

ORDINANCE NO. 618  
CITY OF DAYTON, OREGON

**DECLARING A MORATORIUM ON MEDICAL MARIJUANA FACILITIES, ADDING  
CHAPTER 2.28 PROHIBITING MEDICAL MARIJUANA FACILITIES IN THE CITY  
OF DAYTON FOR 180 DAYS TO THE DAYTON MUNICIPAL CODE, AND  
DECLARING AN EMERGENCY**

*WHEREAS*, the Oregon Legislature enacted House Bill 3460 (2013), which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities;

*WHEREAS*, House Bill 3460 (2013) directed that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution;

*WHEREAS*, the Oregon Legislature enacted Senate Bill 1531 (2014) which affirmatively afforded Oregon cities the ability to impose a moratorium on medical marijuana dispensaries to locate within their boundaries until May 1, 2015;

*WHEREAS*, Senate Bill 1531 (2014) removes immunity from state prosecution for person who is responsible for or employed by a registered medical marijuana facility located in an area subject to the jurisdiction of a city or county that enacts a moratorium prohibiting the operation of a medical marijuana facility;

*WHEREAS*, the issue of whether a local government determines a certain type of business should operate within its jurisdictional limits is a local government decision, the enforcement of which is subject to the general and police powers of that jurisdiction;

*WHEREAS*, legal uncertainty surrounds the ability/authority of the State to allow for the location of medical marijuana dispensaries in Oregon cities where to do so arguably violates federal law;

*WHEREAS*, the Dayton City Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City of Dayton to enact such a moratorium prohibiting the operation of medical marijuana facilities within the jurisdictional boundaries of the City of Dayton so as to provide time to examine the range of options surrounding the regulation or prohibition of medical marijuana facilities within the City of Dayton.

**NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF DAYTON  
ORDAINS AS FOLLOWS:**

**MORATORIUM DECLARED.** The City of Dayton hereby issues a moratorium prohibiting the operation of any medical marijuana facility in any area subject to the jurisdiction of the City of Dayton as they now exist or may be expanded. As used in this section, "medical marijuana facility" includes any facility that dispenses marijuana pursuant to ORS 475.314 or any other provision of Oregon law.

**ENFORCEMENT.** The Yamhill County Sheriff is charged with enforcement of the moratorium.

**EFFECTIVE DATE.** The moratorium imposed hereby is effective from and after the enactment of this ordinance and continues until October 3, 2014, unless otherwise lawfully rescinded or extended.

REMEDIES NOT EXCLUSIVE. The remedies available under Senate Bill 1531 (2014) for a violation of the moratorium imposed by this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the City of Dayton to seek cumulative remedies for a violation of the moratorium imposed by this ordinance.

SEVERABILITY. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

OREGON HEALTH AUTHORITY NOTICE. A copy of this Ordinance shall be forwarded to the Oregon Health Authority by regular mail and by any other such means as required by rule of the Oregon Health Authority.

REPEAL ORDINANCE NO. 617. City of Dayton Ordinance No. 617 is hereby repealed.

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

EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

Date of first reading: April 7<sup>th</sup>, 2014 In full \_\_\_\_\_ or by title only

Date of second reading: April 7<sup>th</sup>, 2014 In full \_\_\_\_\_ or by title only

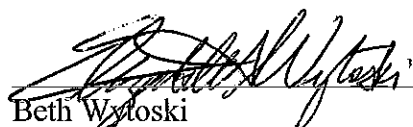
**ADOPTED** this 7th day of April, 2014.

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

**Opposed: None**

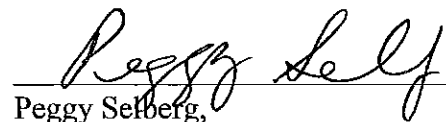
**Absent: None**

**Abstained: None**

  
\_\_\_\_\_  
Beth Wytoski  
Mayor

4/18/2014  
Date of Signing

ATTESTED BY:

  
\_\_\_\_\_  
Peggy Selberg,  
City Recorder

4/7/2014  
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.