



MEMORANDUM

TO: Karen Frakes
Chief Civil Deputy Prosecuting Attorney

FROM: Mark Personius
Director

DATE: March 31, 2021

RE: RE: Proposed Interim Moratorium on Marijuana Production & Processing Facilities

Summary: At the March 23, 2021 County Council meeting, Council introduced an ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded outdoor recreational cannabis growing and/or processing facilities.

During the meeting, a question was raised regarding the distinction between an "outdoor" or "indoor" facility. Staff has provided the following explanation describing the differences between "outdoor" and "indoor" production. Staff has also provided the attached, revised ordinance which is proposed to include marijuana propagation within "indoor" greenhouses.

Background: Whatcom County Code 20.97.226 defines marijuana production as a:

"Facility licensed by the state Liquor and Cannabis Board to produce, harvest, trim, dry, cure, and package marijuana, and sell marijuana at wholesale to state-licensed marijuana processors and other state-licensed marijuana producers. A marijuana producer may also produce and sell marijuana plants, seed, and plant tissue culture to other state-licensed marijuana producers. The area of a marijuana production facility includes all the area enclosed within a structure or fence that is required by the state Liquor and Cannabis Board for the production of marijuana. **Indoor production shall be within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier**" [emphasis added].

As written, it is clear that outdoor production is the propagation of marijuana in an expanse of "open and cleared ground" and indoor production is the propagation of marijuana within a fully enclosed building.

The definition also clearly states that a greenhouse with "rigid walls, a roof and doors" is considered "indoor" production, but a non-rigid greenhouse is considered

"outdoor" production. Most commonly a plastic hoophouse would be viewed as a non-rigid greenhouse (i.e. outdoor facility), while a glass greenhouse with solid rigid walls, a roof and doors would be viewed as an indoor facility. However, all types of greenhouses must be vented for climate control and may have the potential for odor emissions similar to producing marijuana outside of a structure.

Proposal: Staff has proposed a revised ordinance which specifically clarifies the distinction between indoor and outdoor production, pursuant to Whatcom County Code. The revised moratorium would apply to all new or expanded marijuana production and/or processing facilities operating outdoors, and within all types of greenhouses (i.e. both rigid and non-rigid walled) and similar greenhouse type structures. While at the discretion of the Council, staff believes the attached, revised ordinance would address the concerns regarding "indoor" and "outdoor" production.

If you have any questions, feel free to reach me at 360-778-5950 or mpersoni@whatcomcounty.us.