

ORDINANCE NO. 617
CITY OF DAYTON, OREGON

**AN ORDINANCE OF THE DAYTON MUNICIPAL CODE ADDING CHAPTER 2.28
PROHIBITING MEDICAL MARIJUANA FACILITIES IN THE CITY OF DAYTON
FOR 180 DAYS AND DECLARING AN EMERGENCY**

WHEREAS, House Bill 3460, enacted by the Oregon State Legislature and parts of which are effective March 1, 2014, requires medical marijuana facilities (aka “dispensaries”) to register with the Oregon Health Authority and establishes rules for the regulation of medical marijuana dispensaries; and

WHEREAS, neither HB 3460 or Senate Bill 863 (the genetically modified organism bill that passed in the Oregon State Legislature special legislative session) require or impose an affirmative duty or mandate upon local governments such as the City of Dayton to allow, authorize or sanction the establishment and operation of facilities dispensing marijuana in their respective jurisdictions; and

WHEREAS, neither HB 3460 nor SB 863 created a constitutional right to obtain marijuana; and

WHEREAS, HB 3460 and SB 863 do not abrogate the City of Dayton’s powers to regulate for the public health, safety, and welfare; and

WHEREAS, marijuana remains an illegal substance under the U.S. Controlled Substances Act, 21 U.S.C. § 801 et. seq. and is classified as a “Schedule I Drug”; and

WHEREAS, the U.S. Controlled Substances Act, 21 U.S.C. § 841 makes it unlawful for any person to manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense marijuana. The Controlled Substances Act does not exempt the dispensing, distribution or possession of marijuana for medical purposes; and

WHEREAS, persons in the City of Dayton that may be in need of medical marijuana have access to facilities dispensing marijuana in nearby cities; and

WHEREAS, the City Council of the City of Dayton finds that the public health, safety and general welfare of the City and its residents necessitates and requires that the Council give sufficient consideration as to the appropriate regulation and location (including related zoning issues) of medical marijuana facilities within the jurisdiction; and

WHEREAS, sufficient consideration of the location and regulation of medical marijuana facilities requires at least 180 days to allow for public input, City staff research, City Council deliberation and to ensure state-mandated development code amendment processes are followed; and

WHEREAS, it is appropriate and prudent to place a temporary ban on medical marijuana facilities within the jurisdiction of the City of Dayton for at least 180 days to allow the City Council to establish proper zoning, location, and other regulatory rules; and

WHEREAS, because HB 3460 provisions allowing medical marijuana dispensaries go into effect March 1, 2014, the City Council finds it necessary to declare an emergency to ensure this Ordinance is effective upon passage.

THE CITY OF DAYTON ORDAINS AS FOLLOWS:

Section 1. Section 2.28 is added to Chapter 2 of the Dayton Municipal Code as set forth in the attached Exhibit A.

Section 2. This ordinance is effective upon its passage by the City Council and will remain in effect until September 3, 2014.

Date of first reading: February 18, 2014 In full _____ or by title only

Date of second reading: March 3, 2014 In full _____ or by title only

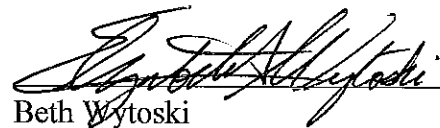
ADOPTED this 3rd day of March, 2014.

In Favor: Bixler, Collins, Frank, Utt, Wytoski

Opposed: None

Absent: Price

Abstained: None


Beth Wytoski

Mayor

3/12/2014
Date of Signing

ATTESTED BY:


Peggy Selberg,

City Recorder

3/3/2014
Date of Enactment

EXHIBIT A

Chapter 2 Medical Marijuana Facilities

2.28 Medical Marijuana Facilities

The establishment, maintenance, or operation by a person, business or other entity of a medical marijuana facility is prohibited within the jurisdiction of the City of Dayton.

2.28.1 Violation and Enforcement

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