

**CITY OF DuPONT
WASHINGTON**

ORDINANCE NO. 14-968

AN ORDINANCE PROHIBITING THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, MAINTENANCE OR CONTINUATION OF MEDICAL MARIJUANA COLLECTIVE GARDENS AND MARIJUANA PRODUCERS, PROCESSORS AND RETAILERS AS REGULATED OR PROPOSED TO BE REGULATED PURSUANT TO WASHINGTON STATE SENATE ENGROSSED SUBSTITUTE BILL 5073 AND WASHINGTON STATE INITIATIVE 502; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, municipalities have authority to enact ordinances in furtherance of public safety, morals, health, and welfare pursuant to Article XI, Section 11 of the Washington State Constitution; and

WHEREAS, in 2011, the Washington legislature adopted Senate Engrossed Substitute Bill (ESSB) 5073, which amended the Washington State Medical Use of Cannabis Act (MUCA); and

WHEREAS, in 2011, the Washington governor vetoed a number of sections of ESSB 5073; and

WHEREAS, RCW 69.51A.140(1), allows municipalities to regulate the production, processing and dispensing of marijuana through zoning, business licensing and taxing, and health and safety requirements; and

WHEREAS, in 2012, the Washington voters passed Initiative 502, which directed the Washington State Liquor Control Board (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors and retailers, and is codified in Chapter 69.50 RCW; and

WHEREAS, under Washington Administrative Code 314-55-020(11) the issuance or approval of a license under RCW 69.50 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, on September 10, 2013, the City of DuPont adopted Ordinance No. 13-957, establishing a 12-month moratorium on processing marijuana licenses, in order to provide time to evaluate the impacts of ESSB 5073 and Initiative 502 and consider draft local regulations; and

WHEREAS, on January 16, 2014, the Washington State Attorney General opined that Initiative 502 does not preempt local authority to ban or otherwise regulate marijuana-related land uses within their jurisdictions through land use or business requirements; and

WHEREAS, a recent Washington State Court of Appeals decision upheld local governments' zoning authority to ban or otherwise regulate medical marijuana-related land uses, and such holding could reasonably apply to zoning or other police power regulation of recreational marijuana-related land uses; and

WHEREAS, the City Council finds that ESSB 5073 and Initiative 502 do not preempt the City of DuPont 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, the City Council finds and determines that the prohibition of collective gardens, marijuana production, processing and retailing facilities would protect public safety, morals, health and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUPONT DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Marijuana-Related Uses Prohibited. The City of DuPont hereby prohibits the establishment, location, operation, licensing, maintenance or continuation of medical marijuana collective gardens and other establishments involved in the retailing, producing or processing of recreational marijuana within the City of DuPont.

Section 2. 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.

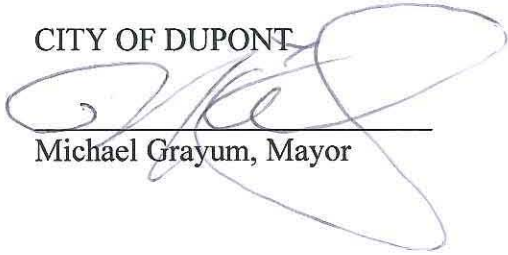
Section 3. Moratorium Terminated. The 12-month moratorium established pursuant to Ordinance 13-957 shall terminate upon the effective date of this ordinance.

Section 4. No Nonconforming Uses. No use that constitutes or purports to be a medical marijuana collective garden, marijuana producer, marijuana processor, or marijuana retailer that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use under the provisions of the DuPont Municipal Code and that use shall not be entitled to claim legal nonconforming status.

Section 5. Effective Date. A summary of this ordinance shall be published in the official newspaper of the City, and the ordinance shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE 8th DAY OF July, 2014.

CITY OF DUPONT

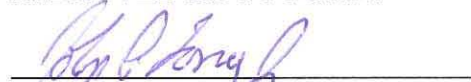


Michael Grayum, Mayor

ATTEST/AUTHENTICATED


Erin Larsen, City Clerk

APPROVED AS TO FORM:


John P. Long, Jr., City Attorney

Ordinance No.: 14-968
Filed with the City Clerk: 7-22-14
Passed by the City Council: 7-8-14
Date of Publication: 7-23-14
Effective Date: 7-28-14