

ORDINANCE NUMBER 58-14

**AN ORDINANCE AMENDING THE MASON COUNTY CODE,
TITLE 17, CHAPTER 17.17 – RECREATIONAL MARIJUANA**

AN ORDINANCE amending Title 17 (Zoning), of the Mason County Code under the authority of Chapter 36.70 and 36.70A RCW.

WHEREAS, Initiative Measure No 502 passed on November 5, 2012 amended Chapter 69.50 RCW as to the State’s approach to adult use of recreational marijuana; and

WHEREAS, on November 12, 2103 the Board of County Commissioners (“Board”) signed Ordinance 62-13 adopting amendments to Title 17 creating Chapter 17.17 for the regulation of recreational marijuana in Mason County; and

WHEREAS, on July 1, 2014 the Board signed Ordinance 32-14 establishing a 60-day Moratorium on the production and processing of marijuana in some districts; and

WHEREAS, on July 22, 2014 the Board signed Ordinance 43-14 repealing the Moratorium and remanding portions Chapter 17.17 to the Planning Advisory Commission for amendments; and

WHEREAS, on August 18 and September 15, 2014, the Planning Advisory Commission (“Commissioner”) held public hearings on proposed code amendments and made recommendation to the Board for adoption; and

WHEREAS, the Mason County Planning Advisory Commission conducted public hearings on August 12, 2013 and August 26, 2012 and recommended adoption of amendments by the Commissioners; and

NOW THEREFORE, BE IT HEREBY ORDAINED, that the Board of Commissioners of Mason County hereby adopts amendments to Mason County Code Chapter 17.17, Recreational Marijuana. (See Attachment A)

DATED this 21 day of October 2014.

ATTEST:

Amie Almanzo
Clerk of the Board

APPROVED AS TO FORM:

[Signature]
Tim Whitehead, Chief DPA

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

[Signature]
Terri Jeffreys, Chair

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Tim Sheldon, Commissioner

[Signature]
Randy Neatherlin, Commissioner

TITLE 17 – ZONING
CHAPTER 17.17 RECREATIONAL MARIJUANA

SECTION 17.17.001 – PURPOSE

Mason County recognizes Initiative Measure No 502 amending RCW 69.50 (Uniform Controlled Substance Act) as to the State's approach to adult use of recreational marijuana, and the addition of Chapter 314-55 WAC expanding the authority of the Washington State Liquor Control Board to include the regulation of marijuana licenses, the application process, the requirements, and the reporting associated therewith.

SECTION 17.17.002 – AUTHORITY

Section 69.50.500 RCW states that it is "the duty of the state board of pharmacy, the department [of health], the state liquor control board, and their officers, agents, inspectors and representatives, and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of [Chapter 69.50] ...", including those specific to recreational marijuana. The implementing rules of Chapter 314-55 WAC defer to the roles of those enforcement agencies adding, however, that "[t]he 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." WAC 314-55-020(11) While an approved license does not circumvent local ordinances, the State will also not deny a license based solely on non-compliance with local land use regulations. Therefore, it is incumbent upon Mason County to adopt the ordinance codified in this Section as this County's policies and procedures with respect to recreational marijuana.

SECTION 17.17.003 – DEFINITIONS

Definitions culled from Section 69.50.101 RCW and included in WAC 315-55-010 are adopted herein for the purpose of this chapter only.

- (a) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.
- (b) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.
- (c) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.
- (d) "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.
- (e) "Financier" means any person or entity that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

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- (f) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
- (g) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
- (h) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.
- (i) "Lot" means either of the following:
 - i. The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or
 - ii. The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.
- (j) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.
- (k) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035. "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.
- (l) "Perimeter" means a property line that encloses an area.
- (m) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.
- (n) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, or federal government.
- (o) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.
- (p) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age.
- (q) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

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- (r) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.
- (s) "Unit" means an individually packaged marijuana infused solid or liquid product, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

SECTION 17.17.004 – APPLICABILITY

No part of this chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation.

SECTION 17.17.005 – DEVELOPMENT STANDARDS

- (a) Lighting: All lights used for the production and processing of marijuana shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
- (b) Special Use Permit: A special use permit is required for any licensed producer in a Rural Residential 5 zoning district; and for any deviation from the rules and regulations as adopted in this Chapter in accordance with MCC Chapter 17.05.
- (c) Buffers/Setbacks: There shall be a 100 foot buffer from any portion of a production or processing operation to the nearest property line in all rural residential districts. A variance may be sought under Mason County Code Chapter 15.05, Article IV (Variances) and considered on an individual basis for any buffer that is less than 100 feet.

SECTION 17.17.006 – MARIJUANA PRODUCER LICENSEES

Marijuana grow operations, known as Producers, are measured by their Plant Canopy. This is the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc. Production operations are categorized by the State in the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- Tier 1 – Less than two thousand square feet;
- Tier 2 – Two thousand square feet to ten thousand square feet; and
- Tier 3 – Ten thousand square feet to thirty thousand square feet

Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

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Licensed INDOOR and OUTDOOR marijuana producers are permitted within the following non-residential zoning districts, subject to the restrictions of all currently adopted codes and ordinances.

- (a) Rural Commercial 2 (RC 2) (Section 17.04, Div II, Art II)
- (b) Rural Commercial 3 (RC 3) (Section 17.04, Div II, Art III)
- (c) Rural Commercial 4 (RC 4) (Section 17.04, Div II, Art IV)
- (d) Rural Commercial 5 (RC 5) (Section 17.04, Div II, Art v)
- (e) Rural Industrial (RI) (Section 17.04, Div III)
- (f) Rural Natural Resource (RNR) (Section 17.04, Div IV)
- (g) Low Intensity Mixed Use (MU) - Shelton UGA (Section 17.07, Art 2)
- (h) General Commercial (GC) – Shelton UGA (Section 17.07, Art 3)
- (i) Commercial-Industrial (CI) – Shelton UGA (Section 17.07, Art 4)
- (j) Airport Industrial (AI); subject to all codes, covenants, and restrictions of the Port of Shelton – Shelton UGA (Section 17.07, Art 5)
- (k) Industrial (I) – Shelton UGA (Section 17.07, Art 6)
- (l) Highway Commercial District (HC) – Allyn UGA (Section 17.12, Art III)
- (m) Business Park (BP) – Allyn UGA (Section 17.12, Art IV)
- (n) Mixed Use (MU) – Belfair UGA (Section 17.23.120)
- (o) General Commercial (GC) – Belfair UGA (Section 17.24)
- (p) Business Industrial (BI) – Belfair UGA (Section 17.24)

Licensed **INDOOR** producers are permitted within the rural residential districts subject to following restrictions.

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| <i>Tier Level I</i> | <i>Minimum five acres</i> |
| <i>Tier Level II</i> | <i>Minimum 10 acres</i> |
| <i>Tier Level III</i> | <i>Minimum 10 acres</i> |

Licensed indoor producers are permitted within the rural residential districts on parcels 5 acres or larger; and all structures are required to meet the building regulations for floor-area-ratio, size, and height of non-agricultural and accessory buildings for each respective zoning district. Licensed indoor producers in Rural Residential 5 must obtain a Special Use Permit. OUTDOOR production is prohibited in all rural residential districts.

SECTION 17.17.007 – MARIJUANA PROCESSOR LICENSEES

A marijuana processor license allows the licensee to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. Licensed marijuana processors are permitted within the following non-residential zoning districts, subject to the restrictions of all currently adopted codes and ordinances.

- (a) Rural Commercial 2 (RC 2) (Section 17.04, Div II, Art II)
- (b) Rural Commercial 3 (RC 3) (Section 17.04, Div II, Art III)
- (c) Rural Commercial 4 (RC 4) (Section 17.04, Div II, Art IV)
- (d) Rural Commercial 5 (RC 5) (Section 17.04, Div II, Art v)
- (e) Rural Industrial (RI) (Section 17.04, Div III)
- (f) Rural Natural Resource (RNR) (Section 17.04, Div IV)

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- (g) Low Intensity Mixed Use (MU) – Shelton UGA (Section 17.07, Art 2)
- (h) General Commercial (GC) – Shelton UGA (Section 17.07, Art 3)
- (i) Commercial-Industrial (CI) – Shelton UGA (Section 17.07, Art 4)
- (j) Airport Industrial (AI); subject to all codes, covenants, and restrictions of the Port of Shelton – Shelton UGA (Section 17.07, Art 5)
- (k) Industrial (I) – Shelton UGA (Section 17.07, Art 6)
- (l) Highway Commercial District (HC) – Allyn UGA (Section 17.12, Art III)
- (m) Business Park (BP) – Allyn UGA (Section 17.12, Art IV)
- (n) Mixed Use (MU) – Belfair UGA (Section 17.23.120)
- (o) General Commercial (GC) – Belfair UGA (Section 17.24)
- (p) Business Industrial (BI) – Belfair UGA (Section 17.24)

Licensed processors are permitted within the rural residential districts on parcels 5 acres or larger; and are required to meet the building regulations floor-area-ratio, size, and height of non-agricultural and accessory buildings for each respective zoning district. Licensed processors in Rural Residential 5 must obtain a Special Use Permit.

SECTION 17.17.008 – MARIJUANA RETAILER LICENSEES

A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older. Licensed marijuana processors are permitted within the following zoning districts and subject to the restrictions of all currently adopted codes and ordinances:

- (a) Rural Commercial 2 (RC 2) (Section 17.04, Div II, Art II)
- (b) Rural Commercial 3 (RC 3) (Section 17.04, Div II, Art III)
- (c) Rural Commercial 4 (RC 4) (Section 17.04, Div II, Art IV)
- (d) Rural Commercial 5 (RC 5) (Section 17.04, Div II, Art v)
- (e) General Commercial (GC) – Shelton UGA (Section 17.07, Art 3)
- (f) Commercial-Industrial (CI) – Shelton UGA (Section 17.07, Art 4)
- (g) Highway Commercial District (HC) – Allyn UGA (Section 17.12, Art III)
- (h) Business Park (BP) – Allyn UGA (Section 17.12, Art IV)
- (i) Mixed Use (MU) – Belfair UGA (Section 17.23.120)
- (j) General Commercial (GC) – Belfair UGA (Section 17.24)

SECTION 17.17.008 – VIOLATIONS

Any violations of this Chapter may be enforced as set forth in Chapter 15.13 (Enforcement), or as applicable, in 69.50 RCW and 314-55 WAC.