exception that State-licensed adult family homes and foster family homes are exempt from the City's numerical limit. Group homes do not include halfway houses, overnight shelters, or transitional housing.

"Hazardous substance and waste storage and treatment" means the holding of hazardous substances or waste for a temporary period or means the physical, chemical or biological processing of hazardous substances or waste for the purpose of rendering such waste non-dangerous or less dangerous, safer for transport, amenable for storage, or reduced in volume, as regulated by the State Dangerous Waste Regulations, WAC Chapter 173-303, or its successor.

"Hazardous substance or waste" means any substance or material that because of its properties may be detrimental to the health of any person coming in contact with the material or substance and all dangerous and extremely hazardous waste as defined in RCW 70.105.010(15), or its successor, except for moderate risk waste as set forth in RCW 70.105.010(17), or its successor.

"Health Club" means facilities offering the use of exercise equipment for public use, and services such as, but not limited to, expertise and instruction for fitness training and aerobics classes; does not include massage or other medically related services.

"Health Hazard" means sanitation problems, including, but not limited to, sewage spills, raw sewage in any form, rodent infestation, potential disease causes as determined by an environmental health official and chemicals that leads to acute or chronic health effects in exposed persons.

"Historic Structure" means any building, portion of a building, bridge, ship, railroad car, dam, or any other structure that is either listed in the National Register of Historic Places or located in a registered historic district or listed on the Dayton's local register for historic places.

"Home business or occupation" means a business, or professional enterprise conducted within a dwelling or accessory building by the occupants of the dwelling and the commercial use is incidental and accessory to the primary residential use of the premises and the commercial activity does not alter or detract from the residential character of the residence or the neighborhood. "Marijuana related use(s)" as defined in 11-01-050 J. are not "home business or occupation" use(s).

"Hotel" means a building or complex with more than ten guest units, and consisting of individual guest sleeping rooms available for short term (less than monthly) rental. Entry to the guest rooms is provided primarily through a lobby/reception area. Additional services such as meeting rooms, restaurants, health spas, retail shops and beauty salons may be provided.

"Impervious Surface" means any non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water in the soil mantle including, but not limited to, roof tops, tents, patios, swimming pools, roads, driveways, walkways and parking areas that are paved, graveled or soil compacted, but excluding landscaping and surface water retention/detention facilities.

"Inn" or "hostel" means a building with not more than 20 beds for guests within not more than ten guest sleeping rooms available for rent on a short-term basis (less than 30 days) and generally serving breakfast only to those people registered to use the facility for lodging.

"Junkyard" or "wrecking yard or salvage yard" means any premises not enclosed by a building devoted wholly or in part to the storage, buying or selling of, or otherwise handling or dealing in, old rags, sacks, bottles, cans, papers, metal, rubber or other articles commonly known as junk.

"Kennel/Cattery" means a commercial establishment which houses, cares for, breeds, raises or sells dogs or cats for profit. Four (4) or more adult dogs or cats or any combination thereof constitute a kennel. An adult dog or cat is one of either sex, altered or unaltered, that has reached the age of six (6) months. This does not include a veterinary clinic where animals are kept only as a necessary part of medical treatment.

"Livestock" means domesticated animals, such as horses, cows, goats, sheep, and fowl. Swine is not allowed to be raised or cared for within the city limits, except that potbelly pigs are allowed as pets.

"Loading, off-street" means space conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

"Lot" means a legally created parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record or a parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created that does not meet the requirements of this title.

"Lot area" means the total horizontal area within the lot lines of a lot; however, the area contained in access easements, tracts or panhandles shall not be included in the lot area or any other lot size computation.

"Lot, corner" means a lot abutting on two intersecting streets other than an alley.

"Lot, coverage" means the portion of a lot that is occupied by all buildings and structures on the lot, including all roofed areas.

"Lot, developable" means a lot that provides a building site appropriate for the intended use when all physical characteristics, required improvements and all zoning requirements are considered.

"Lot frontage" means the portion of the lot where the lot line abuts a street or right-of-way. For the purpose of determining yard requirement on corner lot and through lots, all sides of a lot adjacent to street shall be considered a front yard.

"Lot Lines" mean the property lines that establish the boundaries of lots.

"Lot Line, Front": The boundary line(s) that abuts street right of way(s), but not an alley.

"Lot Line, Rear": The line opposite, most distant and most parallel with the front lot line. For irregularly shaped lots, a line ten (10) feet in length within the lot and farther removed from the front line and at right angles to the line comprising the depth of the lot shall be used as the rear lot line.

"Lot Line, Side": All lot lines which do not qualify as a rear or front lot line.

"Lot of record" means a lot which is part of a subdivision recorded in the office of the Columbia County Assessor, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

"Lot, through" means a lot other than a corner lot with frontage on more than one street excluding an alley and may also be referred to as a double frontage lot.

"Manufactured home subdivision" means a planned subdivision in which all lots are specifically dedicated for the placement of manufactured homes on individually owned lots.

"Manufactured house" means a residential structure constructed to the National Manufactured Housing Construction and Safety Standards (HUD standards) that is built off-site and transported to the building site, in accordance with state and federal requirements and is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis and (iii) exceeds forty (40) feet in length and eight (8) feet in width. This definition does not include mobile, modular homes or recreational vehicles.

"Massage Business" means a commercial professional establishment in which massage or other touching (considered medically necessary) of the human body is provided.

"Mini-Storage" means a building or group of buildings containing separate storage spaces of varying sizes that are leased or rented as individuals units.

"Mobile home" means a self-contained dwelling unit with its own independent sanitary facilities, that is intended for year-round occupancy, and is composed of one or more major components which are mobile in that they can be supported by wheels attached to their own integral frame or structure and towed by an attachment to that frame or structure over the public highway under license or by special permit.. This definition does not include a manufactured home, modular homes or recreational vehicles.

"Mobile Home, Class A" means a mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

1. The home is new;
2. The home is no less than twenty (20) feet wide and has a length not exceeding four (4) times its width;
3. The pitch of the home's roof has a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
4. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of white paint) comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
5. A continuous, permanent masonry foundation, un-pierced except for required ventilation and access, is installed under the home; and
6. The tongue, axles, transporting lights and removable towing apparatus are removed after placement on the lot and before occupancy.

"Mobile Home, Class B" means a mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development

that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A Mobile Home.

"Mobile or manufactured home park" means a lot, parcel or tract of land in which a minimum of five mobile or manufactured homes are located and the land is under single ownership.

"Modular house" means a residential structure built of conventional materials to Residential Building Code Standards and local codes applicable to site-built homes that is built off-site and transported to the building site for final assembly on a permanent foundation.

"Motel" means a building or complex with more than ten guest rooms (ten or fewer rooms is defined for zoning purposes as an inn), and consisting of individual guest sleeping rooms available for short term (less than monthly) rental. Motels are designed for easy access from the guest's cars to the guest rooms.

"Noise" means the intensity, duration and character of sound from any and all sources.

"Nonconforming lot, use or structure" means lot, use or structure created, used or constructed in conformance with codes at the time established, which as the effective date of this ordinance no longer meet the minimum requirements of the zone in which it is located.

"Nursing Home/Convalescent Center" means residential facilities offering twenty-four (24) hour skilled nursing care for patients who are recovering from an illness, or receiving care for chronic conditions, mental or physical disabilities, terminal illness, or alcohol or drug detoxification. Care may include in-patient administration of medicine, preparation of special diets, bedside nursing care, and treatment by a physician or psychiatrist. Out-patient care is limited to prior patients only.

"Occupancy or use" means the purpose for which a lot or building is used or intended to be used.

"Open Space" means a variety of lands which are created and preserved for park and open space purposes, including:

- Natural areas with outstanding scenic or recreational (active or passive) value;
- Public access areas to creeks, rivers or lakes;
- Lands that define, through natural features, urban and rural areas;
- Lands that create corridors between natural features;
- Lands held in separate private tracts for preservation of critical areas.
- Any landscaped area that exceeds the minimum adopted landscape requirements;
- Active outdoor recreation areas;
- Multi-purpose green spaces;

"Outdoor Sales Lot" means an area where more than 20% of the goods are stored and/or displayed either temporarily or permanently outdoors such as nursery and garden centers, farm supply and machinery sales, vehicle sales and rentals.

"Overnight Shelter" means a facility providing overnight, temporary lodging, with or without meals, for homeless families or individuals and meeting the standards of Chapter 246-360 WAC.

"Park" means land used for active and passive recreation including, but not limited to, local and regional parks, playgrounds, ball fields, and trails.

"Parking Lot" means a public or private area other than a street or alley that provides parking for motor vehicles.

"Parking, off-street" means a space providing parking for vehicles with related access to a public street or alley.

"Pet, household" means a domesticated animal of ordinary species that lives, or is commonly known to be capable of living, within the confines of a residence. Animals considered to be common household pets include but are not necessarily limited to the following: dogs, cats, rabbits, indoor birds, small rodents, and fish, miniature goats, potbelly pigs, and domestic fowl. Animals not considered to be common household pets include but are not necessarily limited to the following: horses, cows, goats, sheep, swine, donkeys, full-size swine, full-size goats, endangered or exotic species and any similar species.

"Recreational vehicle or travel trailer" means a vehicle designed primarily for recreational camping, travel or seasonal use which has its own motive power or is towed by another vehicle, including, but not limited to: travel trailer, park trailer, folding camper trailer, motor home, multi-use vehicles, or truck camper.

"Recreational vehicle park" means a lot where two or more sites are available for short term (less than monthly) rental for parking recreational vehicles as temporary living quarters.

"Recycling collection center" means a collection area for small items such as bottles, cans and newspapers to be recycled.

"Replacement Cost" means the current cost to reconstruct a structure or part of the structure in a manner similar to its previous condition to the current code standards.

"Restaurant" means a commercial use (excluding fast food restaurants) which sells prepared food or beverages and generally offers accommodations for consuming the food or beverage on the premises.

"Restaurant, Fast Food" means a commercial use which serves food or beverages, is built to include drive-through business, and minimizes the number of interior accommodations for on-site consumption of the product.

"Right-of-way" means the land dedicated for public use for utilities, vehicular travel, or pedestrian travel.

"Roadway" means the portion of a right-of-way that is improved for vehicular traffic.

"Secondhand Store" means a retail establishment in which the principal portion of the articles, commodities or merchandise handled, offered for sale, or sold on the premises are not new.

"Setback" means the minimum distance that buildings/structures, or uses, must be set back from a property line. In no event shall any structure, fence or paved area encroach upon public right-of-way.

"Sight-obscuring fence or screening" means a method by which a view of one site is shielded from view from adjacent sites or streets. To qualify as a sight-obscuring fence, at least 75 percent of the fence surface must consist of opaque material.

"Sign" means a device, letters, figures, symbols or structure visible from a public right-of-way that carries or constitutes a message designed, intended, or used to attract attention to the medium for purposes of the commercial advertisement or location of a place, product, or service, or the promotion or advocacy of an idea, proposition, or person, excluding traffic control devices. Sign standards are located in Title 12, "Dayton Sign and Light Code".

"Skirting" means a permanent material used to cover the undercarriage of a manufactured or mobile home and made of similar material, color, and pattern as the siding, or of some other material which is similar in appearance to site built foundations.

"Single-family house" means a residential building containing one residential dwelling unit designed for occupancy by one family.

"Street, private" means any easement, tract or street for ingress and egress which is not a public street. Driveways which are not part of an easement, tract or street for ingress and egress shall not be considered a street. For the purposes of this title, a private street will be considered as being a public street for determining setback provisions only.

"Street, public" All streets, highways, avenues, lanes, alleys, courts, places, or other public ways in the City, whether improved or unimproved, held in public ownership and intended to be open as a matter of right to public vehicular and/or pedestrian access.

"Structure" means anything which is built or constructed (above or below grade), an edifice of building of any kind, or any piece of work artificially built-up or composed of parts joined together in some definite manner excluding vehicles, lawn/yard furniture, statuary, utility boxes/lights, minor utility apertures, planter boxes, fences seventy-two inches (72" or 6-foot) or under in height, and residential tent structures.

"Tent Structure, Residential" means a canopy, not exceeding four hundred (400) square feet, or a tent, not exceeding two hundred (200) square feet, consisting of a metal or plastic frame, covered with canvas or other similar material, used in a residential zone. A canopy is defined as an enclosure or other shelter which is open without sidewalls or drops on seventy-five percent (75%) or more to the perimeter. A tent is defined as an enclosure or shelter with twenty-five percent (25%) or greater sidewalls or drops on its perimeter. A canopy greater than four hundred (400) square feet or a tent greater than two hundred (200) square feet shall be subject to all building and fire codes.

"Variance" means a change in requirements in this title to accommodate unusual or unique conditions peculiar to a property, not the result of the actions of the applicant, which prevent a reasonable use of the property without undue hardship where such change will not be contrary to the public interest. A variance may be used only for changes in requirements for height, area and size of structure or size of yards and open spaces. A variance cannot be used to establish or expand a use otherwise prohibited and a variance cannot be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

"Vehicle" means any contrivance in or on which persons or things may be contained, carried or conveyed, whether in motion or standing, and includes cars, trucks, travel trailers, campers, trailers, motorcycles, farm vehicles or other similar mechanical devices fitted with wheels or runners.

"Vision clearance area" means a triangular area on a lot at the intersection of two streets, or of a street and an alley within which landscaping and structures that would block the vision of oncoming pedestrians or traffic on the other street are prohibited.

"Yard" means an open space on a lot or parcel which is required to be unoccupied and unobstructed from the ground upward to the sky by any structure except fences, platforms, walks and other customary yard ornaments and furniture.

"Yard, front" means the area extending across the full width of the lot required on each portion of a lot facing a street front.

"Yard, rear" means the area extending across the full width of the lot facing an adjacent property or alley right-of-way and generally on the opposite side of the lot from the front yard.

"Yard, side" means the area extending across the full width of the lot facing an adjacent property and generally at a right angle to the front yard, not including the front yards of a corner lot or a through lot.

"Zone" means distinct geographic areas into which the land area of the city is divided for purposes of regulating land use.

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 69.50, RCW 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 "Cannabis" means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than zero point three percent (.3%) 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 products" or "Cannabis products": 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 processor" means a person licensed by the State Liquor Control Board to process marijuana into usable marijuana and marijuana infused products, package and label usable marijuana and marijuana infused products for sale in retail outlets, and sell usable marijuana and marijuana infused products at wholesale to marijuana retailers.

"Marijuana producer" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

"Marijuana related use" means any recreational marijuana related use and any medical cannabis related use, where such a use is established or proposed.

"Marijuana retailer" means a person licensed by the State Liquor Control Board to sell usable marijuana and 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 (3/10) of one percent (1%) per weight or volume. Useable cannabis excludes stems, stalks, leaves, seeds and roots. For purposes of this definition, "dried" means containing less than fifteen percent (15%) moisture content by weight. The term useable cannabis does not include cannabis infused products.

"Medical cannabis collective garden" or "Collective garden" means any place, area, or garden where qualifying patients engage in the growing, production, processing, and/or delivery of cannabis for medical use by up to ten collective members as set forth in Chapter 69.51A RCW and subject to the limitations therein and in this title. Each collective garden shall have no more than forty five (45) plants and twenty four (24) ounces of usable cannabis per patient, up to a maximum of seventy two (72) ounces of usable cannabis on site. As used

herein any constituent part of a collective garden shall be considered as a collective garden.

"Medical cannabis dispensary," to the extent authorized by Washington law means a building that dispenses cannabis for medical use for qualifying patients.

"Medical cannabis processing facility," to the extent authorized by Washington law means a building that processes cannabis for medical use.

"Medical cannabis production facility," to the extent authorized by Washington law means used to farm, grow, plant, or produce cannabis for medical cannabis processors and medical cannabis dispensaries.

"Qualifying patient" A person who:

- A. Is a patient of a health care professional licensed by the State of Washington; and
- B. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition; and
- C. Is a resident of the state of Washington at the time of such diagnosis; and
- D. Has been advised by that health care professional about the risks and benefits of the medical use of marijuana; and
- E. 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.
- F. Possesses "valid documentation" of meeting the above criteria as defined in Chapter 69.51A RCW.

Section 2. Dayton Municipal Code Section 11--03.020 is hereby amended to classify the following marijuana related uses in 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
A. Residential.		
Accessory dwelling unit (ADU) ¹ Accessory only to one primary single family dwelling, also see DMC 11-01.020 G.	A ¹	A ¹
Adult family home	P	P
Boardinghouse	A	P
Duplexes (two attached dwellings units with a minimum of 3,600 square feet of lot area for each unit)	X	P
Group home	P	P

Manufactured and mobile home parks	C	C
Multifamily (three or more attached dwelling units with a minimum of 3,600 square feet of lot area for each unit)	X	P
Pets, household - See DMC 11-03.100 for zoning limitations on the number of pets	A	A
Private garages and storage buildings, including carports	A	A
Private recreational facilities (pools, patios, and similar)	A	A
Single-family Dwelling	P	P
Tent Structure, Residential See DMC 11-03.040 for limitations	A	A
B. Agricultural Uses.		
Feedlots	X	X
General farming ²	P	A
<u>Large Sized Livestock²</u>	P ²	X
<u>Moderate Sized Livestock²</u>	P ²	X
<u>Small production animals²</u>	P ²	A ²
<u>Marijuana producers and production</u>	X	X
<u>Medical cannabis producers and production</u>	X	X
<u>Medical cannabis collective gardens</u>	X	X
² See DMC 11-03.100 for limitations to livestock and production animals		
C. Community Facilities.		
Community centers and similar facilities	C	C
Fire and police stations	C	C
Hospitals	X	C
Medical clinics	X	C
Parks	P	P
Religious facilities, faith centers and churches	C	C
Schools	C	C
Utility transformers, pump station, etc.	C	C
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
<u>Marijuana processor and processing</u>	X	X
<u>Marijuana retailers and retail stores</u>	X	X
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 livestock and production animals		

P - Permitted Principal use; C - Conditional use; A - Accessory use; X - Prohibited use

Section 3. Dayton Municipal Code Section 11--04.020 is hereby amended to classify use of the following marijuana related uses in 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
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
2. HOSPITALITY BUSINESSES		
Bowling alley, skating rinks, billiard halls and similar recreational uses	A	P
Drive in and take out restaurants	A	P
Eating and drinking establishments for service and consumption on site	P	P
Hotels, inns and hostels	P	X
Motels and recreational vehicle parks	X	P
Theaters and similar places of public assembly not including drive-ins	P	A
3. PROFESSIONAL AND PERSONAL SERVICES		
Banks	P	P
Community Residential Facilities (CRF)."	C	P
Day care center	P	P
Insurance, accountants, attorneys, real estate and other professional service offices	P	P
Kennels	X	P
Medical offices and clinics	P	P
Nursing homes	C	P
Veterinary clinic	C	P
4. VEHICLE SALES, REPAIR AND OTHER SERVICES		
Automobile, truck and farm equipment sales, repair, fuel, service and commercial garages	X	P
Bicycles and motorcycles sales, parts, repair and service	P	P
Boats, snowmobiles, recreational vehicles and similar sales, repair, parts, fuel and service	X	P
Dismantling and/or salvaging of vehicles, equipment or parts	X	C
Vehicle parts only	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 <u>Collective Gardens</u>	X	X
Mini-storage	A	P

Parking and general outdoor sales lots	A	P
B. Community Facilities.		
Community centers, lodge halls and museums	P	P
Fire and police stations	P	P
Governmental equipment repair and maintenance shops	A	C
Governmental offices	C	P
Hospital	C	P
Parks and playgrounds	C	P
Recycling collection center	C	P
Religious facility, faith centers and churches	P	P
Schools	C	P
Utility transformers, pump station, etc.	C	P
C. Residential. The first floor street front of a building and 60% of the building area on the first floor cannot be used for residential uses.		
Adult family homes	P	P
Boardinghouse	P	X
Caretaker or business owner/manager's unit	A	A
Group home	P	P
Mobile home parks	X	P
Multi-family (three or more units)	P	P
D. Agricultural Uses.	X	X

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

Section 4. Dayton Municipal Code Section 11--05.020 is hereby amended to classify use the following marijuana related uses in the 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
<u>Marijuana processors and processing</u>	X
Marijuana producers and production	X
Medical cannabis processing facilities,	X
Medical cannabis production facilities	X
Medical cannabis <u>collective gardens</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 sq. ft 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 sq. ft. 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
B. Commercial Uses that Require Large Spaces or Support Other Industrial Uses:	
Eating and drinking establishments	P
Recreation uses that need large open areas such as bowling alley, skating rinks, miniature golf and similar	P
Sales and services dependent on large warehouse space such as lumber, building supplies, nurseries and greenhouses	P
Truck and farm equipment sales, repair, parts, fuel, service, and repair	P
Sales and services of products produced in the industrial zone	A
Other commercial operations and support businesses including:	
Bus station, public garages and other public transportation facilities	P
Communication towers including phone, radio, TV and similar	P
General warehouse	P
Mini-storage	P
C. Community Facilities:	
Fire and police stations	P
Governmental equipment repair and maintenance shops	P

Governmental offices	C
Utility transformers, pump station, etc.	P
Vocational and technical schools	P
D. Residential: Caretaker, owner or manager's unit	A
E. Agricultural Uses:	
Aquaculture	P
Feedlots	X
Production nurseries and greenhouses	P

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

Section 5. Ordinance 1854, a continuation of moratorium and interim zoning for six months relating to the recreational and medical use of marijuana and moratorium on permitting of structures and use related to marijuana, as established by ordinance number 1839, is hereby repealed.

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.

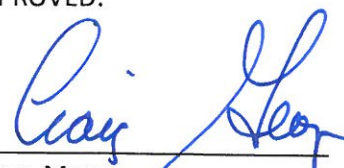
Section 7. Transmittal to Department. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce.

Section 8. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 9. 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, City of Dayton, this 8TH day of SEPTEMBER, 2013, by a vote of 5 for, 1 against, and 0 abstaining.

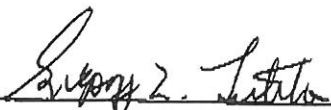
APPROVED:


Craig George, Mayor

ATTEST:


Trina D. Cole, City Clerk

APPROVED AS TO FORM:


Gregory Lutch, City Attorney