

**GRANT COUNTY PLANNING DEPARTMENT  
ADMINISTRATIVE OFFICIAL INTERPRETATION**

IN RE: A UNIFIED DEVELOPMENT  
CODE (UDC) ADMINISTRATIVE  
INTERPRETATION REGARDING  
MARIJUANA PRODUCTION,  
PROCESSING, AND RETAIL SALES

INTERPRETATION AND DECISION OF  
THE ADMINISTRATIVE OFFICIAL  
  
GRANT COUNTY NO. 13-5868

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**I. INTRODUCTION**

This Administrative Official (AO) interpretation and decision is issued by and through the Grant County Planning Department, and concerns marijuana production, processing, and retail sales within Grant County.

With the passage of Initiative 502 (I-502), the production, processing, and retail sales of marijuana is now a permissible activity within the State of Washington. This change in state law is currently in conflict with federal law. See U.S. Department of Justice (DOJ) Memorandum dated August 29, 2013.

The Washington State Liquor Control Board (LCB) has engaged in a rule making process for the purpose of providing specific parameters, limitations and license requirements under which marijuana can be produced, processed, and sold at retail. Chapter 314-55 WAC, entitled "MARIJUANA LICENSES, APPLICATION PROCESS, REQUIREMENTS, AND REPORTING" outlines the application process, qualifications, and requirements to obtain and maintain a marijuana license and reporting requirements for a marijuana licensee.

During the license review process and pursuant to RCW 69.50.331, the LCB will notify the local government body in which the location of the license may be situated for the purpose of seeking local government response and/or objections on any pending license application.

The LCB notice to the local governmental agency includes three fundamental questions:

- 1) Do you approve of the applicant?
- 2) Do you approve of the location?
- 3) If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken?

The Grant County Board of County Commissioners (BOCC) will reply to the LCB within the time limitations established by the LCB (unless a time extension is requested). Recommendations and responses of the BOCC will, in part, be based upon comments

from the Grant County Sheriff's Office, the Grant County Planning Department, the Grant County Building Department, and the Grant County Health District.

With regard to similarity of use and subsequent recommendation to the BOCC, it is necessary for the AO to determine how the production, processing, and retail sales of marijuana fits within the various land uses and land use processes identified in the existing Grant County Unified Development Code (UDC). In determining similarity of use, the AO shall make the following findings:

- a. The proposed use shall substantially meet the intent of and be consistent with the goals, objectives and policies of the Comprehensive Plan;
- b. The proposed use shall meet the stated purpose and general intent of the zoning district in which the use is proposed to be located;
- c. The proposed use shall not adversely impact the public health safety and general welfare of the residents of Grant County; and
- d. The proposed use shall share characteristics common with and not be of greater intensity, density or generate more environmental impact than those uses listed in the zoning district in which it is to be located.

The purpose of this AO interpretation is to establish how the production, processing, and retail sales of marijuana is to be administered with specific regard to the existing UDC.

As state law may be amended over the course of its implementation, Grant County reserves the right to review and otherwise amend this interpretation to ensure (1) actions by Grant County remain consistent with adopted and/or prospective state law and (2) actions taken by Grant County comply with federal authority, notwithstanding the present conflict between state law and federal law.

## II. FINDINGS

1. With the passage of I-502, the production, processing, and retail sales of marijuana pursuant to the limitations and controls established by the Washington State Liquor Control Board are now legal land use activities.
2. Grant County has adopted a zoning code (the UDC) and a comprehensive plan that are consistent with the requirements of chapter 36.70A RCW.
3. As currently adopted, the UDC is silent regarding the production, processing, and retail sales of marijuana as a specific land use.
4. Applicable provisions of the UDC recognize that not every conceivable use can be identified. Pursuant to UDC 23.04.040 and by employing a Type I process

specified in GCC 25.04, the AO has authority to interpret and determine that a proposed use not specifically listed within the UDC, is similar to other specifically enumerated uses, and should therefore be an allowable use consistent with those existing similar uses. Such interpretation or determination may result in an allowed outright use, a conditional use, or any other variety of permit required special uses.

5. The UDC provides definitions and development guidance relevant to the production, processing, and retail sales of agricultural products that apply to agricultural practices throughout Grant County regardless of the type of crop being considered.
  - a. UDC 25.02 – “Agriculture”: “The science, art, and business of producing crops, or raising livestock; farming. The use of land for commercial production of horticultural, viticulture, floricultural, dairy, apiary, vegetable, or animal products, or of berries, grain, hay, straw, turf, seed, Christmas trees, or livestock, including those activities directly pertaining to the production of crops or livestock including, but not limited to cultivation, harvest, grazing, animal waste storage and disposal, fertilization, the operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and canals, and normal maintenance, operation and repair of existing serviceable structures ,facilities, or improved area. . . .”
  - b. UDC 25.02 – “Agricultural Activities”: “land preparation for agricultural purposes, such as clearing, grading, contouring, ditching, fencing, plowing, tilling, planting, cultivating, fertilizing, weed pest and disease control, spraying, pruning, trimming, harvesting, processing, packing, sales, and construction of farmland stock ponds, irrigation ditches and systems; livestock management, such as breeding, birthing, feeding and care of animals, birds, honey bees, and fish; the repair and maintenance of equipment, structures, and machinery used to perform agricultural or husbandry operations; the storage of machinery and agricultural products in, including but not limited to, farm related controlled atmosphere facilities, farm related onion and potato storage facilities, and farm related grain silos etc.”
  - c. UDC 25.02 – “Agricultural Processing Facility”: a facility which adds value to, refines, or processes raw agricultural goods, including but not limited to washing, sorting, cutting, bagging, freezing, canning, packaging, or slaughtering.”
6. Tables 3, 4, and 5 of UDC 23.04 currently provide for three land uses relevant to the consideration of marijuana as a similar land use activity to agricultural uses or

activities titled: “Agricultural Uses and Activities”, “Agricultural Processing”, and “Retail Sales of Agricultural Products”.

7. The LCB was the lead agency for review under the State Environmental Policy Act (SEPA) and issued a Determination of Non-Significance (with addendum) on July 12, 2013 (addendum dated September 26, 2013) for the rules found in WAC 314-55. These rules purport to include measures for environmental protection. This determination also incorporated the BOTECH White Paper titled “Environmental Risks and Opportunities in Cannabis Cultivation”, dated September 7, 2013.
8. The LCB has established the maximum signage limitation for any marijuana retail license establishment as 1,600 square inches (approximately 11 square feet).
9. The LCB has established a requirement for outdoor production (growing) operations to be enclosed by a wall or sight obscuring fence of at least eight (8) feet in height. This exceeds the maximum limitation on fence height in Grant County. As such, variances may be required for this component of an outdoor production operation.
10. The DOJ issued a guidance memo regarding marijuana enforcement on August 29, 2013, wherein the DOJ maintains its authority to enforce federal law, including federal laws relating to marijuana regardless of state law.

### **III. INTERPRETATIONS**

Based upon the above Findings, the AO makes the following interpretations:

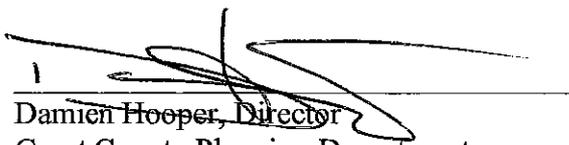
1. The production of marijuana, a crop, is similar to the production of any crop as defined in the definitions outlined above. In applying the UDC, “Agricultural Uses and Activities” are allowed in appropriate zones pursuant to tables 3, 4, and 5 of UDC 23.04.
2. The processing of marijuana, a crop, is similar to the processing of any other crop based on the definition outlined above. In applying the UDC, “Agricultural Processing” is allowed in appropriate zones pursuant to tables 3, 4, and 5 of UDC 23.04.
3. The retail sale of marijuana is similar to the retail sale of any other agricultural product. In applying the UDC, “Retail Sales of Agricultural Products” is allowed in appropriate zones pursuant to tables 3, 4, and 5 of UDC 23.04. This similarity of use satisfies the requirement that the proposed use meets the stated general purpose and intent of the zones in which agricultural production, processing, and retail sales are allowed.

4. The Grant County UDC is compliant with the Washington State Growth Management Act, chapter 36.70A RCW, and does implement the goals, objective and policies of the Grant County Comprehensive Plan. Therefore, this interpretation serves to promote the goals, objectives, and policies of the Comprehensive Plan.

#### IV. DECISION

1. Given the similarities which currently exist between the production, processing, and retail sales of marijuana and any other crop as contemplated within the UDC, the Grant County Planning Department shall not differentiate between marijuana and any other agricultural crop. The adopted UDC regulations that apply to agricultural production, processing, and retail sales shall be the same for all legal crops.
2. Given the inconsistency between state and federal law, and the potential liability of permitting a federally illegal activity to occur within Grant County, Grant County Planning Department staff shall not confirm or determine if a particular site is zoned or otherwise appropriate for the siting of marijuana production, processing, or retail sales activities. Instead, Grant County Planning Department staff may, in general terms, confirm whether agricultural production, processing, or retail sales are allowed on any given parcel within unincorporated Grant County.
3. Grant County reserves the right to review and amend this interpretation and decision for purposes of consistency with adopted and/or prospective state law and federal authority, notwithstanding the present conflict between state law and federal law.

DATED this 13<sup>TH</sup> day of December 2013.

  
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Damien Hooper, Director  
Grant County Planning Department