

ORDINANCE NUMBER 62-13

AN ORDINANCE AMENDING TITLE 17 OF THE MASON  
COUNTY CODE ALLOWING LICENSED PRODUCERS,  
PROCESSORS AND RETAILERS OF RECREATIONAL  
MARIJUANA AS PERMITTED USES

---

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, the United States Department of Justice emphasized in a Memorandum dated August 29, 2013 their commitment to enforcing the Controlled Substance Act and has focused its efforts on certain priorities that include:

- (a) Preventing the distribution of marijuana to minors;
- (b) Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;
- (c) Preventing the diversion of marijuana from states where it is legal under state law in some from to other states;
- (d) Preventing state-authorized marijuana activity from being used as a cover or pretext for trafficking of other illegal drugs or other illegal activity;
- (e) Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- (f) Preventing drugged driving and the exacerbation of other adverse public health consequences associated with Marijuana use;
- (g) Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- (h) Preventing marijuana possession or use on federal property; and

WHEREAS, jurisdictions enacting laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conducted in compliance with those laws and regulations is less likely to threaten those federal priorities; and

WHEREAS, the Washington State Liquor Control Board ("Board") has put forth under Chapter 314-55 WAC basic regulations for the licensing of marijuana producers, processors, and retailers; and

WHEREAS, the Board's objective in creating these regulations is to tightly manage and regulate the marijuana market with strict controls that prevent diversion, illegal sales, and sales to minors while providing reasonable access to products that mitigate the illicit market; and

WHEREAS, Per RCW 69.50.331, the Board shall send notice to local authorities regarding a marijuana license application and provide twenty (20) days to respond with a recommendation to approve or object to the applicant, location, or both; and

WHEREAS, RCW 69.50.500 as amended imposes on the Board, including their officers, agents, inspectors and representatives, the duty to enforce all provisions of Chapter 69.50 RCW, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and all other states, relating to controlled substances; and

WHEREAS, WAC 314-55-020 (11) provides that a valid 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 and zoning ordinances; and

WHEREAS, the Board of County Commissioners has considered land use associated with the production, processing, and retail sales of marijuana in light of the State's regulations and enforcement, and has prepared a zoning ordinance to address these impacts; and

WHEREAS, amendments to Title 17 of the Mason County Code include regulations with respect to the allowance of licensed producers, processors, and retailers as permitted uses in applicable zoning districts; and

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

## RECREATIONAL MARIJUANA – PROPOSED REGULATIONS

---

### TITLE 17 – ZONING

### [NEW] 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 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

## ATTACHMENT A

loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

- (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.
- (l) "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.
- (m) "Perimeter" means a property line that encloses an area.
- (n) "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.
- (o) "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.
- (p) "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.
- (q) "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.

## ATTACHMENT A

- (r) "Residence" means a person's address where he or she physically resides and maintains his or her abode.
- (s) "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.
- (t) "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 – RECREATIONAL MARIJUANA LICENSEES

The production, processing, and retail sales of marijuana by state-licensed marijuana licensees is permitted within certain zoning districts of Mason County. See Table. Licensees are subject to Chapter 69.50 RCW as amended, Chapter 314-55 WAC, and the Mason County Code.

	Producer	Processor	Retailer
Rural Residential 5	B	B	
Rural Residential 10	B	B	
Rural Residential 20	B	B	
Rural Commercial 2	X	X	X
Rural Commercial 3	X	X	X
Rural Commercial 4	X	X	X
Rural Commercial 5	X	X	X
Rural Industrial	X	X	
Rural Natural Resources	X	X	
Low Intensity Mixed Use	X	X	
General Commercial	X	X	X
Commercial-Industrial	X	X	X
Airport Industrial	P	P	
Industrial	X	X	
Highway Commercial	X	X	X
Business Park	X	X	X
Mixed Use	X	X	X
General Commercial	X	X	X
Business Industrial	X	X	

X=permitted, subject to land use codes

B=permitted, must have 100 foot buffer from neighboring residential dwelling unit

P=permitted, subject to codes, covenants and restrictions of Port of Shelton

## ATTACHMENT A

### 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.

Licensed marijuana producers are permitted within the following non-residential zoning districts, subject to the restrictions of all currently adopted codes and ordinances. Licensed producers are permitted within the following rural residential districts on parcels equal to or greater than five (5) acres, with a one hundred (100) foot buffer from any neighboring residential dwelling unit, and subject to all currently adopted codes and ordinances.

- (a) Rural Residential 5 (RR 5) (Section 17.04; Div I, Art II)
- (b) Rural Residential 10 (RR 10) (Section 17.04, Div I, Art III)
- (c) Rural Residential 20 (RR 20) (Section 17.04, Div I, Art IV)
- (d) Rural Commercial 2 (RC 2) (Section 17.04, Div II, Art II)
- (e) Rural Commercial 3 (RC 3) (Section 17.04, Div II, Art III)
- (f) Rural Commercial 4 (RC 4) (Section 17.04, Div II, Art IV)
- (g) Rural Commercial 5 (RC 5) (Section 17.04, Div II, Art v)
- (h) Rural Industrial (RI) (Section 17.04, Div III)
- (i) Rural Natural Resource (RNR) (Section 17.04, Div IV)
- (j) Low Intensity Mixed Use (MU) (Section 17.07, Art 2)
- (k) General Commercial (GC) – Shelton UGA (Section 17.07, Art 3)
- (l) Commercial-Industrial (CI) (Section 17.07, Art 4)
- (m) Airport Industrial (AI); subject to all codes, covenants, and restrictions of the Port of Shelton (Section 17.01, Art 5)
- (n) Industrial (I) (Section 17.07, Art 6)
- (o) Highway Commercial District (HC) (Section 17.12, Art III)
- (p) Business Park (BP) (Section 17.12, Art IV)
- (q) Mixed Use (MU) (Section 17.23.120)
- (r) General Commercial (GC) – Belfair UGA (Section 17.24)

## ATTACHMENT A

- (s) Business Industrial (BI) (Section 17.24)

### 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. Licensed processors are permitted within the following rural residential districts on parcels equal to or greater than five (5) acres, with a one hundred (100) foot buffer from any neighboring residential dwelling unit, and subject to all currently adopted codes and ordinances.

- (a) Rural Residential 5 (RR 5) (Section 17.04; Div I, Art II)
- (b) Rural Residential 10 (RR 10) (Section 17.04, Div I, Art III)
- (c) Rural Residential 20 (RR 20) (Section 17.04, Div I, Art IV)
- (d) Rural Commercial 2 (RC 2) (Section 17.04, Div II, Art II)
- (e) Rural Commercial 3 (RC 3) (Section 17.04, Div II, Art III)
- (f) Rural Commercial 4 (RC 4) (Section 17.04, Div II, Art IV)
- (g) Rural Commercial 5 (RC 5) (Section 17.04, Div II, Art v)
- (h) Rural Industrial (RI) (Section 17.04, Div III)
- (i) Rural Natural Resource (RNR) (Section 17.04, Div IV)
- (j) Low Intensity Mixed Use (MU) (Section 17.07, Art 2)
- (k) General Commercial (GC) – Shelton UGA (Section 17.07, Art 3)
- (l) Commercial-Industrial (CI) (Section 17.07, Art 4)
- (m) Airport Industrial (AI); subject to all codes, covenants, and restrictions of the Port of Shelton (Section 17.01, Art 5)
- (n) Industrial (I) (Section 17.07, Art 6)
- (o) Highway Commercial District (HC) (Section 17.12, Art III)
- (p) Business Park (BP) (Section 17.12, Art IV)
- (q) Mixed Use (MU) (Section 17.23.120)
- (r) General Commercial (GC) – Belfair UGA (Section 17.24)
- (s) Business Industrial (BI) (Section 17.24)

### 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) (Section 17.07, Art 4)
- (g) Highway Commercial District (HC) (Section 17.12, Art III)
- (h) Business Park (BP) (Section 17.12, Art IV)

## ATTACHMENT A

- (i) Mixed Use (MU) (Section 17.23.120)
- (j) General Commercial (GC) - Belfair UGA (Section 17.24)

### SECTION 17.17.009 – VIOLATIONS

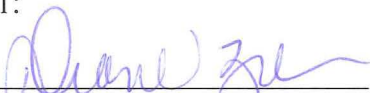
Any violations of this Chapter may be enforced as set forth in Chapter 15.13 (Enforcement), or as applicable, in 69.50 RCW and 314-55 WAC.




NOW THEREFORE, BE IT HEREBY ORDAINED, that the Board of Commissioners of Mason County hereby amends Title 17 (Zoning), Section 17.17 to the Mason County Code. (See Attachment A)

DATED this 12 day of November 2013.

ATTEST:

  
\_\_\_\_\_  
Diane Zoren, Clerk of the Board

BOARD OF COUNTY COMMISSIONERS  
MASON COUNTY, WASHINGTON

  
\_\_\_\_\_  
Randy Neatherlin, Chair

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Tim Whitehead, Chief DPA

Absent  
\_\_\_\_\_  
Tim Sheldon, Commissioner

  
\_\_\_\_\_  
Terri Jeffreys, Commissioner