

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

AN ORDINANCE OF LEWIS COUNTY, WASHINGTON)
RENEWING A MORATORIUM UPON ESTABLISHMENT OR) ORDINANCE NO. 1263
OTHER DEVELOPMENT OF FACILITIES OR OTHER USES)
INVOLVED IN THE PRODUCTION, PROCESSING AND RETAIL)
SALE OF MARIJUANA AND RELATED PRODUCTS)

WHEREAS, Lewis County Board of County Commissioner (BOCC) adopted Ordinance No. 1249 on December 9, 2013, imposing a moratorium on the establishment or other development of facilities or other uses involved in the production, processing and retail sale of marijuana and related products; and

WHEREAS, BOCC adopted Ordinance No. 1254 on June 2, 2014, a renewal of the moratorium on the establishment or other development of facilities or other uses involved in the production, processing and retail sale of marijuana and related products; and

WHEREAS, BOCC adopted Ordinance No. 1256 on December 1, 2014, a renewal of the moratorium on the establishment or other development of facilities or other uses involved in the production, processing and retail sale of marijuana and related products; and

WHEREAS, Ordinance 1256 will expire on June 1, 2015, six-months following enactment, unless extended; and

WHEREAS, moratoria adopted pursuant to the authority of RCW 36.70.795 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, Lewis County staff conducted appropriate land use analysis and presented draft land use regulations governing the production, processing and retail sale of marijuana and related products to the Lewis County Planning Commission (Planning Commission) at workshops on July 8, 2014, July 29, 2014, September 23, 2014, October 28, 2014, November 25, 2014, December 9, 2014, January 27, 2015 and February 10, 2015, during which meetings additions, deletions and other changes were made to the proposed land use regulations; and,

WHEREAS, the Planning Commission held a public hearing on January 13, 2015 and received testimony regarding the proposed land use regulations from Lewis County staff and the public; and

WHEREAS, The Planning Commission issued its recommendation that the Board of County Commissioners consider the proposed land use regulations attached hereto as Exhibit 4, but with the reservation and recommendation that additional work be undertaken and other changes be made to Lewis County Code to regulate certain impacts of the production,

processing and retail sale of marijuana and related products on the environment, adjacent land uses, public health and public safety, particularly related to solid waste and wastewater produced by these uses and their potential impact on the environment, including groundwater and surface water sources; and

WHEREAS, in order to complete the tasks recommended by the Planning Commission, the Lewis County staff will need at least an additional six-month period to assess the impacts identified by the Planning Commission and to develop recommendations addressing those impacts, in the form of further draft code amendments, which the BOCC will consider during a public hearing addressing both those draft code amendments and the proposed land use regulations for marijuana production, processing and retail sale of marijuana and related products in Lewis County, such issue having been noted at the time of imposing the initial moratorium; and

WHEREAS, this renewal of the moratorium is authorized by RCW 36.70.795 and Article 1, Section 2, and Article 11, Section 11 of the Washington State Constitution.

NOW THEREFORE BE IT ORDAINED by the BOCC that BOCC hereby declares the following:

Section 1. Moratorium. The BOCC hereby declares a renewal of the moratorium upon:

1. The submission, acceptance, processing or approval of any permit applications or licenses by or for any development or establishment of facilities or other uses involved in the sale, use, growing, manufacture or processing of marijuana, including but not limited to performance spaces, private clubs, open-to-the public night clubs/cabarets/taverns or similar establishments.
2. The creation by an owner or operator of any land or building of any new use of such land or buildings for the sale/use/growing, distribution, manufacturing, or processing of marijuana and related products.

Section 2. Duration of Moratorium. The moratorium adopted by this Ordinance is effective immediately upon adoption and shall remain in effect for six (6) months, unless subsequently extended by the Board pursuant to state law.

Section 3. Public Hearing. Pursuant to RCW 36.70.795, a public hearing was held on June 1, 2015.

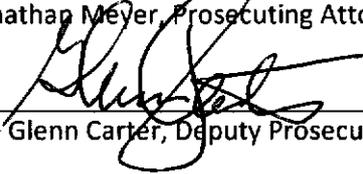
Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Severability. The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances shall be unaffected.

Section 7. Findings. The Lewis County Board of Commissioners hereby adopts the above recitals as findings of fact in support of this Ordinance.

PASSED IN REGULAR SESSION by the Board of County Commissioners after a public hearing was held June 1, 2015 pursuant to Notice published in the Chronicle on May 19, 2015.

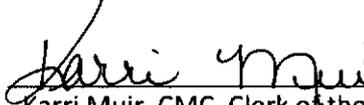
APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney


By: Glenn Carter, Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON


Edna J. Fund, Chair

ATTEST:


Karri Muir, CMC, Clerk of the Board




P.W. Schulte, Vice Chair


Gary Stamper, Commissioner



Community Development

2025 NE Kresky Avenue
Chehalis WA 98532

Exhibit 3

To: Lewis County Planning Commission
From: Lee Napier, Director
Date: January 23, 2015
Subject: Review and Recommendation of draft Recreational Marijuana Amendment to Lewis County Code Title 17

Representative of local regulatory body, which included: Community Development, Public Health & Social Services, Public Works, Sheriff, and the Assessor's Office, met to jointly review and discuss the proposed code amendments. The group concurred that the current supplemental requirements and development standards, codified in current Lewis County Code, as well as the Washington Administrative Codes (WAC), administered by the Liquor Control Board, appear to lack adequate stipulations with respect to design expectation as well as codify community values. Conceptually the group supported the addition of development standards for marijuana production and processing to Lewis County Code Title 17.145 but offered comments and recommendations.

The following embodies a summary discussion and subsequent recommendations of the County Staff to the Lewis County Planning Commission with respect to the draft Recreational Marijuana Amendment to Lewis County Code Title 17.

Comment 1: Does WAC 314-55-097 direct the characterization of waste and the responsibility to characterize? The responsibility ought to fall to the producer or processor. There is a concern that the transport of the waste product and the destination will not be disclosed to the local regulator.

The disposal of the plant waste and composting provisions for this material are of concern to local government Solid Waste staff. The WAC provides guidance to Liquor Control Board with respect to managing the licenses and the transportation of the product, but it lacks consideration of the disposal and transportation of the byproducts and the environmental consequences of this particular industry.

Recommendation 1:

1. Amend Lewis County Code Chapter 17.145 to include language in the Development Standards that all structures and uses serving production or processing shall conform with Lewis County Code Chapter 8.15.XXX and 8.45.XXX.
2. Amend Lewis County Code Chapter 8.15.XXX, 8.45.XXX, and adopt WAC 314-55-097.
3. Amend the Schedule of Fees to include cost recovery for the service created for both code amendments.

Rationalization: The above recommendations improve transparency with notice and direction to the producer and processor prior to application for development with the County. An additional layer of local review allows tracking of the waste stream that is expected to pass through the approved and permitted county landfill, wastewater treatment plants, and compost facilities.

Comment 2: According to WAC 173-218-030¹, the liquid waste is characterized as industrial waste. Did the proposed code consider the type of infrastructure that could accommodate waste that was not generated by either a residence or employees? Liquid industrial waste cannot be directed to conventional on-site septic systems or to Large On-site Septic Systems.

Recommendation 2:

1. Amend Lewis County Code 17.145 to require development of a facility that generates a liquid industrial waste to address either coordinated disposal with existing public utility sewer treatment plan or permitted tank storage and disposal offsite to a permitted facility.
2. Amend Lewis County Code Chapter 17.145 to require coordination with an approved municipal system that can accept industrial waste. If the distribution system is not in place to accept the waste, the waste could be transported with the expectation that all records be submitted to the county.
3. Amend Lewis County Code Chapter 17.145 to require an on-site closed loop system along with treatment and waste characterization. This may also require an amendment to Lewis County Code Title 8 Health and Safety.

Rationalization: Production or processing facilities will either generate liquid waste that is characterized as dangerous or industrial waste. The liquid must be properly disposed of per WAC 314-55-097 and WAC 173. Currently Lewis County has limited areas with sufficient infrastructure to properly dispose of liquid industrial waste or dangerous

¹ WAC173-218-030 "Industrial wastewater" means water or liquid-carried waste from industrial or commercial processes, as distinct from domestic wastewater. These wastes may result from any process or activity of industry, manufacture, trade or business, from the development of any natural resource, or from animal operations such as feedlots, poultry houses or dairies. The term includes contaminated storm water and leachate from solid waste facilities.

waste and some of the existing sewer utilities are currently struggling with aging treatment plants and surface water intrusion overflow events.

Comment 3: WAC 314-55 does not speak to providing water quality and quantity to facilities, therefore the protection of water quality remains unresolved.

Recommendation 3:

1. Amend Lewis County Code 17.145 to address provision for adequate water of quality and quantity to assure a safe water supply at both production and processing facilities by requiring development of a fully approved public water supply consistent with WAC 246-290 or Lewis County Code Chapter 8.55.

Rationalization: The absence of consideration related to backflow protection, creates concern for the risk of contamination to drinking water. While the County recently adopted new standards for Group B systems, this review did not focus on industrial uses that may now be allowed with the proposed code amendments.

Comment 4: The proposed code amendments to Title 17, omitted a significant consideration, with respect to oversight by several local government departments. One example shared with the group, to emphasize this point, is the regulation of bio-solids. Currently bio-solids are exclusively regulated by Department of Ecology. In this situation no local governance exists for this particular industry, as it's entrusted to the state's limited staff to manage state-wide. The consequences of a singularly management issue by a state agency, is a potential disaster for local government and the citizenry.

Recommendation 4:

1. There is the opportunity to consider local code provisions, through amendments described above, to Lewis County Code, primarily Title 8 to allow for local oversight.

Rationalization: In similar situations, state agencies contract with local government. While this is a partial solution, it may continue to leave many branches of local government and the citizens we serve, feeling hamstrung. When the state fails to manage an industry, the local citizens will call their elected officials for assistance.

Comment 5: Does the Liquor Control Board buffer include Family Home Child Care and child care facilities located within a church?

Recommendation 5:

1. Amend Lewis County Code 17.145.150(8) to include Family Home Child Care Centers as defined in WAC 170.296A-1000.
2. Amend Lewis County Code 17.145.150(8) to include pre-school and care centers located within a church.

LEWIS COUNTY PLANNING COMMISSION

Michael Mahoney, Chairman

LETTER OF TRANSMITTAL

To: Lewis County Board of County Commissioners

From: Lewis County Planning Commission

Date: February 10, 2015

Subject: Transmittal to the BOCC: Findings and Conclusions regarding adopting recreational marijuana code amendment language.

Dear Commissioners:

The Lewis County Planning Commission held workshops on July 8, 2014, July 29, 2014, September 23, 2014, October 28, 2014, November 25, 2014, December 9, 2014, January 13, 2015, January 27, 2015 and February 10, 2015 to discuss amending the recreational marijuana code amendment language.

General findings of fact:

1. The Lewis County Planning Commission has the authority and responsibility to recommend to the Board of County Commissioners land use regulations to govern the production, processing and retail sale of legalized recreational marijuana following a public hearing and nine workshops on the same.
2. The Lewis County Planning Commission heard extensive public testimony during its nine workshops (the public was allowed to make comments at these workshops) and at its public hearing about the land use impacts of legalizing recreational marijuana production, processing and retail sale in Lewis County.
3. At its December 9, 2014 workshop, the Lewis County Planning Commission approved moving draft code amendment language to its January 13, 2015 meeting for a public hearing to get testimony from the public on the suggested code amendment language. The Lewis County Planning Commission also asked the planning staff to get feedback from pertinent Lewis County departments about possible impacts to County departments if the recreational marijuana code amendment language is approved by the BOCC.

4. A public hearing notice (Exhibit 1) was published and a public hearing was held on January 13, 2015.

5. The Lewis County Planning Commission received testimony from the public (Exhibit 2) and it received feedback from pertinent Lewis County departments concerning the impacts of legalizing the production, processing and retail sale of recreational marijuana (Exhibit 3).

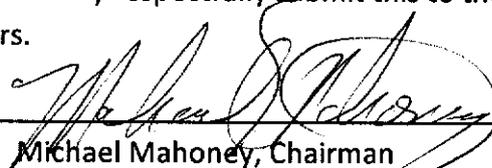
Conclusions

The Lewis County Planning Commission finds that if the production, processing and retail sale of recreational marijuana is legalized in Lewis County, appropriate land use regulations need to be in place to regulate its impacts on the environment, adjacent land uses and the public safety of Lewis County.

Based on the above findings and conclusions, the Planning Commission recommends that the Lewis County Board of County Commissioners consider adopting marijuana code amendment language (Exhibit 4) if it approves the legal production, processing and retail sale of recreational marijuana in Lewis County.

Being duly authorized to transmit the recommendations on behalf of the Lewis County Planning Commission, I hereby respectfully submit this to the Lewis County Board of County Commissioners.

Submitted by



Michael Mahoney, Chairman
Lewis County Planning Commission

Date

Feb 10, 2015

**Chapter 17.10
DEFINITIONS**

Amend Chapter 17.10 include the following definitions:

17.10.0-- Marijuana Processing

“Marijuana processing” means converting harvested marijuana into useable marijuana and marijuana-infused products by any person or entity that holds a valid marijuana processor license issued by the Washington State Liquor Control Board under WAC 314-55-077 as now in effect or hereafter amended.

17.10.0-- Marijuana Processing, Type 1

“Type 1 Marijuana Processing” means marijuana processing as provided under WAC 314-55-077 that is limited to drying, curing, trimming, and packaging marijuana for retail sale.

17.10.0-- Marijuana Processing, Type 2

“Type 2 Marijuana Processing” means marijuana processing as provided under WAC 314-55-077 that extracts concentrates, infuses products, or involves the mechanical and/or chemical processing in addition to drying, curing, trimming, and packaging for retail sale.

17.10.0-- Marijuana Production

“Marijuana production” means the growing and wholesaling of marijuana by any person or entity that holds a valid license issued by the Washington State Liquor Control Board under WAC 314-55-075 as now in effect or hereafter amended.

17.10.0-- Marijuana Retailer

“Marijuana retailer” means a retail outlet that sells useable marijuana, marijuana-infused products, and marijuana paraphernalia and is owned by any person or entity that holds a valid marijuana retailer license issued by the Washington State Liquor Control Board under WAC 314-55-079 as now in effect or hereafter amended.

**Chapter 17.42
RURAL AREA ZONING SUMMARY**

Amend Section 17.42.030, Table 1: Rural Area Land Use – LAMIRDS Zoning Summary, to add the following uses:

17.42.030 Land use summary – Local areas of more intensive rural development

Table 1: Rural Area Land Use - LAMIRDS Zoning Summary

Use Tier	Uses of Rural Area Lands	17.45 Small Town Mixed Use	17.50 Small Town Residential	17.55 Small Town Industrial	17.60 Crossroad Commercial	17.65 Freeway Commercial	17.95 Rural Residential Center/ Shoreline Residential
II	Type 1 marijuana processing	X	X	SUP	X	X	X
II	Type 2 marijuana processing	X	X	SUP	X	X	X
II	Marijuana production	X	X	SUP	X	X	X
II	Marijuana retailer	SUP	X	X	SUP	SUP	X

Amend Section 17.42.040, Table 2: Rural Area Land Use Zoning Summary, to add the following uses:

17.42.040 Rural area land use zoning summary

Table 2: Rural Area Land Use Zoning Summary

Use Tier	Use	R 1-5	R 1-10	R 1-20
II	Type 1 marijuana processing	SUP	SUP	SUP
II	Marijuana production	SUP	SUP	SUP

**Chapter 17.75
RURAL AREA INDUSTRIAL (RAI)**

Amend Chapter 17.75 to add Section 17.75.037, Special uses, to a section on special uses:

17.75.037 Special uses

The following uses may locate in the Rural Area Industrial district with a special use permit:

- (1) Marijuana production
- (2) Type 1 marijuana processing
- ~~(3) Type 2 marijuana processing~~

**Chapter 17.30
RESOURCE LANDS**

Amend Chapter 17.30, Article IV: Forest Resource Lands, to add a section on special uses:

17.30.475 Special Uses

The following uses may locate in privately owned Forest Resource Lands with a special use permit:

- (1) Marijuana production as defined under 17.10.0—
- (2) Type 1 marijuana processing as defined under 17.10.0—

Amend Chapter 17.30, Article V: Agricultural Resource Lands, to add a section on special uses:

17.30.635 Special Uses

The following uses may locate in privately owned Agricultural Resource Lands with a special use permit:

- (1) Marijuana production as defined under 17.10.0—
- (2) Type 1 marijuana processing as defined under 17.10.0—

Chapter 17.145
SUPPLEMENTAL REQUIREMENTS

Amend Chapter 17.145 to add Section 17.145.150, Development Standards for Marijuana Production and Processing

17.145.150 Development Standards for Marijuana Production and Processing

- (1) The location of all marijuana production and processing, including related structures, shall not be closer than 100 feet from any property line when not located in the Small Town Industrial and Rural Area Industrial districts.
- (2) No marijuana production and processing shall occur on parcels less than five-acres in area, except in the Small Town Industrial and Rural Area Industrial districts.
- (3) A special use permit for marijuana production and processing may require odor control measures to protect neighboring properties from potential odor nuisances.
- (4) No facility used for marijuana production or processing shall use permanent standby or portable power generators using combustible fuels as a sole source of electrical power, except during periods of power outages.
- (5) Any outside lighting proposed for marijuana production and processing, including security ~~and lighting~~ shall have hoods and/or shields to prevent light transmission to neighboring properties.
- (6) The position of cameras required for surveillance systems for marijuana production and processing shall not intrude on the privacy of neighboring properties.
- (7) All structures serving as marijuana production or processing shall conform to Title 15 of the Lewis County Code, except as provided under RCW 19.27.065.
- (8) All structures and uses serving production or processing of recreational marijuana shall conform to Title 8 of the Lewis County Code pertaining to solid waste disposal.
- (9) The development of a marijuana producing and processing facility that generates a liquid industrial waste shall address either:
 - the coordinated disposal with an existing municipal utility sewer treatment plant, or
 - a permitted tank storage and transport disposal offsite to a permitted facility, or
 - an on-site closed loop system along with treatment and waster characterization.

- (10) The development of a marijuana producing and processing facility that produces and processes marijuana shall develop a fully approved public water supply consistent with WAC 246-290 or Chapter 8.55 of the Lewis County Code.
- (11) In addition to the buffer requirements stated WAC 314-55, marijuana production or processing shall not locate within one thousand feet of any hospital. The distance shall be measured as the shortest straight-line distance from the property line of the marijuana production or processing facility to the property line of the hospital.
- (12) A special use permit granted under Chapter 17.115 of this code for marijuana production and processing shall expire automatically if the Washington State Liquor Control Board revokes a valid license issued under Chapter 314-55 of the Washington Administrative Code.

Amend Chapter 17.145 to add Section 17.145.160, Development Standards for Marijuana Retailers

17.145.160 Development Standards for Marijuana Retailers

- (1) External security lighting for marijuana retailers shall shield glare or light transmission to neighboring properties.
- (2) The position of cameras required for surveillance systems for marijuana retail facilities shall not intrude on the privacy of neighboring properties.
- (3) Marijuana retailers shall not locate within one thousand feet of any hospital. The distance shall be measured as the shortest straight-line distance from the property line of the marijuana retailer to the property line of the hospital.
- (4) A special use permit granted under Chapter 17.115 of this code for a marijuana retailer shall expire automatically if the Washington State Liquor Control Board revokes a valid license issued under Chapter 314-55 of the Washington Administrative Code.

NOTICE OF PUBLIC HEARING BEFORE THE LEWIS COUNTY BOARD OF COUNTY COMMISSIONERS AND INTENT TO RENEW MORATORIUM

NOTICE IS HEREBY GIVEN that the **LEWIS COUNTY BOARD OF COUNTY COMMISSIONERS (BOCC)** will hold a public hearing to receive public testimony to renew a moratorium. The hearing will be on June 1, 2015 at the Lewis County Courthouse, commencing at or after 10:00 a.m.

At the hearing members of the public will be invited to speak and/or provide written statements regarding the proposed Ordinance 1263. After the public testimony portion of the hearing has ended, the BOCC will deliberate and consider modifications to the ordinance that are proposed by members of the public, county employees or the BOCC. The proposed ordinance may then be adopted with or without modifications.

The hearing will address renewal of a moratorium upon establishments involved in the production, processing and retail sale of marijuana and related products. The moratoria adopted pursuant to the authority of RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development. The County staff will need an additional six-month period to develop recommendations in the form of draft code amendments for the BOCC to consider.

All persons wishing to be heard on this matter are encouraged to attend. Written comments may be submitted in advance of the hearing by mail or at the hearing by delivery in person. Please deliver copies of all written comments to the Clerk of the Lewis County BOCC at 351 NW North St, Chehalis, WA 98532.

The draft ordinance is available on line at the Lewis County website at <http://lewiscountywa.gov/planning-division>. Hard copies are available to review at the Lewis County Department of Community Development at 2025 NE Kresky Ave., Chehalis WA, and at the Timberland Regional libraries located at: Chehalis, Centralia, Salkum, Randle, Packwood, and Winlock, as well as the Lewis County Senior Centers located at: Morton, Toledo, Twin Cities (Chehalis), Packwood, and Winlock in accordance with Lewis County Code Chapter 17.12.

For questions concerning the above, please contact:
Lee Napier at Lewis County Community Development at 360-740-2606.

This meeting site is barrier free.

People needing special assistance or accommodations should contact The Commissioners' Office 72 hours in advance of the meeting.

Phone: (360) 740-1120

PUBLISH: On or before May 19, 2015 in the Chronicle
/Karri Muir