

TOWN OF COULEE CITY, WASHINGTON
ORDINANCE NO. 653

AN ORDINANCE OF THE TOWN OF COULEE CITY, WASHINGTON, ADOPTING A
NEW CHAPTER 18.64 OF TITLE 18 ENTITLED "MARIJUANA CONTROL"

WHEREAS, the Washington voters approved Initiative 502 (I-502) in 2012, which authorizes the state liquor control board to regulate and tax marijuana for persons twenty- one years of age and older; and

WHEREAS, 1-502 allows the Washington State Liquor Control Board to license marijuana producers "to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers" (I-502, Sec. 4(1)); and

WHEREAS, 1-502 allows the Washington State Liquor Control Board to license marijuana processors to "process, package and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers" (1-502, Sec. 4(2)); and

WHEREAS, 1-502 allows the Washington State Liquor Control Board to license marijuana retailers to "sell usable marijuana and marijuana-infused products in retail outlets" (1-502, Sec. 4(3)); and

WHEREAS, 1-502 establishes certain siting limitations on the Washington State Liquor Control Board's issuance of such licenses for any premises that are within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, 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 twenty- one years or older (1 502, Sec. 8); and

WHEREAS, on July 3, 2013 the Washington State Liquor Control Board filed final proposed rules (Chapter 314-55 Washington Administrative Code) with the Code Reviser (CR 102) for applying for, obtaining, and maintaining licenses for the production, processing, and retailing of recreational marijuana; and

WHEREAS, 1-502 decriminalizes, for purposes of state law, the production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana, as long as such activities are in compliance with 1-502; and

WHEREAS, at this point in time, the Town of Coulee City does not have regulations addressing the facilities or uses identified in 1-502; and

WHEREAS, RCW 69.51A.140 authorizes cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of marijuana or marijuana products within their jurisdiction; and

WHEREAS, on March 19, 2014, after publication of legal notice in the News & Standard newspaper and posting the required notices at Town Hall, the local post office, and the grocery store, the Planning Commission conducted a public hearing on the proposed amendments; and

WHEREAS, on that same evening and after deliberating and considering the recommendations of staff and carefully reviewing all information in the public record, the Planning Commission voted to refer to the Town Council the proposed code amendment for approval; and

WHEREAS, on March 26, 2014, the Town Council held a public meeting to further review and discuss the record; and, subsequently, voted to approve the proposed amendments; and;

WHEREAS, the Town Council adopts the foregoing as its findings of facts justifying the adoption of this ordinance;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF COULEE CITY,
WASHINGTON DO ORDAIN AS FOLLOWS

Section 1: The Coulee City Municipal Code is hereby amended to include a new Chapter 18.64 titled “Marijuana Control” as follows:

**Chapter 18.64
MARIJUANA CONTROL**

Sections:

- 18.64.010 Authority.**
- 18.64.020 Purpose.**
- 18.64.030 Definitions.**
- 18.64.040 Marijuana production and processing.**
- 18.64.050 Retail marijuana sales.**
- 18.64.060 Locational criteria.**
- 18.64.070 No Town liability – Indemnification.**
- 18.64.080 Limitations.**

18.64.010 Authority.

The provisions of this chapter are implemented pursuant to Initiative 502 under the authority of RCW 69.51A.140.

18.64.020 Purpose.

The purpose of this Chapter is to further clarify the provisions of Initiative 502 and RCW Chapter 69.50 as it pertains to the use of land within the Town and to establish zoning regulations for the location and establishment within the Town of marijuana producers, processors, and retailers that are licensed by the State of Washington under Initiative No. 502.

18.64.030 Definitions.

The terms “Director”, “marijuana”, “marijuana-infused products”, “marijuana producer”,

“marijuana processor”, “marijuana retailer”, “retail outlet”, and “useable marijuana” shall have the meaning set forth in Chapter 69.50 RCW and Chapter 314-55 WAC, as now adopted or hereafter amended. The definitions in this section apply throughout this chapter, and the Town also adopts the definitions in WAC 314-55-010 and RCW 69.50.101.

18.64.040 Marijuana production and processing.

State licensed marijuana producers and processors may locate in the Town of Coulee City pursuant to the following restrictions:

1. Marijuana producers and processors must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.
2. Marijuana producers and processors may locate only in the I-Industrial zone. The cultivation of marijuana is considered to be production of a product for resale. Production of marijuana is limited to the Industrial zoning district wherein manufacturing uses are permitted. The processing of marijuana is considered to be a manufacturing activity. Processing of marijuana and marijuana products is limited to the Industrial zoning district wherein manufacturing and industrial processing uses are permitted.
3. Marijuana producers and processors shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any zone other than the I-Industrial zone.
4. Marijuana producers and processors shall not operate as an accessory or subordinate to a primary use or as a home occupation.
5. Marijuana producers and processors shall insure that all processing activities shall occur within an enclosed structure. Outdoor cultivation as may be permitted by the state is expressly prohibited.
6. Marijuana producers and processors shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, 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 twenty-one years or older. The distances shall be computed as straight line measurements.
7. Marijuana production and processing facilities shall be ventilated so that the odor from the marijuana cannot be detected by a person with a normal sense of smell from any adjoining use or property.
8. A screened and secured loading dock, approved by the Town Planner shall be required. The objective of this requirement is to provide a secure, visual screen from the public right of way and adjoining properties, and prevent the escape of odors when delivering or transferring marijuana, useable marijuana, and

marijuana-infused products.

18.64.050 Retail marijuana sales.

The sale of marijuana is a retail activity. Sale of marijuana is limited to the Industrial and Commercial zoning districts and is prohibited in all other zones. State licensed marijuana retailers may locate in the Town of Coulee City pursuant to the following restrictions:

1. Marijuana retailers must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.
2. Marijuana retailers may locate only in the Industrial and Commercial zones and shall be prohibited from locating in any other zone, including the Residential zone and Mixed-Use zone.
3. Marijuana retailers shall not locate in a building in which non-conforming retail uses have been established in any residential or mixed-use zone.
4. Marijuana retailers shall not operate as an accessory or subordinate to a primary use or as a home occupation.
5. Marijuana retailers shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, 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 twenty-one years or older. The distances shall be computed as straight line measurements.
6. Marijuana odor shall be contained within the retail outlet so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the marijuana retailer shall be required to implement measures, including but not limited to, the installation of ventilation equipment necessary to contain the odor.

18.64.060 Locational criteria.

The review process for marijuana producers, marijuana processors and marijuana retailers shall include a determination and finding as to whether or not the proposed use is compatible with adjoining uses. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Special attention shall be given to minimizing odor, noise, light, security, glare and traffic impacts.

In addition to the security requirements in Chapter 315-55 WAC, during non-business hours, all recreational marijuana producers, processors and retailers shall store all useable marijuana, marijuana-infused product, and cash in a safe or in a substantially constructed and locked cabinet. The safe or cabinet shall be incorporated into the building structure or securely attached thereto. For useable marijuana products that must be kept refrigerated or frozen, these products

may be stored in a locked refrigerator or freezer container in a manner approved by the Town Planner, provided the container is affixed to the building structure.

Marijuana producers, marijuana processors and marijuana retailers are required to acquire all necessary business licenses and are required to comply with municipal tax regulations and all other applicable Town ordinances.

18.64.070 No Town liability – Indemnification.

A. By accepting a permit issued pursuant to this chapter, the licensee waives and releases the Town, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.

B. By accepting a permit issued pursuant to this chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana business that is the subject of the license.

18.64.080 Limitations.

A. Nothing in this chapter is intended to be, nor should be considered to be, an allowance for less restricted activity than is permitted by state law and the rules and regulations of the Liquor Control Board.

B. Nothing in this chapter is intended to be, nor should be considered to be, a limitation on the Town from protesting the granting of a permit(s) or the renewal of a permit(s).

C. 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. Nothing in this chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by Chapter 69.51A RCW or Chapter 69.50 RCW. Nothing in this chapter shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein.

Section 2: Applicability. The revisions contained herein shall apply to future development and building permit applications.

Section 3: Effective Date. This ordinance shall be in full force and effect five days after its passage and publication of its summary as provided by law.


Section 4. Conflict with other CCMC Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Coulee City Municipal Code, this Ordinance shall control.

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

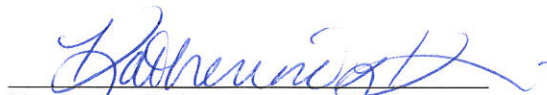
PASSED by the Town Council of the Town of Coulee City, Washington, this 14th day of May, 2014.


Robert J Dove, Mayor

ATTEST:


Alta Paulsson, Town Clerk

APPROVED AS TO FORM:


Katherine L. Kenison, Town Attorney

PASSED the 14th day of May, 2014.

APPROVED the 30th day of May, 2014.

PUBLISHED the 21st day of May, 2014.