

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

AN ORDINANCE OF LEWIS COUNTY)	
ADOPTING A NEW CHAPTER 20 OF)	
TITLE 5 OF LEWIS COUNTY CODE)	ORDINANCE NO. 1247
REGARDING A LICENSE TO PRODUCE,)	
PROCESS, AND SELL AT RETAIL)	
MARIJUANA AND RELATED PRODUCTS)	

WHEREAS, the United States Senate ratified the United Nations Single Convention on Narcotic Drugs outlawing the production, processing and distribution of marijuana, except as provided therein; and

WHEREAS, to execute the treaty, the United States Congress enacted the Controlled Substances Act, 21 U.S.C. §801 *et seq.*, including the provisions of 21 U.S.C. §823 that authorize only the United States Attorney General to grant exemptions from the prohibition on producing, processing and distributing marijuana and related products; and

WHEREAS, art. I, § 2 of the Washington State Constitution states that the United States Constitution is the Supreme Law of the State of Washington; and

WHEREAS, art. VI of the United States Constitution states:

This Constitution, and the Laws of the United States which shall be made, under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding;

WHEREAS, art. XI, §11 of the Washington Constitution also authorizes the county to make and enforce within its limits such local police, sanitary and other regulations; and

WHEREAS, this Board finds that it is in the interest of the people of Lewis County to regulate the production, processing and distribution of marijuana and related products in the unincorporated areas of the County to ensure that such activities are known to the County and are conducted in compliance with applicable federal, state and local laws; and

WHEREAS, a hearing on this ordinance has been duly noticed and notice published pursuant to and in compliance with the requirements of state law and a public hearing held pursuant to such notice on November 4, 2013, at or about 10 am in the Historical Courthouse in Chehalis, Washington, for the purpose of taking public testimony on this proposed ordinance; and

WHEREAS, the Board of County Commissioners has considered the recommendations of County staff and testimony from the public and finds that the proposed regulations are consistent with applicable law and are in the best interest of the public;

NOW THEREFORE BE IT ORDAINED by the Lewis County Board of County Commissioners that:

1. Lewis County adopts and incorporates proposed Title 5, Chapter 20 to Lewis County Code as recommended by County Staff as follows:

5.20.010 Purpose and Scope

(1)The purpose of this chapter is to regulate and monitor individuals or entities within the unincorporated areas of Lewis County, Washington, licensed as producers, processors, and retailers of marijuana or related products under WAC 314-55. Art. XI, § 11 of the Washington Constitution authorizes Lewis County to make and enforce within its limits local police, sanitary and other regulations in compliance with general laws. The failure to procure a license under WAC 314-55 shall not be a defense for failing to comply with the provisions of this chapter and the provisions of this chapter shall apply to any individual or entity producing, processing, or holding for sale marijuana or related products.

(2)Lewis County recognizes that the Constitution of the United States and the laws of the United States made in pursuance thereof are the supreme law of the United States and the State of Washington, as recognized by the plain reading of Article I, § 2 of the Washington State Constitution and the decisions of the Washington Supreme Court. The purpose of this chapter is to ensure that all production, processing, and retailing of marijuana and related products within the unincorporated areas of Lewis County, Washington, comply with the supreme laws of the United States.

(3)Procurement of a license under this chapter will not waive the requirement for any other local, state, or federal permit or license as required by those entities.

5.20.020 Provision – License Required

(1)It shall be unlawful for any person or entity within the unincorporated areas of Lewis County, Washington, to produce, process, or sell or hold out for sale marijuana or related products without first having obtained a license pursuant to the provisions of this chapter; provided that persons or entities only producing or processing marijuana under the authority of RCW 69.51A (Medical Cannabis) shall not be subject to the requirements of this chapter.

(2)Procurement of a license or permit issued by State agencies, other counties, cities, or the federal government do not alleviate the requirement that all producers, processors, and retailers of marijuana or related products obtain a license pursuant to this chapter prior to operating within the unincorporated areas of Lewis County.

(3)The activities governed by this chapter are deemed to take place within the unincorporated areas of Lewis County, Washington, if any portion of the production, processing, or retail activities take place within the boundaries of the unincorporated areas of Lewis County, Washington; provided that the provision of this chapter shall not apply to the transportation of marijuana or related products through Lewis County when the transportation is not related directly or indirectly to production, processing, or retail activities within the unincorporated areas

of Lewis County. Production, processing, or retail activities which take place both within and without the unincorporated areas of Lewis County require a license as if all portions were to occur within the unincorporated areas of Lewis County.

5.20.030 – Application Requirements – Approval, Denial, and Appeal – Expiration and Renewal – Revocation – Fees

(1) Application Requirements. A license issued pursuant to this chapter shall be construed as a business license for producing, processing, and retailing marijuana and related products and shall only be issued following application to the director of community development. Applications for a license required by this chapter shall be submitted in such form and detail as reasonably prescribed by the director of community development. Such applications shall be signed by the applicant who shall certify that all of the information contained within and attached the application is correct and, at a minimum, shall include: name, address, and date of birth or incorporation or origination of the applicant; hours of operation; emergency contact information for after-hours contact; payment of applicable fees; proof of state licensure under WAC 314-55 or application under WAC 314-55; proof of registration approval from the United States Attorney General or Drug Enforcement Administration pursuant to 21 U.S.C. § 823 for producing, processing, or retailing marijuana, as evidenced by notice from the United States Attorney General or Drug Enforcement Administration in the *Federal Register*; proof of a criminal history check indicating that the applicant has not been convicted of any crime involving a controlled substance; and proof of compliance with Lewis County zoning and land use regulations.

(2) Approval and Denial. The director of community development shall review all completed and properly submitted applications to determine whether the requirements as established in subsection (1) and as prescribed by the director of community development have been met by the applicant. It shall be the burden of the applicant to show by a preponderance of the evidence that the applicant has met the requirements for the issuance of the license. Applications meeting the requirements as established in subsection (1) and as prescribed by the director of community development shall be approved by the director of community development within thirty (30) days of submission of the completed application and such approval shall be evidenced by a license signed by the director of community development and issued to the applicant by mailing the license to the applicant at the address provided in the application. Applications not meeting the requirements as established in subsection (1) and as prescribed by the director of community development shall be denied by the director of community development within thirty (30) days of submission of the completed application and such denial shall be evidenced by a letter summarizing the deficiencies in the application and shall be signed by the director of community development and mailed to the applicant at the address provided in the application. Failure of the director of community development to take action on a completed and properly submitted application shall be deemed a denial of the application, but all fees paid by the applicant shall be returned to the applicant upon demand by the applicant to the director of community development. Denial of an application may be appealed to the hearing examiner pursuant to LCC 2.25; provided that no fee shall be charged for the appeal. Review by the hearing examiner shall be *de novo*.

(3) Incomplete or improperly submitted applications will not be considered by the director of community development.

(4) Expiration and Renewal. A license issued pursuant to this chapter shall be effective for one (1) year from the date of application approval. An applicant desiring to renew a license may submit an application not earlier than sixty (60) days prior the expiration date of its current license. All applications for renewal shall be treated as an initial application and must meet all of the requirements of an initial application. No license shall issue under this chapter to an applicant holding another license issued pursuant to this chapter until the prior license expires or is revoked.

(5) Revocation. The director of community development may revoke a license issued under this chapter if the applicant at any time is found by a preponderance of the evidence to no longer meet the requirements established for application under subsection (1). The director of community development shall revoke a license issued to an applicant under this chapter if the applicant at any time is found to have been convicted of a crime involving a controlled substance in any jurisdiction. The director of community development shall provide notice of the revocation to the applicant either by personal service or by mailing notice to the address provided to the applicant during the application process. Revocation of a license may be appealed to the hearing examiner pursuant to LCC 2.25; provided that no fee shall be charged for the appeal. Review by the hearing examiner shall be *de novo*. Upon notice to the applicant of revocation by the director of community development, the applicant shall stay all production, processing, and retailing activity immediately unless the hearing examiner lifts such stay pending appeal.

(6) The director of community development may review a license holder's compliance with this chapter at the director's discretion. The prosecuting attorney may, but is not required to, notify the director of community development if the holder of a license under this chapter is convicted of a crime involving a controlled substance or is otherwise believed to be out of compliance with the requirements of this chapter.

(7) Fees. The fee for the application shall be five hundred dollars (\$500.00) or as set from time to time by resolution.

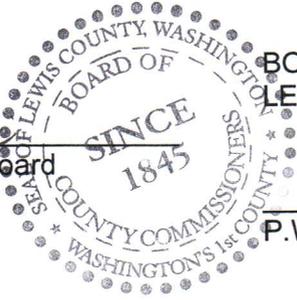
5.20.040 Enforcement – Penalties

Any person or entity failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not less than three hundred dollars (\$300) but not exceeding five hundred dollars (\$500) and shall be imprisoned in the county jail for a period not less than twenty-four (24) consecutive hours but not exceeding ninety (90) days. A person or entity shall be guilty of a separate offense for each day in which a violation occurs. A person or entity can be charged as a principal if the person or entity is the principal violator or if the person or entity is liable as a principal under RCW 9A.08.020. In addition, a conviction under this section shall automatically revoke any license issued to the violator pursuant to this chapter and the violator shall not be eligible to apply for a license under this chapter for a period of three (3) years from the date of conviction.

PASSED IN REGULAR SESSION THIS 4th day of November, 2013, after a public hearing was held November 4, 2013 pursuant to Notice published in the *East County Journal* on October __, 2013 and *The Chronicle* on October __, 2013.

ATTEST)

Karri Muir
Karri Muir, CMC, Clerk of the Board



BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

P.W. Schulte
P.W. Schulte, Chairman

F. Lee Grose
F. Lee Grose, Member

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

By: [Signature]
Civil Deputy

Edna J. Fund
Edna J. Fund, Member

Ordinance 1247 - Marijuana
BOCC Meeting

Date: 1/1
Lewis County Courthouse, second floor
351 NW North Street, Chehalis WA

	Name (Please Print)	Representing	Phone #	Email	Address
1.	ROD AVEILL	CITIZEN	269-2193		PE 200-
2.	Ed Soukkey	Uthgen			
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4.					
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