

ORDINANCE NO. 1547

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING SECTIONS 8.20.020, 18.04.130, AND 18.08.030 OF THE BONNEY LAKE MUNICIPAL CODE, RELATING TO MARIJUANA COOPERATIVES.

WHEREAS, state legislation amended Title 69 RCW to create a system for the possession, production, processing, distribution and research of medical marijuana but preserved local government's ability to prohibit marijuana land-uses; and

WHEREAS, the City Council previously found by Ordinance No. 1502 that permitting licensed marijuana producers, processors, and retailers to locate within City limits would negatively impact the City's regulatory enforcement, criminal law enforcement, public safety and public health, and accordingly adopted land use ordinances prohibiting such uses in all zones; and

WHEREAS, in 2015 the state legislature enacted provisions eliminating collective gardens and instead authorizing medical marijuana "cooperatives," which allow up to four qualifying patients or designated providers to grow up to 60 plants in the residence of one of the participants; and

WHEREAS, the legislature explicitly granted the City Council the authority to prohibit these cooperatives within the City; and

WHEREAS, the City Council has determined that a prohibition of marijuana cooperatives is in keeping with its current ban on marijuana producers, processors and retailers throughout the City of Bonney Lake; and

WHEREAS, the City Council finds it necessary to adopt this ordinance in order to avoid negative impacts on the community and the public health, safety and welfare associated with medical marijuana cooperatives and state-licensed marijuana producers, processors, retailers and researchers.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The City Council adopts the following findings of fact in support of its decision to adopt the amendments to the Bonney Lake Municipal Code contained in this Ordinance:

- 1) On April 6, 2016 the City of Bonney Lake Planning Commission held a public hearing to consider the amendments to the City's development regulations contained in this Ordinance, as required by BLMC 14.140.080.

- 2) The City complied with all applicable notice, timing and comment provisions in scheduling and carrying out the above-referenced hearing.
- 3) At the above-referenced hearing, the City of Bonney Lake Planning Commission determined that the amendments to the City's development code contained in this Ordinance are consistent with other BLMC development regulations and with the laws of the State of Washington.
- 4) Under the State Environmental Policy Act (SEPA) the adoption of this Ordinance is a non-project action as defined by WAC 197-11-704(2)(b) that is categorically exempt from SEPA pursuant to WAC 197-11-800(19)(b).
- 5) Pursuant to RCW 36.70A.106(3)(b) the City requested expedited review of this Ordinance from the Department of Commerce. The Department of Commerce review period concluded on March 16, 2016

Section 2. Amend Section 8.20.020. Bonney Lake Municipal Code Section 8.20.020, Public Nuisances and the corresponding portions of Ordinance No. 1380 § 6 are hereby amended to read as follows:

Section 8.20.020. Public Nuisances.

A public nuisance is a thing, act, omission to act, occupation, or use of property which shall unreasonably annoy, injure or endanger the safety, health, comfort, or repose of the public; or shall unlawfully interfere with, obstruct or render dangerous for public use a public park, square, street, alley or highway; or shall render the public insecure in life or in use of property. Public nuisances include, but are not limited to, the following:

- A. Diseased animals running at large;
- B. Ponds or pools of stagnant water;
- C. Carcasses of animals not buried or destroyed within 24 hours after death;
- D. Accumulations of manure or rubbish;
- E. Privy vaults or outhouses;
- F. Garbage cans which are not fly-tight;
- G. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dairy or industrial wastes, or other substances;
- H. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- I. The use of a common public drinking cup or roller towel;

J. All nuisance vegetation, including noxious weeds; dead, diseased, infested or dying trees; any tree, shrub or foliage which is apt to damage or impair streets, sidewalks, sewers, utilities or other public improvements or impede visibility on public rights-of-way; vines or climbing plants growing into or over any appliance or facility provided for fire protection purposes; and caterpillar infestations;

K. The existence of any trash, dirt, filth, spilled garbage, waste, accumulation of lawn or yard trimmings or other offensive matter, except in a compost process;

L. The existence of any accumulation of materials or objects in a location when the same endangers property or safety or constitutes a fire hazard;

M. The accumulation of filth, including stagnant or impure water, vegetables, decayed or decaying substances, or other matter or material, which may cause, or tend to cause, or create a noisome or offensive smell or atmosphere;

N. Any litter, unless it is kept in approved covered bins or galvanized receptacles;

O. All snow and ice not removed from public sidewalks within a reasonable time after the snow and ice have ceased to be deposited thereon;

P. All buildings, walls and other structures which have been damaged by fire, decay or otherwise so as to endanger the safety of the public;

Q. Any use of property abutting on a public street or sidewalk, or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks, unless a special event permit has been obtained;

R. All hanging signs, awnings and other similar structures over the streets or sidewalks, or so situated as to endanger public safety;

S. All wells, cisterns or septic tanks without adequate cover while in regular use and all wells and cisterns not filled in with earth when abandoned;

T. All places, other than those zoned and licensed as wrecking yards or repair shops, used or maintained for the storage of unlicensed vehicles or for wrecking or disassembling of vehicles or machinery of any kind; or storage of any parts thereof except within an enclosed garage or building. For the purposes of this chapter, all vehicles not bearing a current vehicle license within 90 days of the beginning of any license year shall be deemed unlicensed, and the restrictions in this chapter shall not apply to any resident repairing a licensed vehicle registered in his name; provided, that all such work shall be accomplished on his property and shall be completed within 30 days, and during such time all body and mechanical parts and tools shall be stored in a neat and orderly manner not in public view;

U. Ground vibrations recurrently generated to be perceptible without instruments at any point of the lot line on which the use is located;

V. Emission of an obnoxious or dangerous degree of heat, glare, radiation or smoke;

W. Highly flammable or explosive liquids, solids or gases unless stored in bulk aboveground. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision;

X. Outdoor storage of fuel containers and construction materials unless screened from view of the adjacent property by a fence, greenbelt or wall. Construction materials stored outside for up to 60 days as part of an active construction project are excluded from this provision;

Y. All materials or waste which might cause fumes or dust which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects unless stored outdoors in closed containers;

Z. Swimming pools that are not protected from entry by unauthorized persons in accordance with the International Residential Code, adopted by reference in Chapter 15.04 BLMC.

AA. Growth of more marijuana plants in a residence than authorized for personal, medical use by RCW 69.51A.210(1)-(3), or growth of an authorized number of personal, medical marijuana plants in a manner than can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another.

Section 3. Amend Section 18.04.130. Bonney Lake Municipal Code Section 18.04.130, "M" Definitions and the corresponding portions of Ordinance No. 1502 § 3 are hereby amended to read as follows:

Section 18.04.130. "M".

"Macro facility" is an attached wireless communication facility which consists of antennas equal to or less than fifteen feet in height or a parabolic antenna up to one meter (thirty-nine and thirty-seven-one-hundredths inches) in diameter and with an area not more than one hundred square feet in the aggregate as viewed from any one point.

"Manufactured home" means a structure constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

A. Is comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;

B. Was originally constructed and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch;

C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences;

D. Is built on a permanent chassis and designed solely for the purpose of human habitation.

“Marijuana” means all parts of the plant Cannabis, whether growing or not, with a THC (tetrahydrocannabinol) concentration greater than 0.3 percent on a dry weight basis; 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. The term 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 therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

~~“Marijuana collective garden” (also referred to as “medical marijuana collective garden,” “cannabis collective garden,” and “medical cannabis collective garden”) means a location where “qualifying patients,” as defined in RCW 69.51A.010(4), may engage in the production, processing, and/or delivery of marijuana for medical use, as described in RCW 69.51A.090.~~

“Marijuana concentrates” means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than 60 percent.

“Marijuana cooperative” means the same as described in RCW 69.51A.250 and amendments thereto.

~~“Marijuana dispensary” (also referred to as “medical marijuana dispensary,” “cannabis dispensary,” and “medical cannabis dispensary”) means any facility where marijuana or marijuana products are grown, produced, manufactured, sold or otherwise made available and/or distributed that is not licensed by the Washington State Liquor Control Board.~~

“Marijuana-infused products” means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than 60 percent. The term “marijuana-infused products” does not include either usable marijuana or marijuana concentrates.

“Marijuana processor” means a person, business, or organization licensed by the Washington State Liquor Control Board to process marijuana into usable marijuana and marijuana-infused products, package and label usable marijuana, marijuana concentrates, and marijuana-infused products for sale in retail outlets, and sell usable marijuana, marijuana concentrates, and marijuana-infused products at wholesale to marijuana retailers.

“Marijuana producer” means a person, business, or organization licensed by the Washington State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana researcher” means a person or entity licensed to produce, process, and possess marijuana for limited research purposes pursuant to RCW 69.50.372.

“Marijuana retailer” means a person, business, or organization licensed by the Washington State Liquor Control Board to sell usable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet.

“Massage therapy/spa” means a scientific or skillful manipulation of soft tissue for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting health and physical well-being. The term includes, but is not limited to, manual and mechanical procedures for the purpose of treating soft tissue only, the use of supplementary aids such as rubbing alcohol, liniments, oils, antiseptics, powders, herbal preparations, creams or lotions, procedures such as oil rubs, salt glows and hot or cold packs or other similar procedures or preparations commonly used in this practice. This term specifically excludes manipulation of the spine or articulations and excludes sexual contact.

“Medical-dental clinic” means an establishment for the treatment of outpatients, and providing no overnight care for patients.

“Microbrewery” means a facility that produces beer and sells it to the public by one or more of the following methods: through the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and in some cases, directly to the consumer through carry-outs or on-site taproom sales. Microbreweries shall have a production capacity not to exceed 15,000 U.S. barrels per year and shall have a full food menu.

“Microcell” means a wireless communication facility consisting of an antenna that is either equal to or less than four feet in height and with an area of not more than five hundred eighty square inches; or if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

“Mini-day care center” means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through 12 children in the family abode of such person or persons.

“Mini facility” is an attached wireless communication facility which consists of antennas equal to or less than ten feet in height or a parabolic antenna up to one meter (thirty-nine and thirty-seven-one-hundredths inches) in diameter and with an area not more than fifty square feet in the aggregate as viewed from any one point.

“Mobile home” means a single-family prefabricated residential unit manufactured according to the standards of the statutes of the state and federal government, capable of being moved upon the public roads and highways, so designed and equipped as to be served by a sanitary sewer or septic tank system, supported by leveling jacks or blocks.

“Mobile home park” is a tract of land used or designated for the use of two or more mobile homes.

“Modification” means the changing of any portion of a facility such as a wireless communication facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

“Modular home” means any structure other than a mobile or manufactured home designed primarily for human occupancy, which is either entirely or substantially prefabricated or assembled at a place other than a building site and which has been approved pursuant to RCW 43.22.455 and bears the insignia of the Washington State Department of Labor and Industries.

Monopole I” is a wireless communication facility which consists of a support structure, the height of which shall not exceed sixty feet.

“Monopole II” is a wireless communication facility, which consists of a wireless communications support structure, greater than sixty feet in height erected to support wireless communication antennas and connecting appurtenances.

Section 4. Amend Section 18.08.030. Bonney Lake Municipal Code Section 18.08.030, Marijuana uses prohibited and the corresponding portions of Ordinance No. 1502 § 3 are hereby amended to read as follows:

Section 18.08.030. Marijuana uses prohibited.

A. Marijuana ~~((Collective Gardens and Dispensaries))~~ Cooperatives Prohibited. Notwithstanding any other provision of the Bonney Lake Municipal Code, or any state license or other recognition pursuant to Title 69 RCW, ((marijuana collective gardens and marijuana dispensaries are prohibited in all zoning districts)) marijuana cooperatives, as described by RCW 69.51A.250, are prohibited in all zoning districts.

B. Marijuana Producers, Processors, ~~((and))~~ Retailers, and Researchers Prohibited. Notwithstanding any other provision of the Bonney Lake Municipal Code, or any state license or other recognition pursuant to Title 69 RCW, marijuana producers, marijuana processors, ((and)) marijuana retailers, and marijuana researchers are prohibited in all zoning districts.

Section 5. Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force effect.

Section 6. Effective Date. Amended BLMC Section 18.08.030 shall take effect on July 1, 2016, consistent with RCW69.51A.250. The phrases “marijuana collective garden” and “marijuana dispensary,” as defined in BLMC Section 18.04.130 shall be deleted, and the phrase “marijuana cooperative” shall be added, as of July 1, 2016. All other BLMC Sections amended by this Ordinance shall take effect five days after passage and publication, as required by law.

PASSED BY THE CITY COUNCIL this 14th day of June, 2016.



Neil Johnson, Jr., Mayor

AUTHENTICATED:



Harrywood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:



Kathleen Haggard, City Attorney

Passed: 6/14/2016
Valid: 6/14/2016
Published: 6/22/2016
Effective Date: 6/27/2016 and 7/1/2016
This Ordinance totals 8 page(s)

AB16-26



Planning
Commission

Memo

Date : April 6, 2016
To : Mayor and City Council
From : Grant Sulham, Planning Commission Chair
Re : **Ordinance D16-26**

The Planning Commission is recommending the adoption of Ordinance D16-26.

The City Council previously found by Ordinance No. 1502 that permitting licensed marijuana producers, processors, and retailers to locate within City limits would negatively impact the City's regulatory enforcement, criminal law enforcement, public safety and public health, and accordingly adopted land use ordinances prohibiting such uses in all zones.

The Planning Commission has determined that a prohibition of marijuana cooperatives is consistent with the City's current ban on marijuana producers, processors and retailers throughout the City of Bonney Lake

In order to be consistent with other legislation relating to marijuana it necessary to adopt this ordinance in order to avoid negative impacts on the community and the public health, safety and welfare associated with medical marijuana cooperatives and state-licensed marijuana producers, processors, retailers and researchers.

The proposed changes to the City's development regulations contained in this Ordinance ensure consistency between *Bonney Lake 2035* and the City's adopted development regulations in the BLMC.

The City of Bonney Lake Planning Commission held a public hearing on April 6, 2016. The Planning Commission voted 6-0-0 to recommend that the City Council approve Ordinance D16-26.

As required by BLMC 14.40.100, the Planning Commission adopts the following findings of fact in support of its recommendation:

- 1) The City of Bonney Lake Planning Commission held a public hearing on April 6, 2016 to consider the amendments to the City's development regulations contained in this Ordinance as required by BLMC 14.140.080.
- 2) Pursuant to BLMC 14.140.090.B, the approval criterion for amendments to the City's development regulation is consistency with the comprehensive plan and the laws of the state of Washington
- 3) The City of Bonney Lake Planning Commission found that the amendments to the City's development regulations contained in this Ordinance are consistent with *Bonney Lake 2035* and the City's other adopted development regulations in the BLMC.
- 4) The City of Bonney Lake Planning Commission found that the amendments to the City's development regulations contained in this Ordinance are consistent with the laws of the state of Washington.
- 5) The City published a notice of the public hearing on March 9, 2016 in the Bonney Lake Herald Courier as required by BLMC 14.140.040.D.
- 6) The notice for the public hearing was provided twenty days prior to the hearing consistent with the requirements of BLMC 14.140.040.D.
- 7) The City posted notice of the public hearing at the City's official posting locations on March 9, 2016.
- 8) The City maintains an email list of stakeholders and individuals that requested notification of hearings related to amendments to the City's development regulation and comprehensive plan consistent with *Bonney Lake 2035* - Implementation Element PI-Action-3.
- 9) The Community Development Department provided notices of the public hearing to all stakeholders and parties identified on this list.
- 10) The adoption of this Ordinance is considered a non-project action as defined in WAC 197-11-704(2)(b) under the State Environmental Policy Act (SEPA).
- 11) The Community Development Director acting as the SEPA Responsible Official determined that the proposed amendment is categorically exempt from the SEPA pursuant to WAC197-11-800(19)(b).
- 12) As required by RCW 36.70A.106 and BLMC 14.140.070, this the City provided this Ordinance to the Department of Commerce for review and comment by the Department and other State agencies.

- 13) As authorized by RCW 36.70.106(3)(b), the City requested that the Department of Commerce grant expedited review of the proposed amendments to the City's development regulation contained in this Ordinance.
- 14) The Department of Commerce issued expedited review and the review period concluded on March 16, 2016.

Ryan Harriman

From: COM GMU Review Team <reviewteam@commerce.wa.gov>
Sent: Wednesday, March 16, 2016 6:56 AM
To: Ryan Harriman
Cc: Andersen, Dave (COM)
Subject: 22132, City of Bonney Lake, Expedited Review Granted, DevRegs

Dear Mr. Harriman:

The City of Bonney Lake has been granted expedited review for the: Proposed Ordinance D16-26 amending Chapter 18.08.030 of the Bonney Lake Municipal Code (BLMC) to ban marijuana cooperatives throughout the City of Bonney Lake. This proposal was submitted for the required state agency review under RCW 36.70A.106.

As of receipt of this email, the City of Bonney Lake has met the Growth Management Act notice to state agency requirements in RCW 36.70A.106 for this submittal. For the purpose of documentation, please keep this email as confirmation.

If you have any questions, please contact reviewteam@commerce.wa.gov

Thank you.

Review Team, Growth Management Services
Department of Commerce
P.O. Box 42525
Olympia WA 98504-2525

City of Bonney Lake
City Council Agenda Bill (AB)

Department / Staff Member: CD/Jason Sullivan	Meeting/Workshop Date: June 14, 2016	Agenda Bill Number: AB16-26
Agenda Item Type: Ordinance	Ordinance/Resolution Number: D16-26	Councilmember Sponsor: Donn Lewis

Agenda Subject: Marijuana Cooperatives Ban

Full Title/Motion: An Ordinance of the City Council of the City Of Bonney Lake, Pierce County, Washington, amending sections 8.20.020, 18.04.130, and 18.08.030 of the Bonney Lake Municipal Code, relating to marijuana cooperatives.

Administrative Recommendation: Approve

Background Summary: The City Council adopted Ordinance No. 1502 banning licensed marijuana producers, processors, and retailers within the City limits. In 2015, the State Legislature adopted Second Substitute Senate Bill 5052, which will repeal the authorization for collective gardens effective July 1, 2016. The bill also established marijuana cooperatives, which are essentially a large grow operation in a residential structure serving no more than four individuals. The proposed ordinance will update the City's current ban to be consistent with changes in the state law related to medical cannabis.

Attachments: Ordinance D16-26, Planning Commission Recommendation Memo, and Commerce Review

BUDGET INFORMATION

Budget Amount	Current Balance	Required Expenditure	Budget Balance	Fund Source
				☐ General
				☐ Utilities
				☐ Other

Budget Explanation:

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee:	<i>Approvals:</i>	Yes	No
	Chair/Councilmember	☐	☐
Committee Date:	Councilmember	☐	☐
	Councilmember	☐	☐
Forwarded to:	Consent Agenda: ☒ Yes ☐ No		
Commission/Board Review:	Planning Commission – April 6, 2016		
Hearing Examiner Review:			

COUNCIL ACTION

Workshop Date(s): June 7, 2016 Public Hearing Date(s):
Meeting Date(s): Tabled to:

APPROVALS

Director: JPV **Mayor:** **Date Reviewed by City Attorney:** (if applicable)