

ORDINANCE NO. 1901

AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON, AMENDING
ORDINANCE NO. 1864 AND TITLE 11, ZONING, PROHIBITING MEDICAL
MARIJUANA COOPERATIVES AND AMENDING MARIJUANA DEFINITIONS
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; 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 marijuana within their jurisdictions, and RCW 69.51A.250 (3)(c) authorizes cities to prohibit medical marijuana cooperatives; 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 staff posted and published notice of the public hearing; and

WHEREAS, the hearing was held as scheduled on October 10, 2016, and all persons who wished to testify were provided an opportunity to do so; and

WHEREAS, the City Council deliberated as to whether the proposed code amendments would comply with state and local law, the Comprehensive Plan and would otherwise benefit the City and residents of Dayton at a regular open public meeting of the City Council on October 10, 2016; and

WHEREAS, the City Council finds and determines that the prohibition of the production, distribution and/or dispensing of marijuana and medical marijuana, 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 marijuana for recreational and medical use; and

WHEREAS, the City Council finds and determines that Ordinance 1864 and Title 11 of the Dayton Municipal Code should be amended to revise definitions adopted by the state and prohibit medical marijuana cooperatives for consistent policy and implementation of zoning regulations within the City of Dayton; and

WHEREAS, the City Council finds and determines that prohibiting medical marijuana 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 Subsection 11-01.050 J. This subsection "J" is hereby amended to read:

CHAPTER 11-01. - GENERAL PROVISIONS AND DEFINITIONS

11-01.050. - Definitions and interpretation of language.

... J. All definitions contained in this subsection apply to this title only in relation to *marijuana related use* and, shall have the meanings established pursuant to RCW Chapter 69.50, RCW Chapter 69.51A and WAC 314-55-010, as the same exist now or as they may later be amended and as described in RCW 69.51A.250. Select definitions have been included below for ease of reference.

"*Marijuana*" or "marihuana" or "*cannabis*" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 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 and cannabis board to process marijuana into marijuana concentrates, usable marijuana and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, usable marijuana and marijuana-infused products at wholesale to marijuana retailers.

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

"*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 marijuana cooperative*" or "*cooperative*" is the use as described in RCW 69.51A.250.

"*Qualifying patient*" has the meaning provided in RCW 69.51A.010.

Section 2. Dayton Municipal Code Subsections 11--03.020 B. This subsection is hereby amended to read:

CHAPTER 11-03. - RESIDENTIAL ZONES

11-03.020. - Uses.

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 including medical marijuana	X	X
Medical marijuana cooperative	X	X

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

Section 3. Dayton Municipal Code Subsections 11--03.020 D. This subsection is hereby amended to read:

CHAPTER 11-03. - RESIDENTIAL ZONES

11-03.020. - Uses.

Use Chart	Residential Zones	
	AR	UR
... 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 with or without a medical marijuana endorsement	X	X
Nursing homes	C	C
Professional, administrative and service offices	A	A
Retail nurseries and greenhouses	A	A
Veterinary clinic	X	C

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

Section 4. Dayton Municipal Code Subsections 11--04.020 A.1.

Subsection A.1. is hereby amended to read:

CHAPTER 11-04. - COMMERCIAL ZONES

11-04.020. - Uses.

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 with or without a medical marijuana endorsement	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

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

Section 5. Dayton Municipal Code Subsections 11--04.020 A.5. Subsection A.5. is hereby amended to read:

CHAPTER 11-04. - COMMERCIAL ZONES

11-04.020. - Uses.

Uses in Commercial Zones	Zones	
	CC	FC
A. Commercial uses.		
... 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 including medical marijuana	X	X
Marijuana producers and production including medical marijuana	X	X
Medical marijuana cooperative	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 6. Dayton Municipal Code Subsection 11--05.020 A. This Subsection is hereby amended.

CHAPTER 11-05. - INDUSTRIAL ZONE

11-05.020. - Uses.

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 including medical marijuana	X
Marijuana producers and production including medical marijuana	X
Medical marijuana cooperatives	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 7. Dayton Municipal Code Section 11--06.020. This section is hereby amended to read:

CHAPTER 11-06. Open Space and Public Zones

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
Marijuana processing and production including medical marijuana	X	X
Marijuana producers and production including medical marijuana	X	X
Marijuana retailers and retail stores with or without a medical marijuana endorsement	X	X
Medical marijuana cooperatives	X	X
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 8. 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 9. Transmittal to Department. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce.

Section 10. Effective Date. This Ordinance shall be published and shall take effect and be in full force five (5) days after the date of publication.

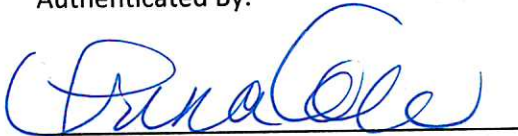
PASSED by the City Council of the City of Dayton this 10th day of October, 2016.

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