

OKANOGAN COUNTY

ORDINANCE 2018 - 2

An ordinance adopting revisions to OCC 17A.290 Cannabis Operations and OCC 17A.220 District Use Chart as interim land use controls and scheduling a public hearing as required by RCW 36.70.795.

WHEREAS: Okanogan County has seen a proliferation of cannabis operations in the unincorporated areas since the legalization of cannabis through the adoption of I-502, and

WHEREAS: The Revised Code of Washington 36.70 (Planning Enabling Act) authorizes counties to adopt land use controls within the unincorporated areas, and

WHEREAS: The Okanogan Board of County Commissioners (BOCC) adopted a revised zone code OCC 17A.290 and OCC 17A.220 regulating the siting and operations of cannabis growing, producing, processing, or retail operations in July of 2016, and

WHEREAS: The BOCC finds, based on complaints from members of the cannabis industry, that the current local land use regulations do not provide an acceptable level of guidance and certainty for those applying for cannabis operation permits, and

WHEREAS: The BOCC finds, based on numerous complaints from members of the public that current local land use regulations concerning cannabis do not provide adequate controls over the siting of cannabis operations or the continued operation of non-conforming sites, and

WHEREAS: The BOCC adopted resolution 103-2017 imposing a moratorium on cannabis operations and set a public hearing to take comment, and

WHEREAS: The BOCC conducted a public hearing and subsequently adopted resolution 145-2017 amending the scope of the moratorium and extending it until December 26, 2017, and

WHEREAS: The BOCC finds that an advisory committee consisting of cannabis industry representatives and other interested members of the public was formed

and charged with the task of reviewing OCC 17A.290 Cannabis Operations, OCC 17A.220 District Use Chart, and OCC 17A.330 Legal Pre-existing Uses and Lots for the purpose of proposing revisions to avoid the adverse impacts of siting cannabis operations in areas where they are not compatible with surrounding land uses and to increase the guidance hence certainty for those applying for cannabis permits, and

WHEREAS: The advisory committee has met weekly since August 2017 and had made significant progress towards drafting a revised code section 17A.290, 17A.220, and 17A.330, and

WHEREAS: The BOCC conducted a public hearing on December 11, 2017 to consider whether the moratorium imposed through resolution 103-2017 should be continued, and

WHEREAS: The BOCC has concerns that marijuana operations that are incompatible with adjoining and neighboring residential uses may be vested and sited prior to the adoption of stricter local land use controls, and

WHEREAS: The Revised Code of Washington 36.70.795 (Planning Enabling Act) authorizes Counties to impose temporary moratoriums to promote and protect the public health, safety, and welfare by preventing the vesting of applications under existing regulations, and

WHEREAS: The BOCC determined the moratorium imposed through resolution 103-2017 and as amended by resolution 145-2017 should continue in effect until March 5, 2018 or until otherwise repealed or extended, and

WHEREAS: The BOCC adopted resolution 147-2017 extending the moratorium, and

WHEREAS: The Cannabis Advisory Committee completed and proposed revisions to OCC 17A.290 Cannabis Operations and OCC 17A.220 District Use Chart, and

WHEREAS: The Cannabis Advisory Committee presented the revised code sections to the BOCC on February 12, 2018 with a recommendation to repeal the moratorium and adopt interim revisions to OCC 17A.290 and OCC 17a.220, and

WHEREAS: A public hearing was conducted on February 26, 2018 to consider whether to extend the moratorium and to review the recommendation of the Cannabis Advisory Committee, and

WHEREAS: After review of the comments and testimony received the BOCC directed staff to prepare an ordinance adopting revisions to OCC 17A.290 Cannabis Operations and OCC 17A.220 District Use Chart as interim controls and a resolution repealing the moratorium, and

WHEREAS: RCW 36.70.795 requires a board that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption,

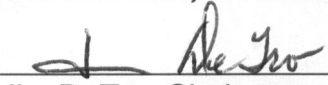
BE IT THEREFORE ORDAINED: Revisions to OCC 17A.290 Cannabis Operations found as attachment A of this ordinance are hereby adopted as interim land use controls, and

BE IT FURTHER ORDAINED: Revisions to OCC 17A.220 District Use Chart found as attachment B of this ordinance are hereby adopted as interim land use controls, and

BE IT FURTHER ORDAINED: The BOCC directs staff to schedule a public hearing on April 9, 2018 at 1:30 p.m. to take public testimony on the revisions to OCC 17A.290 and OCC 17A.220 as listed above.

DATED at Okanogan, Washington this 27 day of February ²⁰¹⁸~~2017~~.

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**



Jim DeTro, Chairman



Chris Branch, Member



Andy Hover, Member

ATTEST



Laleña Johns, Clerk of the Board



Chapter 17A.290

CANNABIS OPERATIONS

Sections:

- 17A.290.010 Purpose and intent.
- 17A.290.020 Types of cannabis operations.
- 17A.290.030 Permit required.
- 17A.290.040 Conditions of approval.
- 17A.290.050 License – Washington State Liquor and Cannabis Board.
- 17A.290.060 Other permits.
- 17A.290.080 Legal preexisting cannabis operations.

17A.290.010 Purpose and intent.

The purpose of this chapter is to create review criteria and procedures for cannabis operations within Okanogan County. It is further the intent of this chapter to be consistent with regulations of Washington State and administered by Washington State Liquor and Cannabis Board, as they pertain to the authorization of licensed cannabis operations. (Ord. 2016-4 § 1 (Att. A), 2016).

17A.290.020 Types of cannabis operations.

Cannabis operations are categorized into three separate types of activities which are reflective of the cannabis industry. These categories are similar to those categories defined by Washington State and administered by Washington State Liquor and Cannabis Board. The categories are:

A. Cannabis processing (see OCC 17A.20.590 for definition).

B. Cannabis production (see OCC 17A.20.595 for definition).

1. Indoor grow.
2. Outdoor grow.

C. Cannabis retail (see OCC 17A.20.600 for definition). (Ord. 2016-4 § 1 (Att. A), 2016).

17A.290.030 Permit required.

A permit issued under provisions of this chapter is required in order to operate a cannabis operation. See Chapter 17A.220 OCC, District Use Chart, for specific permit requirements.

A. The various types of cannabis operations may be subject to differing permit requirements. All within the same zone district, one category of cannabis operation may be outright permitted while another category may require a conditional use permit or not be permitted at all.

B. One application, and its associated permit, may include more than one type of cannabis operation so long as both operations are listed as a permitted or conditional use by the district use chart (Chapter 17A.220 OCC). For example, a permit may authorize cannabis production and cannabis processing on the same property. (Ord. 2016-4 § 1 (Att. A), 2016).

17A.290.040 Conditions of approval.

A permit or conditional use permit shall include the following conditions:

A. The project shall have a lawful source of water.

1. From an irrigation district.
2. If on a water right, that the use is within the approved limits of the water right certificate.

3. If on an exempt well, that the total for any project (whether one user on one or more properties or more than one user on a single parcel) not exceed exempt well limits (maximum appropriation of 5,000 gpd) and must be consistent with instream flow rules adopted in Washington Administrative Code 173-548.

B. To ensure compliance, the conditions of approval shall include:

1. Continued operations shall be in compliance with all state laws and regulations and the conditions of the permit.

2. The facility shall be in compliance with the following to the extent applicable to the agriculture activity:

a. Fugitive dust: WAC 173-400-040(9).

b. Visible emissions: WAC 173-400-040(2).

c. Fugitive volatile organic compound (VOC) emissions: WAC 173-400-040(4).

d. Odors: WAC 173-400-040(5).

a. For the purpose of this section, Outdoor Grow Operations that meet the setback requirements of OCC 17A.290.040 (B)(9) shall be presumed to be in compliance with OCC 17A.290.040(B) (2d).

b. Indoor Grow Operations and Processor Facilities which are located within 1000 feet of the entities listed in 17A.290.040 (B)(4a thru f inclusive) must install and maintain adequate odor abatement/filtration systems.

e. Noise: In addition to compliance with OCC 9.16 Noise Disturbances the following will apply: WAC 173-58-080 and 173-60-010 to 173-60-120 including definitions: WAC 173-60-020 and 173-60-030, and maximum permissible noise levels: WAC 173-60-040.

f. Disposal of waste shall comply with WAC 314-55-097.

3. Outdoor cannabis operations shall not be sited within 2000 feet of public and private schools, except a cannabis operation may be sited within 2000 feet of a public or private school, but in any event not less than 1000 feet, if the following exceptions apply:

1. A topographical feature such as a ridgeline blocks the cannabis operation visually from the school
2. A major topographical feature, such as a river or state highway lies between the cannabis operation and the school.

4. Cannabis Processing Facility (17A.020.590) or Indoor Grow Cannabis Production Facility (17A.020.595) must be sited a minimum of 100' from the perimeter of the grounds of any of the following entities. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed below:

- a. Recreation center or facility
- b. Child care center
- c. Public park facilities other than those facilities used for youth recreation, such as a baseball diamond or basketball court
- d. Public transit center
- e. Library; or
- f. Any game arcade (where admission is not restricted to persons age twenty-one or older).

Indoor grows sited within 1000' of entities listed in 17a.290.040 (B) (4a thru f) are required to have sight-obscure windows.

5. Signage: Cannabis operations sited within 1000' of entities identified in 17A.290.040 (B) (4a thru f) are limited to no more than two separate signs identifying a facility by the licensee's business name or trade name.

Signs must be wall mounted to the building or permanent structure and are limited to six hundred square inches each in size. If illuminated, they shall be indirectly illuminated.

Safety, directional, State or county mandated signs do not count toward the above two-sign limit.

6. All outdoor lighting, including but not limited to security lighting and illumination of signs, shall be downcast and shielded from neighboring properties.

7. Adequate off-street parking shall be provided. (Ord. 2016-4 § 1 (Att. A), 2016).

8. No outdoor cannabis production operation may be sited in a high density area, defined as follows: Lots created by a subdivision or short plat in which the predominant lot size is 2 or 5 acres, and which have dwelling unit(s) built on the following percentages of parcels in the subdivision:

- a. 2 acre subdivision
 - i. 4 lots or less - 25%
 - ii. 5-10 lots - 40%
 - iii. 11+ lots - 60%
- b. 5 acre subdivision
 - i. 4 lots or less - 50%
 - ii. 5-10 lots - 60%
 - iii. 11+ lots - 70%

9. Required fencing will adhere to the following property line setbacks:

- 1. Front, minimum is 25 feet;
- 2. Side, minimum is 25 feet;
- 3. Rear, minimum is 25 feet;
- 4. If the property line abuts a county road, the minimum setback from the center of the county road is 68 feet.

10. Outdoor cannabis production operations will be fenced with an 8 ft. or higher sight-obscuring fence consistent with WAC 314-55-075. The fence must be fit for its intended use, kept in good repair, and made of materials that are neutral tones and alike in shape and color. The use of oriented strand board (OSB), repurposed materials (e.g., tires, fruit crates, rubbish, etc.), and non-permeable plastic material, is not allowed.

11. Upon notice of violation the county may direct compliance and upon failure to comply the permit may be suspended until necessary corrections are made or terminated upon failure to comply or repeated violations.

12. Appeals of any violation notice shall be to the hearing examiner.

17A.290.050 License – Washington State Liquor and Cannabis Board.

The owner of the cannabis operation shall provide a valid license issued by Washington State Liquor and Cannabis Board. At no time shall the cannabis operation operate without a valid license. (Ord. 2016-4 § 1 (Att. A), 2016).

17A.290.060 Other permits.

All other required permits must be obtained and maintained in good standing throughout the duration of the project. Associated permits may include but are not limited to building permits, shoreline permits,

floodplain development permits, zoning or critical areas permits, access permits, etc. (Ord. 2016-4 § 1 (Att. A), 2016).

17A.290.070 Industrial Hemp

Industrial Hemp must be located at least 10 miles from the nearest pre-existing 502 production operation. Likewise, a 502 production operation may not locate within 10 miles of an existing industrial hemp farm.

17A.290.080 Legal preexisting cannabis operations.

Legally established cannabis operations in existence prior to the adoption date of this code are considered legal preexisting in accordance with Chapter 17A.330 OCC. (Ord. 2016-4 § 1 (Att. A), 2016).

Except all cannabis operations will be required to comply with OCC 17A.290.040 (B)(1), 17A.290.040 (B)(2a, b, c, e, f), OCC 17A.290.040 (6), OCC 17A.290.040 (7), and OCC 17A.290.040 (10) by January 1, 2021.