

ORDINANCE NUMBER 104-16

AN ORDINANCE REPEALING THE MORATORIUM ON MEDICAL CANNABIS COOPERATIVES, AMENDING TITLE 17 TO ADD SECTION 17.09 TO THE MASON COUNTY CODE REGULATING MEDICAL CANNABIS COOPERATIVES AND REDUCING THE PERMITTED DISTANCE OF COOPERATIVES TO 100 FEET PER RCW 69.50.331 (8)(B)

AN ORDINANCE amending Title 17 (Zoning) of the Mason County Code to add Section 17.09 under the authority of Chapter 36.70 and 36.70A RCW and authorizing the reduction of distance from Cooperatives under RCW 69.50.331(8)(b).

WHEREAS, on August 16, 2016 the Board of County Commissioners ("Board") imposed a moratorium on Medical Cannabis Cooperatives as defined under RCW 69.51A for a period of ninety days; and

WHEREAS, the Board did adopt Findings in support of continuing the moratorium for a six month period, ending on December 28, 2016; and

WHEREAS, the Board imposed a moratorium on medical cannabis cooperatives to provide adequate time to consider any and all necessary regulations; and

WHEREAS, the Board has considered the land use and other secondary impacts of cultivation of cannabis for medical use by individuals and in cooperatives, and has now drafted a zoning ordinance to address these impacts; and

WHEREAS, amendments to the Title 17 of the Mason County Code now include regulations with respect to regulating Cooperatives within Mason County; and

WHEREAS, by adoption of new zoning regulations, the Board repeals the current Moratorium established under Ordinance #52-16, and

WHEREAS, by the adoption of this Ordinance and as authorized by RCW 69.50.331(8)(b), Cooperatives may be located within 1,000 feet but not less than 100 feet from any recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged 21 years or older; and

WHEREAS, the Mason County Planning Advisory Commission conducted a public hearings on November 21, 2016 and recommend adoption of amendments by the Board; and

NOW THEREFORE, BE IT HEREBY ORDAINED, that the Board of Commissioners of Mason County hereby amends the Mason County Code, Title 17 (Zoning) adding 17.09 (Medical Cannabis Cooperatives), and reducing the distance from Cooperatives to not less than 100 feet per 36.50.331(8)(b). (See Attachment A)

DATED this ____ day of December 2016.

Board of Commissioners
Mason County, Washington

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

ATTEST:


Clerk of the Board


Terri Jeffreys, Chair

APPROVED AS TO FORM:


Tim Whitehead, Chief DPA

Tim Sheldon, Commissioner


Randy Neatherlin, Commissioner

ATTACHMENT A

MEDICAL CANNABIS COOPERATIVES – PROPOSED REGULATIONS Moratorium in Effect until December 28, 2016

Title 17 – Zoning

****[new section]****

SECTION 17.09 - MEDICAL CANNABIS COOPERATIVES

17.09.001 Definitions. For purposes of this chapter, the following definitions apply:

- (a) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the WSLCB as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.
- (b) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not; 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. For the purposes of this ordinance, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.
- (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) "Cooperative" means a group of more than one, but no more than four qualified medical marijuana patients and/or designated providers who share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative.
- (e) "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.
- (f) "Family Home Child Care" means a facility licensed by the Washington State Department of Early Learning where child care is provided for twelve or fewer children in the family living quarters where the licensee resides under Chapter 170-296A WAC. WAC 170-296A-0010.

(g) "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.

(h) "Indoor Grows" the growing and processing of medical cannabis in a license Cooperative must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

(i) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(j) "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.

(k) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

(l) "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.

(m) "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, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

(n) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

(o) "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.

(p) "WSLCB" means The Washington State Liquor and Cannabis Board.

17.09.002 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.

17.09.003. Medical Cannabis Cooperatives

A. Cooperatives as a permitted use shall meet the following criteria:

- 1) There shall be no Cooperatives permitted in Family Home Child Care facilities.
- 2) There shall be no outdoor growing or processing of medical cannabis; only indoor grows are permitted.
- 3) They may not be located within one thousand (1,000) feet of any elementary or secondary school or playground;
- 4) They may not be located within one hundred (100) feet of any recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to person aged twenty-one years or older.
- 5) They may be located in any legally established and permitted residence, subject to this Section.

17.09.004 Violations.

- A. It is a violation of this Chapter for any person owning, leasing, occupying or having charge or possession of any parcel of land within any unincorporated area of Mason County to cause or allow such parcel of land to be used for the indoor or outdoor cultivation of marijuana or cannabis plants for medicinal purposes in excess of the limitations set forth herein.
- B. Any violations of this Chapter may be enforced as set forth in Chapter 15.13 (Enforcement), or as applicable, the Uniform Controlled Substances Act, chapter 69.58 RCW. In addition, violations of subsections A and b of this Section are deemed to be a public nuisance and may be abated by Mason County under the procedures set forth in state law for the abatement of public nuisances.