



Deschutes County Board of Commissioners
1300 NW Wall St., Bend, OR 97701-1960
(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

MINUTES OF WORK SESSION

DESCHUTES COUNTY BOARD OF COMMISSIONERS

MONDAY, SEPTEMBER 21, 2015

Present were Commissioners Anthony DeBone, Tammy Baney and Alan Unger. Also present were Tom Anderson, County Administrator; Erik Kropp, Deputy County Administrator; David Doyle, County Counsel; Nick Lelack and Matt Martin, Community Development; Dan Depotopulos, Fair & Expo; David Givans, Internal Auditor; and seven other citizens. There were no representatives of the media in attendance.

Chair DeBone opened the meeting at 1:30 p.m.

1. Chair Signature of Document No. 2015-608, a Notice of Intent to Award Contract Letter for Carnival Events and Services at the Annual County Fair.

Dan Depotopulos stated there were three bids received. He explained who was on the selection panel. Their decision was unanimous, and is supported by the Fair Board and the Fair Association. It is a five-year contract with the ability to renew.

BANEY: Move Chair signature.

UNGER: Second.

VOTE: BANEY: Yes.

UNGER: Yes.

DEBONE: Chair votes yes.

2. Discussion of MOU with Deschutes Public Library for Law Library Services.

Erik Kropp gave an overview of the item, how the Law Library is funded and the benefits of having this service at Deschutes Public Library.

He spoke about the proposal, which will allow an expansion of hours to the public, and an expansion of books available digitally. The Law Library is staffed with a .5 FTE librarian, and attorneys can access other hours through a key service. The public library allows for about 39 hours per week, and they will assign a lead librarian for this service who has suitable qualifications. The previous law librarian has retired.

Todd Dunkelberg, Library Director, stated the most exciting piece is the expanded access to the public from facilities that are located throughout the county. This allows them to expand on the legal document subscriptions. The goal is to have the librarian train others on how to use this information.

Mr. Kropp stated that Columbia County experienced a recent flood and may be able to use some of the books that are not needed with this change. David Doyle said that most law offices do not have volume of books anymore, with most of their research being done electronically.

Commissioner Unger asked if this service is geared towards attorneys or the public. Mr. Dunkelberg stated that it is to be available to both, but this change will make it friendlier to the general public. They can book a librarian as well, who can help individuals with specific research one-on-one. However, they cannot provide legal advice, just some guidance with the research.

Mr. Kropp said this is State funded, so if funding was jeopardized in the future, the County would work with the Library to make this equitable.

UNGER: Move approval.

BANEY: Second.

VOTE: UNGER: Yes.

BANEY: Yes.

DEBONE: Chair vote yes.

3. Work Session regarding HB 3400 (Marijuana Businesses).

Nick Lelack referred to a memorandum and backup on the permissible uses in relation to zoning, and whether and how to allow this in certain zones. If uses are allowed, they need to look at the time, place, and manner of use. Staff needs to know the schedule moving forward.

The key is to have Planning Commission meetings, and they need a 35-day meeting notice and some content for them to address. An aggressive but realistic timeframe is necessary.

They are looking at the big picture, with other smaller issues, such as home occupations that are not addressed by the law, as the County may have some discretion.

Chair DeBone said that generally, rural neighborhood conflicts are a key issue. He wants to know what is too narrow for the law. The question is when they will have something for the public. Mr. Lelack said they need it by about the end of next week. He stated that Columbia and Clackamas counties are working on their draft legislation, but those are not yet adopted.

Commissioners Baney said there are some things they might want the Planning Commission to examine. She could not glean from the other counties' documents if they are opting out of some of this. Mr., Martin said he has not evaluated their documents. Commissioner Baney asked if the general public understands what has been opted out and what has not. Mr. Martin noted that they will have to make it clear to all and carry it forward. Mr. Lelack added that they could choose not to opt out if something is already not allowed in some zones, like retail sales. Commissioner Baney noted that they do not want to bring undue restrictions, but it has to make sense.

Chair DeBone asked about the emergency adoption. Mr. Lelack said that they cannot do anything until it is effective. Having to wait would make it very difficult. Mr. Doyle said that it should be by emergency or they would end up with a 90-day period where things are in limbo, with the OLCC and others. Mr. Doyle stated that most jurisdictions routinely adopt by emergency so appeals can begin on a timely basis.

The group referred to page 3, when OLCC will begin accepting license applications. Mr. Martin said the tables identify the uses today, outright or conditionally. Those that are not permitted today were removed. Mr. Lelack stated they did not list home occupations.

Commissioner Unger asked what the State requires them to permit. Mr. Martin said that HB 3400 recognizes this as an outright farm use. Commissioner Baney stated that the LUCS is where they can provide guidance on others. Mr. Martin said the same applies for processing. Commissioner Unger stated that there could be some dangerous situations with processing. Mr. Martin indicated they could allow baling but not the use of chemicals. Processing could include everything from packaging for retail to extracting and making edibles.

Commissioner Baney likes how Washington County differentiated this. She asked if the State has clarified step 1 from other steps, to mitigate the fire danger and other hazards. Mr. Martin noted that the OLCC has not drafted rulemaking, but they are differentiating the more benign from the more volatile or commercial activities.

Commissioner Unger asked for clarification on tiers 1, 2 and 3 for Cowlitz County. Mr. Martin said this has to do with the density of production and the size of the footprint of the grow operation – basically the canopy at maturity.

Hunter Neibauer, citizen, was asked, and replied that it would be the footprint of the plants. He is on the OLCC rulemaking advisory committee.

Mr. Martin said that he did further research, and regulations of medical marijuana can be considered as well. Existing facilities for that would be grandfathered in either case.

Commissioner Baney said that people are not currently differentiating, so it would add clarity to treat them the same. Commissioner Unger noted that there are licenses for medical growers and he would like to see the State have these rules conform to others. Commissioner Baney said that the bad actors at this point make it harder on the others. There was no LUCS or land use review under the Oregon Health Authority.

The question is whether to not opt out of EFU or rural industrial. Others would be permitted uses. Commissioner Baney would like to keep this in EFU with others needing a conditional use permit.

Mr. Lelack said that forest use is permitted with 10 acres or more, with a CUP for under that, and not allowed on five acres or less. They can consider criteria for greenhouse structures as well.

Commissioner Baney asked if the resources on a surface mining location are exhausted, could the people rezone it. Open space or a conservation easement does not fit.

Chair DeBone said that he likes the five or 10-acre minimum concept. Mr. Lelack said this is possible. It could be permitted on 10 acres or larger and not under that. Or they would need a CUP needed for less.

Commissioner Baney stated that she does not want to see this allowed on parcels less than five acres. Chair DeBone and Commissioner Unger agreed. It was decided that this would be a recommendation to the Planning Commission, who will then hear about the challenges.

Commissioner Baney noted that this would help with buffering. She wants to see a LUCS for the medical marijuana component when possible. The other Commissioners agreed.

Regarding rural industrial, this involves Deschutes Junction and a couple of other locations. Commissioner Baney does not want to see any grow within 1,000 feet of a school. The others agreed.

Mr. Martin stated that in Sunriver and other zones, production is not permitted since it is not EFU land. Rural Commercial, Service Center properties are isolated properties, too small for production anyway.

They spoke about the Alfalfa Service District and the residential district around it. Probably it is all five acres or less. Beyond that is EFU.

Commissioner Baney stated she wants to see consistency. Five acres or less is a 'no'. More than five would require a CUP. She would like to see how the Planning Commission goes with this.

It was decided that the area around Tumalo is five acres or less, so production would not be allowed. The same applies for Terrebonne; plus there is a school nearby.

In regard to the Bend Airport Development Zone, the airport proper, which the County owns, it would not be allowed.

Title 19, the urban reserve outside city of Bend, has 10-acre minimum areas west, east and north of town, there are also 2.5-acre subdivisions. The Board indicated parcels would have to be more than five acres.

Commissioner Unger noted that if this was permitted and grandfathered in at annexation, there could be a lack of compatibility. Annexation generally means a change in zoning. This could compromise the use. Chair DeBone said that a minimum of more than ten acres could do this. He suggested asking the cities what they think.

Commissioner Unger would like to see residential-type properties protected, with this not permitted at all.

Regarding wholesale and storage, a recreational wholesaler would sell to retailers. The question is whether this could take place in conjunction with storage, or from something like a brokerage office. The County is waiting for OLCC licensing information. Often both have to be in one location.

Mr. Martin said that Table 4, town center, is probably just a permitted office use. It was agreed there would be no storage or product.

Rural commercial may still allow this, where a town center has not been established. This was created when they talked about the redevelopment of Sunriver Village. It is also close to a school. Commissioner Baney stated that across the board, there should be nothing within 1,000 feet of a school. The other Commissioners agreed.

It was determined this would not be allowed in rural service centers. Where allowed, there could be recreational marijuana wholesaling or warehousing.

The group addressed dispensaries and retailers. One is medical, with the other retail. There would need to be a CUP for both in all zones. The City of La Pine has opted out, Sisters and Redmond have placed some limitations, and Bend has a committee working on this.

Tom Anderson pointed out that the State indicates there is to be no commercial use in conjunction with farm use. They need to match this up with medical marijuana dispensary use, resulting in one set of rules.

Mr. Martin asked about allowing retail in the MUA-10 zone, the urban holding zone of Redmond, and the Bend urban reserve. There are other variations, and dispensaries could be allowed in the Tumalo industrial and rural industrial areas with a CUP.

In regard to medical and recreational processing, Commissioner Baney said they should establish tiers for processing. Perhaps a LUCS would work or otherwise provide for adequate fire protection. For example, twenty acres of EFU that is not in a fire district could have tier 1 (drying) but not distilling. Greater processing needs a good fire response. This is more of a commercial type use, and a lot of areas are not well protected.

Mr. Lelack said that they could have guidelines on how close tier 2 processing could be to a residence. Commissioner Baney noted that they need to consider a LUCS, setbacks, road conditions, easements, odor and traffic. Sideboards are needed for this to set limits on EFU and MUA-10. It would be a very unique property where someone could do it all. Tiers 1 and 2 should be a conditional use.

Commissioner Unger stated he is concerned about the southeast area of Tumalo that is outside the school zone area. Mr. Martin said there have been no inquiries on that area at this point.

Mr. Martin said the next step is to come up with development standards, such as time, place and manner. Commissioner Unger suggested that they check with Columbia County and others to see how they compare. Mr. Lelack stated they could update the tables, see what Clackamas and Columbia Counties came up with, and provide some choices.

In regard to home occupation uses, Commissioner Unger said that if it is a home, they could allow for some kind of activity, but he does not want to see children present. Chair DeBone noted that someone can grow their four plants but not have a business activity.

Mr. Anderson stated that there has been a lot of work and effort on the others, and he would just say 'no' to home occupation. It could involve retail, processing and wholesaling. Mr. Martin noted that production where otherwise allowed probably would have a home on it in many cases.

4. Draft Update of County Cellular Phone Reimbursement Policy (BLDG-2).

Erik Kropp said that the previous policy is very dated. He would like clarification on the categories to provide better guidance to the departments. He would like this to be effective on November 1 so they can begin to transition.

UNGER: Move approval of the Administrator's signature.

BANEY: Second.

VOTE: UNGER: Yes.

BANEY: Yes.

DEBONE: Chair vote yes.

5. Other Items.

Tom Anderson said the 911 User Board meeting is tomorrow, which is an important one regarding the strategic plan and the radio project. They will also talk about levy numbers. The City of Bend may not support the 911 levy because they want to push their gas tax instead. The campaign for 911 may need to begin much earlier.

Steve Reinke said part of the concern is they did not have a lot of information on the reserve fund. The contingency is a required carryover and cannot be used for other things. All of the funding on hand will be needed for various projects and the costs of doing business. You do not wait for things to fail to replace them. They need to start the replacement equipment fund for replacement in 15 years as well. Also, they have asked about bonding it to spread it out, but there is cash for this and bonding costs more money.

There are 14 jurisdictions that are depending on this, and it needs to be supported unanimously to move forward in early December. They need two-thirds of the agencies on board, on a population basis, and Bend has half of the population. The City talked about pushing it out another year, but if it does not pass then, then they will have nothing.

Mr. Anderson wants to see support in advance. They got things together to scope out the project. After spending everything, to wait a year to find out whether it can be maintained does not make sense.

The Board can make this choice, but it is a risk. There might be a way to have this vote on a non-presidential year but it takes a double majority vote.

Commissioner Baney said then another partner may decide that they have another issue to push. There will always be competition, but they need the support of all agencies. It would be very self-serving to Bend to pull back support.

Mr. Anderson stated that the City folks do not want to have to make that decision except outside of the public arena. Every other agency will have the City in the cross hairs if they do this in a visible way. She asked Mr. Reinke to sit down with Councilors if he can, to explain the importance. Commissioner Baney said she stuck her neck out for the City twice for their levies. Mr. Reinke stated that the composition of the City Council always seems to be different.

He provided a handout detailing the background, goals, capital costs, levy components and maintenance costs, and reserves. The key is the assessed value growth assumptions, the CPI and medical premium increases.

May is the preferred timeframe, and it needs to be clear to the City what the other partners want. The County and partners have already made a huge commitment. This has been communicated the entire time to everyone involved.

Mr. Anderson presented the results of the employee survey. It was good overall, but similar to one in the past. The Board has both versions. There were Responses from about half. In the 2010 version, 'no opinion' was included. This time it was shown as 'neither agree nor disagree', but this made it hard to compare with the other. It is positive as a whole.

He provided the response by department, with the smaller ones grouped together. He will share this with the department heads and eventually with all employees. There were some notes and comments submitted which are not included but he can share those with the Board as well.

Chair DeBone asked if the problem issues can be narrowed down. Mr. Anderson said that some were examined and might be addressed. Some of it requires just education

Malheur County does not want Owyhee country designated as a national monument. The Board was asked if they support this. Commissioner Unger said he already signed a letter at AOC. Commissioner Baney said she would approve of a letter being sent to Representative Greg Walden's office.

The Board went into executive session at this point, under ORS 192.660(2)(h), pending or threatened litigation.

Being no other items discussed, the meeting was adjourned at 3:55 p.m.

DATED this 9th Day of November 2015 for the
Deschutes County Board of Commissioners.



Anthony DeBone, Chair

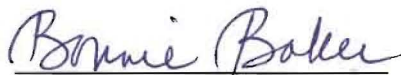


Alan Unger, Vice Chair



Tammy Baney, Commissioner

ATTEST:



Recording Secretary



Deschutes County Board of Commissioners
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WORK SESSION AGENDA

DESCHUTES COUNTY BOARD OF COMMISSIONERS

1:30 P.M., MONDAY, SEPTEMBER 21, 2015

1. Chair Signature of Document No. 2015-608, a Notice of Intent to Award Contract Letter for Carnival Events and Services at the Annual County Fair – Dan Despotopulos
2. Discussion of MOU with Deschutes Public Library for Law Library Services – *Erik Kropp*
3. Work Session regarding HB 3400 – *Nick Lelack, Matt Martin*
4. Draft Update of County Cell Phone Reimbursement Policy (BLDG-2) – *Erik Kropp*
5. Other Items

PLEASE NOTE: At any time during this meeting, an executive session could be called to address issues relating to ORS 192.660(2) (e), real property negotiations; ORS 192.660(2) (h), litigation; ORS 192.660(2)(d), labor negotiations; or ORS 192.660(2) (b), personnel issues; or other issues under ORS 192.660(2), executive session.

Meeting dates, times and discussion items are subject to change. All meetings are conducted in the Board of Commissioners' meeting rooms at 1300 NW Wall St., Bend, unless otherwise indicated. If you have questions regarding a meeting, please call 388-6572.

Deschutes County encourages persons with disabilities to participate in all programs and activities. To request this information in an alternate format please call (541) 330-4640, or email anna.johnson@deschutes.org.

Work Session

(Please Print)

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Date: September 16, 2015
To: Board of County Commissioners
From: Erik Kropp, Deputy County Administrator *EK*
Re: Draft Update to Cell Phone Reimbursement Policy – BLDG-2

Attached is a draft update to the County's Cell Phone Reimbursement Policy – BLDG-2. This item is scheduled for your September 21, 2015 Work Session.

The current policy provides for five different reimbursement amounts: \$25, \$40, \$75, \$100, and \$125. When the policy was originally adopted in June 2003, cell phone plans charged on a per-minute basis. This billing structure led to the options for higher reimbursement amounts.

Much has changed in cell phone technology and pricing structure since June 2003. The draft changes to the policy provide better guidance to determine the amount of the cell phone reimbursement and eliminate the higher reimbursement amounts (\$100 and \$125). To allow for transition to the new policy, staff recommends an implementation date of November 1, 2015.

Attachment - Draft Update to Policy BLDG-2



Deschutes County Administrative Policy No. BLDG-2
Effective Date: ~~June 25, 2003~~ November 1, 2015

CELLULAR TELEPHONE POLICY

STATEMENT OF POLICY

It is the policy of Deschutes County to provide for flexible, cost-effective use of cellular telephones.

APPLICABILITY

This policy applies to all County employees who use cellular telephones for county business.

POLICY AND PROCEDURES

Deschutes County employees who use cellular telephones for county business use the phones with different frequency, varying from occasional use to frequent use. There will be two types of cellular telephone plans available to Deschutes County employees who use cellular telephones for county business.

Plan A. Deschutes County Supplied Telephones.

Manyest employees with a business need for a cellular telephone will be assigned a County-owned phone. Use of cellular telephones supplied by the County is restricted to County business. Personal calls (outgoing or incoming) will only be allowed infrequently for limited duration in instances of family emergencies if these calls cannot be made from a land line phone within a reasonable period of time. These cellular telephones remain county property and will be on the cellular telephone plan provided by Deschutes County as established by the Property and Facilities Building Services Department.

Plan B. Personal Cellular Telephone provided as an Employment Benefit.

The County recognizes that, due to the nature of some positions, it may be more cost-effective and provide more flexibility to provide some employees with a cellular telephone allowance in lieu of providing the employee with a County-owned cellular telephone. Under this plan, the County, in conjunction with the Department Head, may designate employees who, in lieu of being provided with a County-owned cellular telephone, will be provided with a monthly allowance to obtain a personal cellular telephone to be used- compensate him/her for County-related and personal business of the employee.

Under this plan, there are no restrictions to an employee's use of his or her cell phone. -employee is allowed unrestricted business and personal use of his or her cellular telephone. Employees on this plan may not seek separate reimbursement from County of any cell phone charges incurred. Each employee receiving a cell phone allowance is responsible for obtaining their own phone and usage plan.

The amount of this allowance will be one of the following, depending on past history of cellular telephone usage and business needs of the department. The amount of the allowance will be based upon a recommendation from the employee's Department Head and review by the County Administrator's Office, determined in conjunction with Building Services and the employee's Department Head:

Monthly Allowance	
Category 1:	\$ 25.00
Category 2:	\$ 40.00
Category 3:	\$ 75.00
Category 4:	\$100.00
Category 5:	\$125.00

Listed below are general guidelines to determine the amount of the cell phone reimbursement amount:

Category 1 – infrequent, but necessary cell phone use required during work hours.

Category 2 – frequent/daily cell phone contact and use during work hours and any on-call periods (if applicable). Cell phone includes text capability.

Category 3 – frequent daily cell phone use during and after work hours. Phone must have text and email capability and be connected to the County's email system. Cell phone number provided to County staff and customers, as appropriate. After hour use is expected. Non-exempt employees in hourly positions are not eligible for this category due to FLSA implications for performing work during non-work hours.

The amount of the monthly allowances may be adjusted periodically by the County Administrator to attempt to conform generally to commercially available cellular telephone usage plans.

Personal smart phones used to connect to County data systems are subject to the mobile computing device provisions contained in Policy IT-1. A lost or stolen smart phone that is connected to County data systems must be reported to the Information Technology Department. For data security issues the County reserves the right to perform a remote wipe or "brick" on the device. This includes the possible erasure of employee purchased add-on software and digital media. Deschutes County is not responsible for any form of recovery.

Under this plan, the employee is allowed unrestricted business and personal use of his or her cellular telephone. Employees on this plan may not seek separate reimbursement from County of any cellular telephone charges incurred. Each employee receiving a cellular telephone allowance is responsible for obtaining their own phone and usage plan.

| Approved by the Deschutes County Board of Commissioners ~~June 25, 2003~~.

| ~~Dave Kanner~~ Tom Anderson
County Administrator



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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MEMORANDUM

DATE: September 16, 2015

TO: Board of County Commissioners

FROM: Matthew Martin, Associate Planner
Nick Lelack, Community Development Director

RE: Marijuana Related Business Land Use / Zoning Decisions Continued

PURPOSE

The purpose of this memorandum is to assist the Board of County Commissioners (Board) in providing direction on the following potential text amendments to Deschutes County Code, including a timeline:

- I. Permissible Uses:
Identify zones or geographic areas where marijuana business may be permitted or prohibited, including whether home occupations for marijuana businesses should be allowed.
- II. Reasonable Regulations:
Draft reasonable time, place, and manner regulations for marijuana related businesses.
- III. Draft Timeline:
Review the draft schedule to prepare, process, and adopt amendments to County Code.

SUMMARY

At the work session on September 2, 2015, the Board did not “opt out” of any marijuana related businesses at this time as allowed by HB 3400. Instead, the Board decided to work with staff to propose regulations addressing marijuana businesses, and to begin the process immediately.

I. Permissible Uses

The County is responsible for regulating land uses, including those related to recreational and medical marijuana, pursuant to the Deschutes County Code (DCC). Marijuana production, processing and sale are no different than any other land use when it comes to administering the zoning ordinance. As with other land uses, the appropriate zoning district(s) to locate these businesses will be based on characteristics of the business (growing, processing, wholesaling, retailing or a combination thereof).

House Bill (HB) 3400 identifies the following six (6) marijuana related businesses that require registration or licensing by the Oregon Liquor Control Commission (OLCC) prior to being established:

- Medical Marijuana Processing Site
- Medical Marijuana Dispensaries
- Recreational Marijuana Producers (Growers)
- Recreational Marijuana Processors
- Recreational Marijuana Wholesalers
- Recreational Marijuana Retailers

Please note that HB 3400 identifies which business types/land uses are permitted in the EFU zone and which are not. Specifically, medical and recreational marijuana processing is outright permitted in the EFU zone unless the County opts out of these businesses.¹ Recreational marijuana production (grow) is outright permitted as a farm use. HB 3400 prohibits farms stands and commercial activities in the EFU zone, meaning retail sales are not allowed.

The Board will need to decide if and how to allow a business type/land use in each zone:

- **Permitted use:** The business type/land use is approved, approved with conditions, or denied subject to compliance with clear and objective standards (Site Plan Review or an Administrative Determination may be required); or
- **Conditional Use:** The business type/land use is approved, approved with conditions, or denied subject to compliance with compatibility standards (DCC 18.128.015) and other applicable standards; or
- **Prohibit:** The use in the zone is disallowed.

For your information, Staff has prepared a series of tables that identify the marijuana related business and the zones where such a use would be allowed under the current standards of the DCC, either permitted outright or as a conditional use. If a zone is not included on the table then the related use is prohibited. Also included are comments that provide additional information. The tables included are:

- Table 1 – Dispensaries and Retail
- Table 2 – Processing
- Table 3 – Recreational Production
- Table 4 – Recreational Wholesaling

Home Occupations:

Outside of the standard use categories, home occupations are a unique type of commercial use that warrants attention. A home occupation is an occupation or profession carried on within a dwelling and/or a residential accessory structure by a resident of the dwelling or employees and is secondary to the residential use of the dwelling and/or the residential accessory structure.

Some marijuana businesses (i.e., small processing) might be permitted as a home occupation under current standards. The tables do not list home occupations because home occupations are permitted in all zones.

¹ Processing facilities require a land use permit in the EFU zone under Deschutes County Code 18.16.025(I).

BOARD DIRECTION: Staff seeks direction from the Board on:

1. In what zones and/or geographic areas will be proposed to permit marijuana businesses, either outright or conditionally, or to prohibit?
2. Should marijuana businesses be proposed to be permitted as home occupations and, if yes, should they be limited to specific businesses, zones, standards, etc. (to be discussed at a subsequent work session).

II. Reasonable Regulations

The provisions of HB 3400, Sections 33, 34, and 89 provide an opportunity for the County to establish “reasonable regulations” addressing the time, place and manner characteristics of marijuana related uses. Compliance with “reasonable regulations” must be demonstrated by the applicant prior to the issuance of a Land Use Compatibility Statement (LUCS). These regulations can apply to outright permitted uses or conditional uses.

The attached Table 5 contemplates time, place, and manner regulation of marijuana related business. The criteria and standards included are provided as starting points for the Board to consider and comment. These criteria and standards have been identified by Staff through review of adopted ordinances in Washington (see attached) and comments received locally.

BOARD DIRECTION: Staff seeks direction for the Board on these initial uses standards including recommendations for retention, refinement, or elimination.

III. Draft Timeline

The OLCC will begin accepting applications for marijuana business licenses on January 4, 2015. To have regulations in place by that date the timeframe for development, review, and adoption of the regulations is very limited. Below is a tentative schedule:

9/21	BOCC Work Session
9/28	BOCC Work Session
9/30	BOCC Work Session
10/1	DLCD 35-Day notice prior to first evidentiary public hearing
10/22	Planning Commission (PC) Work Session
11/5	PC Public Hearing (special meeting)
11/12	PC continued Public Hearing (if necessary), Deliberation and Recommendation
11/30	BOCC Work Session (if necessary)
12/2	BOCC Public Hearing
12/9	Written Record Closes
12/14	BOCC Deliberations and direction to staff on final ordinance
12/16 or 12/21	BOCC Adoption by Emergency

Attachments: Tables 1-5

Ordinance from Cowlitz County

Ordinance from Whatom County

TABLE 1. DISPENSARIES AND RETAIL

Zone	Permitted (P) Conditional Use (CU)		Comments
	Dispensaries	Retail	
TITLE 18			
Multiple Use Agricultural-10		CU	<ul style="list-style-type: none">Commercial Activity in Conjunction with a Farm Use
Destination Resort		Possibly	<ul style="list-style-type: none">If proposed as part of DR
Rural Industrial	P		
UUC - SUNRIVER			
Commercial	P	P	
Town Center	P	P	
Business Park	P	P	
Flood Plain Combining	*	*	<ul style="list-style-type: none">Subject to underlying zoning
RURAL COMMERCIAL			
Deschutes Junction and Deschutes River Woods Store	P	P	
Spring River	P	P	
Pine Forest and Rosland	P	P	
RURAL SERVICE CENTER - UC			
Brothers, Hampton, Millican, Whistlestop, Wildhunt	P	P	
Alfalfa RSC - Commercial Mixed Use District	P	P	
TUMALO RURAL COMMUNITY			
Commercial	P	P	
Industrial	P		
TERREBONNE RURAL COMMUNITY			
Commercial	P	P	
Commercial Rural	P	P	
TITLE 19 - BEND			
Not Allowed			
TITLE 20 - REDMOND			
Urban Holding-10		P	<ul style="list-style-type: none">Farm standComm. activity with farm use
TITLE 21 - SISTERS			
Not Allowed			

TABLE 2. MEDIAL AND RECREATIONAL PROCESSING

Zone	Permitted (P) Conditional Use (CU)	Comments
TITLE 18 – DESCHUTES COUNTY		
Exclusive Farm Use	P	<ul style="list-style-type: none"> DCC 18.16.025(I): Facility for the processing of farm crops...
Multiple Use Agricultural-10	CU	<ul style="list-style-type: none"> Commercial activity in conjunction with a farm use
Rural Industrial	P CU	<ul style="list-style-type: none"> P or CU depends on location and proximity to residential use or zone
UUC - SUNRIVER		
Business Park	P	<ul style="list-style-type: none"> Includes manufacturing of food products
Flood Plain Combining	*	<ul style="list-style-type: none"> Subject to underlying zoning
TUMALO RURAL COMMUNITY		
Commercial	CU	<ul style="list-style-type: none"> Manufacturing/Production
Industrial	P	
TERREBONNE RURAL COMMUNITY		
Commercial	CU	<ul style="list-style-type: none"> Manufacturing/Production
Commercial Rural	CU	<ul style="list-style-type: none"> Manufacturing/Production
TITLE 19 - BEND		
Not Allowed		
TITLE 20 - REDMOND		
Not Allowed		
TITLE 21 - SISTERS		
Not Allowed		

TABLE 3. RECREATIONAL PRODUCTION

Zone	Permitted (P) Conditional Use (CU)	Comments
TITLE 18 – DESCHUTES COUNTY		
Exclusive Farm Use	P	
Forest Use	P	
Rural Residential-10	P	
Multiple Use Agricultural-10	P	
Surface Mining	P	
Open Space and Conservation	P	
Rural Industrial	P	
UUC - SUNRIVER		
Airport	P	
Forest	P	
Flood Plain Combining	*	<ul style="list-style-type: none"> • Subject to underlying zoning
RURAL COMMERCIAL		
Deschutes Junction and Deschutes River Woods Store	P	
RURAL SERVICE CENTER - UC		
Brothers, Hampton, Millican, Whistlestop, Wildhunt	P	
Alfalfa RSC - Commercial Mixed Use District	P	
Alfalfa Residential District	P	
Open Space District	P	
TUMALO RURAL COMMUNITY		
Residential	P	
Residential 5-acre Minimum	P	
Research and Development	P	
TERREBONNE RURAL COMMUNITY		
Residential District	P	
Residential 5-acre Minimum	P	
Airport Development	P	
TITLE 19 - BEND		
Urban Area Reserve	P	
Residential Suburban Low Density	P	
Residential Urban Standard Density	P	
TITLE 20 - REDMOND		
Urban Holding-10	P	
TITLE 21 - SISTERS		
Urban Area Reserve	P	

TABLE 4. RECREATIONAL WHOLESALING

Zone	Permitted (P) Conditional Use (CU)	Comments
TITLE 18 – DESCHUTES COUNTY		
UUC - SUNRIVER		
Commercial	P	• Office only
Town Center	P	
Business Park	P CU	• P - office only • CU - warehouse
Flood Plain Combining	*	• Subject to underlying zoning
RURAL COMMERCIAL		
Pine Forest and Rosland	P	• Office only
RURAL SERVICE CENTER - UC		
Brothers, Hampton, Millican, Whistlestop, Wildhunt	P	• Office only
Alfalfa RSC - Commercial Mixed Use District	P	• Office only
TUMALO RURAL COMMUNITY		
Commercial	P CU	• P - office only • CU - warehouse
TERREBONNE RURAL COMMUNITY		
Commercial	P CU	• P - office only • CU - warehouse
Commercial Rural	P CU	• P - office only • CU - warehouse
TITLE 19 - BEND		
Not Allowed		
TITLE 20 - REDMOND		
Not Allowed		
TITLE 21 - SISTERS		
Not Allowed		

TABLE 5. MARIJUANA BUSINESS “REASONABLE REGULATION” DECISION MAKING MATRIX

Disclaimer: The draft regulations are for discussion purposes only. They are based on examples from other counties’. An “X” represents potential placeholder values where the Board might want to propose standards.

	Medical Marijuana Dispensaries (Adopted)	Recreational Marijuana Retailers	Marijuana Processing	Marijuana Production	Recreational Marijuana Wholesaling
TIME					
Hours of Operation	10:00am-7:00pm	8:00am-9pm (draft OLCC rule)			
PLACE					
Zones/Geographic Area	See Table 1 for Reference	See Table 1 for Reference	See Table 2 for Reference	See Table 3 for Reference	See Table 4 for Reference
Minimum Lot Size			<ul style="list-style-type: none"> EFU/F-1/F-2: X minimum acres RR-10/MUA-10: X minimum acres Commercial/Industrial: X minimum acres 	<ul style="list-style-type: none"> EFU/F-1/F-2: X minimum acres RR-10/MUA-10: X minimum acres Commercial/Industrial: X minimum acres 	
Site Plan Review	Required	Required Create additional Site Plan Review standards specific to this use?	<ul style="list-style-type: none"> Required if located in Commercial / Industrial. Not Required if farm or ag use in EFU Create additional Site Plan Review standards specific to this use? 	<ul style="list-style-type: none"> Required if located in Commercial / Industrial. Not Required if farm or ag use 	Required
Minimum Setbacks of Buildings and/or Operation			100 feet from property line – example from other counties	100 feet from property line – example from other counties	
Maximum Lot Coverage of operation				<ul style="list-style-type: none"> 10% for all buildings. No more than 30,000 sq ft overall area of the operation 	
Minimum Distance Buffer	1,000 ft from school, dispensary, or retail	1,000 ft from school, dispensary, or retail (draft OLCC rule)	<ul style="list-style-type: none"> 1,000 ft from school 300 ft from existing residence not on the property; may be waived by residence owner – example from a State of Washington county 	<ul style="list-style-type: none"> 1,000 ft from school 300 ft from existing residence not on the property; may be waived by residence owner - example from a State of Washington county 	1,000 ft from school if including storage of product
MANNER / OPERATIONS PLAN					
Lighting	Comply with outdoor lighting standards (DCC 15.10)	Comply with outdoor lighting standards (DCC 15.10)	Comply with outdoor lighting standards (DCC 15.10)	<ul style="list-style-type: none"> Greenhouse lighting shall be hooded and/or shielded to prevent light transmission to neighboring properties or public right of way (set specific illumination standard?) Green house shall be opaque material (or shades may be used before sunrise/after sunset?) 	Comply with outdoor lighting standards (DCC 15.10)
Transportation Management	Same as similar use	Same as similar type of use	Same as similar type of use	Same as similar type of use	Same as similar type of use
Access	Same as similar type of use	Same as similar type of use	Same as similar type of use		
Buffer/Screening			<ul style="list-style-type: none"> A row of evergreen trees or shrubs along the outside perimeter of the facility. No less than 4 feet in height when planted, and spaced in such a way as to obscure the facility from view. Shall be maintained. Combination of existing vegetation, berming, topography, wall, fence, or other can be used. 	<ul style="list-style-type: none"> A row of evergreen trees or shrubs along the outside perimeter of the facility. No less than 4 feet in height when planted, and spaced in such a way as to obscure the facility from view. Shall be maintained. Combination of existing vegetation, berming, topography, wall, fence, or other can be used. 	
Odor control	No odor or smoke shall be emitted that is detectable at or beyond the walls of the facility.	No odor or smoke shall be emitted that is detectable at or beyond the walls of the facility.	Except in the EFU zone, no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility (or property line). Farm use in EFU zone is protected by Right to Farm statutes.	Except in the EFU zone, no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility (or property line). Farm use in EFU zone is protected by Right to Farm statutes.	No odor or smoke shall be emitted that is detectable at or beyond the walls of the facility (or property line). Farm use in EFU protected by Right to Farm statutes.
Noise					
Number of Employees					
Home Occupations					

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF COWLITZ, STATE OF WASHINGTON**

ORDINANCE NO. 14 067

**Repealing Chapter 18.01 interim regulations and adopting Chapter 18.76
“Recreational Marijuana” of the Cowlitz County Code establishing permanent
official controls on the production, processing and retailing of recreational marijuana**

WHEREAS, pursuant to Article 11, Section 11 Washington State Constitution and RCW 36.70.010 & -.750, RCW 36.32.120, RCW 69.51A.140, and other lawful authority the Board of Cowlitz County Commissioners, the Board has the authority to enact zoning controls and development regulations pertaining to the production, processing, or dispensing of cannabis or cannabis products within its jurisdiction; and

WHEREAS, pursuant to said laws and authority, the Board adopted Ordinance No. 13-154 by emergency enactment, and Ordinance 14-016 and Chapter 18.01 of the County Code establishing interim land use controls on recreational marijuana production, processing and retail sales; and

WHEREAS, pursuant to such laws and interim enactment, the Board establishing a working group to develop permanent controls to present to the Planning Commission to consider extending, amending or rescinding these interim land use controls; and

WHEREAS, the Planning Commission reviewed and considered the working group work product and has recommended adoption of permanent land use controls on recreational marijuana production, processing and retail sales;

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY
COMMISSIONERS OF COWLITZ COUNTY AS FOLLOWS:**

Section 1. General Findings.

1. The purpose of this ordinance is to establish zoning regulations related to the siting of marijuana businesses allowed under Initiative 502 in unincorporated Cowlitz County.
2. Initiative 502 was passed by the voters of the State of Washington in November 2012, providing a framework under which marijuana producers, processors, and retailers can become licensed by the Washington State Liquor Control Board.
3. The SEPA Responsible Official issued a threshold decision for these proposed permanent regulations on July 2, 2014 and comments were accepted through July 16, 2014.
4. On June 25, 2014, the Cowlitz County Planning Commission held a workshop and public hearing on the proposed permanent regulations and on July 11, 2014, transmitted the Commission's adopted findings on and recommendation of adoption of permanent regulations.
5. Marijuana remains illegal under the federal Controlled Substances Act, 21 U.S.C. §801 et seq. State and local regulations do not preempt federal law. Individuals and businesses involved in the production, processing, sales, and possession of marijuana could still be subject to prosecution under federal law. Local zoning and other regulations are not

associated with and are not a defense against a violation of federal law, and are not associated with and are not a defense against violation of state law or administrative licensing of recreational marijuana.

6. While marijuana is still classified as a controlled substance under state law in RCW 69.50.204(c)(22), the adoption of Initiative 502 allows it to be produced, processed and sold under the strict licensing program established by the Washington State Liquor Control Board. Recognizing that the State is proceeding with licensing and regulation of the production, processing and retail of marijuana, the Board believes it necessary to adopt permanent local regulations for these facilities to further protect the public health, safety and welfare of its citizens. Cowlitz County makes no representations or commitments about the lawfulness of the facilities and leaves all issues relating to the legality and licensing of such facilities to be determined by the federal and state governments in the exercise of their lawful authority, as finally determined by a court of appropriate jurisdiction.
7. This ordinance provides reasonable regulations to address compatibility of uses, screening, safety standards and other requirements consistent with the County's desire to provide efficient and effective development and reduce conflicts with other uses.
8. Nothing in this ordinance is intended nor shall be construed to authorize or approve medical marijuana collective gardening or medical marijuana cooperatives.
9. Nothing in this ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law.

Section 2. Repeal and Adoption.

Ordinance Nos. 13-154 and 14-016, and the official interim controls of Chapter 18.01 of the Cowlitz County Code, entitled "Recreational Marijuana" are hereby repealed, and a new Chapter 18.76, entitled "Recreational Marijuana", attached hereto as "Exhibit A" and incorporated herein by this reference, is hereby adopted in its entirety.

Section 3. Codification.

Only the Code amendments in Chapter 18.76 and its sections 18.76.010 through and including 18.76.090, as set forth in "Exhibit A" attached hereto, shall be codified from this Ordinance and that Chapter 18.01 shall be repealed and redacted from the Code.

Section 4. Savings Clause.

Such repeals and amendments shall not be construed as affecting any existing right acquired under the ordinances or portions of ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or permits issued thereunder and in effect on the effective date of this ordinance shall continue in full force and effect, and no liability thereunder, civil or criminal, shall be in any way modified. Further, it is not the intention of these actions to reenact any ordinance or portions or sections of ordinances previously repealed or amended, unless this ordinance specifically states such intent to reenact such repealed or amended ordinances.

Section 5. Severability.

The provisions of this ordinance are declared separate and severable. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, paragraph subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraph subsections, clauses or phrases may subsequently be found to be unconstitutional or invalid.

Section 6. Effective Date.

These regulations are in the public interest and shall take effect immediately upon adoption by the Board of County Commissioners.

APPROVED THIS 29th day of July, 2014, after public hearing pursuant to Notice published in The Daily News.

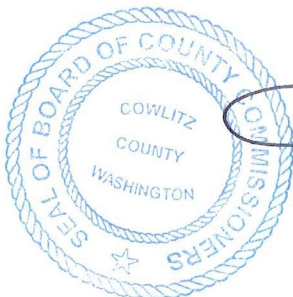
APPROVED THIS 29th DAY OF July 2014

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF COWLITZ COUNTY, WASHINGTON

Tiffany Ostreim
Tiffany Ostreim, Clerk of Board

Michael A. Karnofski
Michael A. Karnofski, Chairman



James R. Misner
James R. Misner, Commissioner

Dennis P. Weber
Dennis P. Weber, Commissioner

APPROVED AS TO FORM, ONLY:
Sue I. Baur, Prosecuting Attorney

Douglas E. Jensen
Douglas E. Jensen, Chf. Civil Deputy

14 067

Chapter 18.76 Recreational Marijuana

Sections:

- 18.76.010 Title.
- 18.76.020 Purpose.
- 18.76.030 Definitions.
- 18.76.040 Applicability.
- 18.76.050 Authority and administration.
- 18.76.060 Location of Recreational Marijuana Facilities.
- 18.76.070 Development Standards
- 18.76.080 Review Process and Administration
- 18.76.090 Violations - Penalties
- 18.76.100 Severability
- 18.76.110 Effective date

18.76.010 Title.

The ordinance codified in this chapter shall be known as the "Cowlitz County Recreational Marijuana Code."

18.76.020 Purpose.

- A. To acknowledge the passage and enactment of Initiative 502 and associated licensing procedures for recreational marijuana by the state of Washington by developing local review standards for the placement and development of recreational marijuana uses.
- B. Minimize potential adverse impacts to the citizens of Cowlitz County by developing land use regulations regarding the location and development standards for recreational marijuana land uses.
- C. Provide a consistent and predictable path for the development of recreational marijuana land uses and encourage their placement in areas where adverse impacts can be minimized.
- D. Nothing in this ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale, or use of marijuana in any manner not authorized by Chapter 69.51A RCW, or Chapter 69.50 RCW.

18.76.030 Definitions.

For the purposes of this chapter the following terms are defined:

Agriculture Area(s) means those area zoned by the Cowlitz County Land Use Ordinance as Agriculture, Agriculture-38, and Agriculture-Industrial. The term "Agriculture Areas" also includes areas classified by the Comprehensive Plan as Agriculture and Agriculture-Industrial. In the event of a conflict between

14 067

the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Day means days that the office of the Director is open for business, unless otherwise specified.

Director means the Director of Building and Planning Department, or his/her designee.

Industrial Area(s) means those area zoned by the Cowlitz County Land Use Ordinance as Heavy Manufacturing and Light Manufacturing. The term "Industrial Areas" also includes areas classified by the Comprehensive Plan as Heavy Industrial and Light Industrial. In the event of a conflict between the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Marijuana means all parts of the plant cannabis, whether growing or not, with a THC 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 Infused Products means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include usable marijuana.

Marijuana Paraphernalia does not include drug paraphernalia, as defined in RCW 69.50.102, for introducing into the human body any controlled substance, as defined in RCW 69.50.101, other than marijuana.

Marijuana Processor means a person or facility licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers. All marijuana processors are classified as either a Type 1 or a Type 2 processor (see below).

Marijuana Processor, Type 1 means a marijuana processor that is limited to drying, curing, trimming, and packaging marijuana.

Marijuana Processor, Type 2 means a marijuana processor that extracts concentrates, infuses products, or involves mechanical and/or chemical processing in addition to drying, curing, trimming, and packaging.

Marijuana Producer means a person or facility licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers. All marijuana producers are licensed by the Washington State Liquor Control Board as a Tier 1, Tier 2, or Tier 3 producer as identified by WAC 314-55.

Marijuana Retailer means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

14 067

Recreational Marijuana Facility is a general term which includes marijuana retailer, Marijuana Processor, and/or Marijuana Producer. A recreational marijuana facility includes the structure(s) in which the recreational marijuana land use operates, as well as the associated parking lot area.

Remote Areas means those area zoned by the Cowlitz County Land Use Ordinance as Forestry Recreation. The term "Remote Areas" also includes areas classified by the Comprehensive Plan as Forestry-Open Space. In the event of a conflict between the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Retail Outlet means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

Rural means those area zoned by the Cowlitz County Land Use Ordinance as Rural Residential -1, -2, and -5. The term "Rural Areas" also includes areas classified by the Comprehensive Plan as Rural Residential-1, -2, and -5. In the event of a conflict between the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Setback generally means the required distance from any structural part of a recreational marijuana facility to either a property line and/or to a neighboring residence. Specific measurement criteria are typically identified along with specific setback requirements.

Structure means that which is built or constructed, an edifice or building of any kind or any works erected, built up or composed of parts joined together in some definite manner.

THC Concentration means the percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant cannabis, or per volume or weight of marijuana product product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant Cannabis regardless of moisture content.

Urban means those areas zoned by the Cowlitz County Land Use Ordinance as Urban Residential, Suburban Residential, Multiple Family, Neighborhood Commercial and Urban Commercial. The term "Urban Areas" also includes areas classified by the Comprehensive Plan as Urban Residential (High and Low Density), Suburban Residential, and Commercial. In the event of a conflict between the Land Use Ordinance and the Comprehensive Plan, the zoning designation shall prevail.

Usable Marijuana means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

18.76.040 Applicability.

1. This ordinance shall apply to all unincorporated areas of Cowlitz County.
2. The requirements of this chapter shall apply to all recreational marijuana related land uses, including the production, processing, and retail sales of marijuana, and marijuana infused products and the expansion and/or alteration of any existing recreational marijuana related facilities.

14 007

3. No use that constitutes or purports to be a marijuana producer, marijuana processor, marijuana retailer, or any medical marijuana facility that was engaged in that activity prior to the enactment of this chapter shall be deemed to have been a legally established and that use shall not be entitled to claim legal nonconforming status.

18.76.050 Authority and administration.

All applications under this chapter shall be made to the Cowlitz County Building and Planning Department. The Director or his/her designee shall administer, interpret, and enforce the provisions of this chapter and shall provide such forms and establish such procedures as may be necessary to administer this chapter.

18.76.060 Location of Recreational Marijuana Facilities

- A. This section identifies the location requirements and required review process for recreational marijuana land uses.

Production					
	<u>Urban</u>	<u>Rural</u>	<u>Industrial</u>	<u>Agriculture</u>	<u>Remote</u>
<u>Tier 1</u>	A	A	A	A	A
<u>Tier 2</u>	S	S	A	S	S
<u>Tier 3</u>	S	S	A	N	N

Processing					
	<u>Urban</u>	<u>Rural</u>	<u>Industrial</u>	<u>Agriculture</u>	<u>Remote</u>
<u>Type 1</u>	A	A	A	S	A
<u>Type 2</u>	S	S	A	N	N

Retail					
	<u>Urban</u>	<u>Rural</u>	<u>Industrial</u>	<u>Agriculture</u>	<u>Remote</u>
<u>Retail Store</u>	A	S	A	N	N

Matrix Key:
A: Administrative review, see section 18.76.080(B)(1)
S: Special Use Review; see section 18.76.080(B)(2)
N: Not allowed

- B. Should any recreational marijuana facility conduct operations in more than one location, individual recreational marijuana approvals for each location

shall be required. Each location shall follow the appropriate process and meet the appropriate development standards for that particular location.

- C. All marijuana related land uses are subject to the land use provisions of the Cowlitz County Land Use Ordinance, Chapter 18.10, and nothing in this ordinance is intended to supersede those regulations. For those recreational marijuana land uses that do not meet the use requirements for a particular zoning designation, a special use permit shall be required following the process prescribed in CCC 18.76.080(B)(2).

18.76.070 Development Standards

Unless otherwise exempted in this chapter, the standards set forth below shall apply to all recreational marijuana facilities in the unincorporated areas of Cowlitz County. In the event of conflicts with this chapter and any other development standards contained in local ordinance, state law or federal law, the more stringent provision shall apply.

- A. Building and Fire Codes. All recreational marijuana facilities and associated structures and development shall conform to the appropriate section(s) of the IBC and IFC.
- B. Outdoor Production Prohibited. All recreational marijuana production operations shall be conducted indoors only, in a fully enclosed building or structure. Greenhouses may be considered a fully enclosed building, provided they are an opaque structure and are adequately screened from view of public rights of way and neighboring properties. Screening necessary to meet this standard may be required in addition to the screening standards identified in CCC 18.76.790(E).

- B. Setbacks. In addition to those setbacks required by the Cowlitz County Land Use Ordinance and Building Code Ordinance, all recreational marijuana land uses shall maintain the following setbacks.

1. Recreational marijuana land uses located in Urban or Industrial areas shall maintain a minimum setback of 250 feet from any residence, mobile home park, or RV park located on another property. This distance shall be measured as the shortest straight line distance from the exterior wall of any structure associated with the recreational marijuana facility, or exterior boundary of the associated parking lot, to the property line on which the residence, mobile home park, or RV park is located.
2. For those recreational marijuana land uses within a Rural, Remote, or Agricultural area, the minimum setback is 75 feet, as measured from the exterior wall of any structure associated with the recreational marijuana facility, or exterior boundary of the associated parking lot to exterior wall of any residence located on another property.

- C. Lighting. Any lighting proposed with a recreational marijuana facility shall be hooded and/or shielded to prevent light transmission to neighboring properties.

14 OCT

- E. Screening.** The visual impacts of a recreational marijuana facility shall be mitigated through vegetative screening and/or landscaping.
1. A row of evergreen trees or shrubs shall be planted along the outside perimeter of the facility. The vegetation shall be no less than four feet in height when planted, and spaced in such a way as to obscure the facility from view. Any screening shall be maintained in good health and repair at all times.
 2. Subject to approval by the Director, any combination of existing vegetation, berming, topography, decorative walls or fences, or other features instead of landscaping may be permitted if they achieve the same degree of screening as the required landscaping.
 3. Screenings for recreational marijuana retail facilities may be reduced in order to maintain visibility from a public road or right-of-way.
- F. Parking.** All recreational marijuana facilities shall provide adequate parking in accordance with the requirements identified in CCC 18.10.560-.562.
- G. Access.** Demonstration of legal access connecting the recreational marijuana facility and the public right-of-way shall be required at the time of application.
- H. Parcel Size.** All recreational marijuana production and processing facilities shall maintain a minimum lot size based on their location:
1. Facilities located in Rural, Remote, or Agricultural areas shall maintain a minimum legal lot size of 5 acres.
 2. Facilities located within Industrial area Urban areas shall maintain a minimum legal lot size of 1-acre.
 3. Tier 1 production facilities and tier 1 processing facilities operated in only conjunction with a Tier 1 production facility on the same parcel, are not subject to the minimum lot sizes identified above.
- I. Cameras.** Any security cameras proposed with a recreational marijuana facility shall be positioned so as not to intrude on the privacy of adjacent properties.
- J. Zoning Compliance.** In zoned areas, all recreational marijuana related land uses shall meet the requirements of the designation in which they are located. For those recreational marijuana land uses that do not meet the use requirements in a particular zoning designation, a special use permit shall be required following the process prescribed in CCC 18.76.080(B)(2) and CCC 18.10.290-295.
- M. Odor.** No odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring uses. Adequate ventilation shall be provided for all facilities to eliminate odors of marijuana detectable outside of the facility.

14 OCT

- N. Retail Separation. Marijuana retailers shall be separated by a minimum of 300 feet from other marijuana retailers. This distance shall be measured as the shortest straight line distance from property line to property line.
- K. Variances. The development standards of this chapter may be reduced, increased, altered, or amended subject to approval of a variance in accordance with the procedures set forth in the CCC 18.10.340 through CCC 18.10.365, or as amended.

18.76.080 Review Process and Administration

All recreational marijuana facilities shall be reviewed for consistency with this chapter. Applications shall, at a minimum, contain the application materials identified below.

A. Application Content for all facilities:

1. Master application and parcel description, including assessor's map and parcel number.
2. Scaled site plan identifying all elements of the proposed facility, proposed means of access, and setbacks to all structures and significant features within 300 feet.
3. Vicinity map.
4. Narrative describing all elements of the proposed recreational marijuana land use, and methods to be used to meet the development standards identified within this ordinance.
5. Landscaping/screening plan showing the type, location, and extent of screening or landscaping associated with the facility. This plan shall also identify the methods to be used to maintain the necessary screening. Portions of this requirement may be identified on the scaled site plan required above.
6. Any additional applicable information the Director deems necessary to adequately review the proposal.

B. Review Process. Upon receipt of a complete application for a recreational marijuana facility, the application will be processed following one of the two procedures described below, as determined by section 18.76.060.

1. Administrative Approval. Those Recreational Marijuana Facilities to be approved administratively by the Director shall follow the following process:
 - a. Within 30 days of the receipt of a complete application, the Director shall distribute copies of the application to agencies with jurisdiction for their review. The return date for the agency findings and recommendations shall be set at 10 days after the date of reviewing agency receipt of the review copies.
 - b. The Director shall ensure that all provisions of this chapter have been complied with, and that all findings and recommendations from the reviewing agencies with jurisdiction have been adequately addressed.

14 007

- c. The Director may affix such conditions as necessary to ensure compliance with the requirements of this chapter and the findings and recommendations of reviewing agencies with jurisdiction. Any party aggrieved by the decision of the Department, with standing as provided by 36.70C RCW, may appeal such decision pursuant to chapter 18.10.310 CCC
- 2. Hearings Examiner Approval. Those recreational marijuana facilities requiring special use approval shall be heard in an open record public hearing by the Cowlitz County hearings examiner for compliance with the requirements and standards of this chapter and any other applicable regulations.
 - a. Upon receipt of an application for a recreational marijuana facility, the Director shall review it for completeness and conformance with the requirements and standards of this chapter and the goals and objectives of the comprehensive plan.
 - b. Upon a determination of a complete application, the Director shall distribute copies of the application to all other agencies with jurisdiction for a period of no less than 10 days.
 - c. The Director shall generate a report of findings to be attached to the application, and upon completion of the Director's review, a copy of the application, together with the report and any conditions of approval shall be forwarded to the Cowlitz County Hearings Examiner, and a date shall be set for an open record public hearing to consider the application. The County shall provide notice of such hearing pursuant to CCC 18.10.480.
 - d. The hearing examiner may condition such recreational marijuana facility approval as necessary to comply with the requirements of this chapter, the county comprehensive plan, development regulations, and environmental regulations. Conditions applied through this process may exceed the minimum requirements as outlined in this chapter.
 - e. The hearing examiner shall issue a decision which shall be final for County purposes. Any party aggrieved by the decision of the hearing examiner, with standing as provided by 36.70C RCW, may appeal such decision pursuant to chapter 18.10.310 CCC.

18.76.090 Violations - Penalties

It is a civil infraction for any person to violate this chapter or assist in the violation of this chapter. Violations are subject to the provisions of Chapter 2.06 CCC. Any violation is a public nuisance. Each day a violation exists is a separate violation. Payment of any penalty imposed for a violation does not relieve a person from the duty to comply with this chapter. Violations of this chapter are also subject to penalties under CCC 1.01.090.

WHATCOM COUNTY COUNCIL AGENDA BILLNO. AB2015-099

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Nick Smith	NAS	3/3/2015	<div>RECEIVED</div> <div>MAR 10 2015</div> <div>WHATCOM COUNTY COUNCIL</div>	3/17/2015	Introduction
Division Head: Mark Personius	WIP	3-3-15		3/31/2015	Public Hearing
Dept. Head: Sam Ryan	SR	3-4-15			
Prosecutor: Royce Buckingham	RB	3-4-15			
Purchasing/Budget:					
Executive: Jack Louws		3/10/15			

TITLE OF DOCUMENT:

An Ordinance allowing for marijuana production, processing and retailing as authorized by Washington State Initiative 502, and replacing Interim Ordinance 2014-053 that was adopted on October 14, 2014.

ATTACHMENTS:

1. Cover Letter
2. Ordinance – track changes
3. Ordinance – non-track changes
4. Planning Commission Findings
5. PDS Staff Report, February 3, 2015

SEPA review required? (X) Yes () NO
SEPA review completed? (X) Yes () NO

Should Clerk schedule a hearing? () Yes (X) NO
Requested Date

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

An Ordinance allowing for marijuana production, processing and retailing as authorized by Washington State Initiative 502, and replacing Interim Ordinance 2014-053 that was adopted on October 14, 2014.

COMMITTEE ACTION:

3/17/2015: Amended and Approved

COUNCIL ACTION:

3/17/2015: Substitute Introduced 6-0
3/31/2015: Adopted 6-0, Ord. 2015-006
(Kremen absent)

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:

Ord. 2015-006

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

ORDINANCE NO. 2015-006

**ORDINANCE ALLOWING MARIJUANA PRODUCTION, PROCESSING AND RETAILING AS
AUTHORIZED BY WASHINGTON STATE INITIATIVE 502**

WHEREAS, on November 6, 2012, Initiative 502 was passed by the voters of the State of Washington, thereby amending Chapter 69.50 RCW and providing the regulatory framework for marijuana producers, processors, and retailers to become licensed by the Washington State Liquor Control Board ("WSLCB"); and

WHEREAS, on November 16, 2013, the WSLCB adopted final marijuana licensing rules as codified in Chapter 314-55 WAC; and

WHEREAS, during the period between November 18, 2013 and December 20, 2013, the WSLCB accepted marijuana license applications for marijuana production, processing and retail facilities; and

WHEREAS, Whatcom County began receiving notifications of proposed marijuana facilities from the WSLCB in mid-December, 2013; and

WHEREAS, the WSLCB began issuing marijuana producer, processor, and retail licenses to qualified applicants starting in April, 2014; and

WHEREAS, marijuana facilities as authorized under Initiative 502, are currently not specifically addressed in Whatcom County Code; and

WHEREAS, on September 28, 2013, Whatcom County Planning and Development Services adopted Zoning Interpretation Policy: PL1-73-003Z which determined that marijuana proposed uses, as allowed by Initiative 502, would be regulated in the same way as any other commodity that is grown, processed, or sold in Whatcom County; and

WHEREAS, on January 16, 2014, the Washington State Attorney General issued an opinion stating that Initiative 502 does not preempt counties from banning or placing additional regulatory requirements on marijuana related businesses within their jurisdictions; and

WHEREAS, on February 11, 2014, the Whatcom County Council adopted Ordinance 2014-011, an emergency ordinance imposing a moratorium on the acceptance of all building and/or land use applications that pertain to marijuana producers, processors, and retailers; and

WHEREAS, on March 25, 2014, the Whatcom County Council adopted Ordinance 2014-019, an interim ordinance removing the moratorium and enacting interim regulations pertaining to marijuana producers, processors, and retailers; and

WHEREAS, on April 22, 2014, the Whatcom County Council adopted Ordinance 2014-027, an interim ordinance replacing Ordinance 2014-019 and enacting revised interim regulations pertaining to marijuana producers, processors, and retailers; and

WHEREAS, on October 14, 2014, the Whatcom County Council extended the interim regulations pertaining to marijuana producers, processors, and retailers of Ordinance 2014-027 with the adoption of Ordinance 2014-053; and

WHEREAS, this ordinance would adopt permanent regulations to provide protection to communities and residential uses surrounding marijuana related businesses, as well as provide WSLCB applicants the opportunity to apply for building and/or land use permits; and

WHEREAS, on March 31, 2015, the Whatcom County Council held a public hearing; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. Notice of the proposed amendment was sent to the Department of Commerce and other state agencies on February 3, 2015.
2. On February 5, 2015 the Whatcom County State Environmental Policy Act (SEPA) Official issued a SEPA threshold Determination of Non-Significance (DNS); a non-project action. The comment period for this determination ended on February 19, 2015 and no comments were received.
3. Notice of the Planning Commission hearing for the proposed text amendment was published in the Bellingham Herald on January 30 and February 16, 2015.
4. The Planning Commission held two public hearings on the proposed amendments on February 12 and February 26, 2015.
5. The proposal adopts the development regulations as outlined in Interim Ordinance 2014-053 with the following changes:
 - Defines marijuana processing, production and retail to include "facility;"
 - Requires marijuana signage for retail facilities to be consistent with WAC 314-55-155;
 - Clarifies how the setback is measured from a marijuana facility to a community center, to be consistent with WAC 314-55-050(10);
 - Clarifies how the measurement is taken from a marijuana facility to a residential structure;
 - Allows the zoning administrator to require a landscape buffer consistent to WCC 20.80.345 for marijuana production and processing facilities in the Rural, Agriculture and Rural Forestry zone districts; and
 - Requires that all indoor marijuana production and processing facilities to install a mechanical ventilation system that is designed by a Washington State Licensed Engineer to control odor;
 - Remove marijuana processing and production from the Rural Residential and Rural Residential – Island zones and remove marijuana retail from Resort Commercial zone.

6. Pursuant to Whatcom County Code (WCC) 20.90.050, Whatcom County Planning and Development Services has: evaluated the proposed amendment in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan as authorized by the Washington State Growth Management Act (GMA) – RCW 36.70A; and considered possible environmental impacts that have been identified by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) threshold determination process.

CONCLUSIONS


- 1) The proposed amendments are consistent with the Comprehensive Plan, and are in the public interest.
- 2) The proposed amendments should not result in any significant environmental impacts.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Zoning Code is hereby amended as shown in Exhibit A.


BE IT FINALLY ORDAINED that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this 31st day of March, 2015.


ATTEST:


Dana Brown-Davis, County Clerk

APPROVED AS TO FORM:


Civil Deputy Prosecutor

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**


Carl Weimer, Council Chair


Jack Louws, County Executive

☒ Approved () Denied

Date: April 2, 2015

EXHIBIT A (Revised 3/17/2015)

Chapter 20.36 Rural (R) District

20.36.050 Permitted uses.

.062 Marijuana production facility, provided that in addition to the criteria found in WCC 20.80.690-694:

- (1) The facility shall not be located within 1,000 feet of a community center. 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 community center.
- (2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.
- (3) On parcels smaller than 4.5 acres the facility shall not exceed a total of 2,000 square feet, except where the facility is contained within a building that existed on the effective date of this ordinance.

20.36.130 Administrative approval uses.

.137 Marijuana processing facility, provided that in addition to the criteria found in WCC 20.80.690-694 and WCC 20.84.235:

- (1) The facility is accessory to the on-site production of marijuana.
- (2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the

processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility.

- (3) On parcels smaller than 4.5 acres the total area used for marijuana processing and production shall not exceed 2,000 square feet, except where the facility is contained within a building that existed on the effective date of this ordinance.

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Chapter 20.40 Agriculture (AG) District

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20.40.050 Permitted uses.

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.059 Marijuana production facility, provided that in addition to the criteria found in WCC 20.80.690-694:

- (1) The facility shall not be located within 1,000 feet of a community center. 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 community center.
- (2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

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20.40.100 Accessory uses.

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.115 Marijuana processing facility, provided in addition to the criteria found in WCC 20.80.690-694:

- (1) The facility is accessory to the on-site production of marijuana.
- (2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

Chapter 20.42 Rural Forestry (RF) District

20.42.050 Permitted uses.

.070 Marijuana production facility, provided that in addition to the criteria found in WCC 20.80.690-694:

- (1) The facility shall not be located within 1,000 feet of a community center. 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 community center.
- (2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

20.42.100 Accessory uses.

.106 Marijuana processing facility, provided that in addition to the criteria found in WCC 20.80.690-694:

- (1) The facility is accessory to the on-site production of marijuana.
- (2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

Chapter 20.51 Lake Whatcom Watershed Overlay District

20.51.080 Prohibited uses.

In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited, except as per Chapter 20.83 WCC:

.102 Marijuana production or processing facility.

Chapter 20.59 Rural General Commercial (RGC) District

20.59.050 Permitted uses.

.051 Retail and office type uses.

- (4) Retail establishments including but not limited to grocery, liquor, drug, sundries, variety, building supplies, clothing, florist, nurseries, optical, sporting goods, appliance, music, pet stores and marijuana retail facilities.

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Chapter 20.60 Neighborhood Commercial Center (NC) District

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20.60.050 Permitted uses.

.051 Retail and office type uses.

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- (7) Marijuana retail facility, not greater than 2,500 square feet.
- (8) Other convenience retail shops not greater than 2,500 square feet per shop.
- (9) Professional offices not greater than 2,500 square feet per business.

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Chapter 20.61 Small Town Commercial (STC) District

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20.61.050 Permitted uses.

.051 Retail and office type uses.

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- (4) Retail establishments with less than 2,500 square feet of retail floor area per establishment, including but not limited to liquor, drug, sundries, variety, clothing, florist, optical, sporting goods, appliance, craft, music, pet stores and marijuana retail facilities.

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Chapter 20.62 General Commercial (GC) District

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20.62.050 Permitted uses.

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.059 Retail establishments including but not limited to grocery, liquor, drug, sundries, variety, building supplies, clothing, florist, nurseries, optical, sporting goods, appliance, music, pet stores and marijuana retail facilities.

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Chapter 20.66 Light Impact Industrial (LII) District

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20.66.050 Permitted uses.

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.087 Marijuana production or processing facility.

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20.66.700 Performance standards.

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.709 Marijuana Odor

For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State Professional Engineer.

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Chapter 20.68 Heavy Impact Industrial (HII) District

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20.68.050 Permitted uses.

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.066 Marijuana production or processing facility.

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.709 Marijuana Odor

For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State Professional Engineer.

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Chapter 20.69 Rural Industrial Manufacturing (RIM) District

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20.69.050 Permitted uses.

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.053 Agriculture type uses.

Uses related to agriculture including, but not limited to:

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(10) Marijuana production facility.

(11) Marijuana processing facility.

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20.69.700 Performance standards.

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.708 Marijuana Odor

For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to

cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State Professional Engineer.

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Chapter 20.71 Water Resource Protection Overlay District

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20.71.200 Prohibited uses.

In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited, except as per Chapter 20.83 WCC:

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.222 Marijuana production facility.

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Chapter 20.80 Supplementary Requirements

20.80.210 Minimum setbacks.

Resource Lands Setbacks							
Agricultural (AG)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
50'	50'	50'	50'	50'	50'	20'	20'
1. The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same							

building line(s) of existing structures and will result in no additional encroachment and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

2. The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.

3. Parcels of less than five nominal acres shall have the following minimum setbacks:

Front yards:

- Primary arterials and secondary arterials: 45 feet.
- Collector arterials: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.

Minimum front yard requirements can be reduced by the zoning administrator for boundary line adjustments or farmstead parcels established through WCC 20.40.253 and 20.40.254 if the proposed placement of the structures will result in a better fit with critical areas or prime soils and goes through the approval process in Chapter 21.03 WCC. In no case shall front yard depth be less than 20 feet.

Side yards: minimum side yard setbacks shall be five feet. For boundary line adjustments or farmstead parcels established through WCC 20.40.253 and 20.40.254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear yards: minimum rear yard setbacks shall be five feet.

4. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. 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 community center.

5. A marijuana production or processing facility shall not be located within 300 feet of any

existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

6. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

Commercial Forestry (CF)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	100'	100'
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	100'	100'

1. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

Rural Forestry (RF)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard

45'	35'	25'	25'	25'	20'	20'	20'
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	20'	20'
<p>1. Setbacks shall be increased to 100 feet for those parcels in the Rural Forestry Zone situated adjacent to the Commercial Forestry Zone, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC <u>20.42.651</u> shall be subject to the standard setback of the Rural Forestry Zone. Forest industry buildings, stationary equipment or storage areas excluding scaling stations and watchman's stations shall not be located within 100 feet of any other zone district.</p> <p>2. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.</p> <p>3. When a permitted residence (WCC <u>20.42.056</u>) adjoins an existing parcel of 20 acres or more in size or a parcel that is being cultivated for commercial forestry production, a minimum building setback of 100 feet shall be established from the common property line.</p> <p>4. Lummi Island scenic estates setbacks shall be administered under the Rural Residential Island setback standards.</p> <p>5. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.</p> <p>6. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. 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 community center.</p> <p>7. A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.</p>							

Rural Zoning Setbacks

Rural (R)

<i>Road Type</i>						<i>Other</i>	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	45'	35'	25'	25'	20'	5' ¹	5' ¹
<i>Water Resource Protection Overlay</i>							
30'	30'	20'	20'	20'	20'	5'	5'

1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Commercial Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.36.651 shall be subject to the standard setback in WCC 20.80.210.
2. Lots created after 2001 through the cluster provisions, or lots created through the APO provisions which will be used for human habitation, shall be set back a minimum of 100 feet from the property line of any parcel or portion thereof which is designated or used for agricultural purposes. No structures shall be constructed within 30 feet of exterior, side and rear property lines, and no structure shall be constructed within 30 feet of an agricultural use. Subject to any further requirements within Chapter 20.38 WCC, Agriculture Protection Overlay.
3. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.
4. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. 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 community center.

5.A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

¹Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

* * * * *

20.80.250 Special setback provisions by district.

20.80.251 Residential districts.

(1) Urban Residential District. Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels which are less than 20,000 square feet in a subdivision approved prior to January 1, 1987, and whose owners have filed an agreement with the county auditor as specified in WCC 20.20.651 shall be subject to the standard setback in WCC 20.80.210.

(2) Residential Rural District.

(a) Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.32.651 shall be subject to the standard setback in WCC 20.80.210.

(3) Urban Residential Medium Density District. Setback requirements for mobile home parks shall be 20 feet from the perimeter of the park for side and rear yards and shall be screened from neighboring uses in accordance with WCC 20.80.345.

(4) Residential Rural-Island District.

Setbacks shall be increased to 100 feet for those parcels situated adjacent to Forestry Zone Districts, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.34.651 shall be subject to the standard setback in WCC 20.80.210. (Ord. 99-080, 1999; Ord. 99-058, 1999).

20.80.252 Rural District.

1. Rural District Setbacks. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Commercial Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.36.651 shall be subject to the standard setback in WCC 20.80.210. (Ord. 99-080, 1999).
2. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. 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 community center.
3. A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

20.80.255 Agriculture District.

- (1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.
- (2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, packinghouses and slaughterhouses, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.
- (3) The minimum separation between packinghouses/slaughterhouses and schools shall be 500 feet.

(4) The minimum separation between packinghouses/slaughterhouses and adjacent property lines shall be 150 feet. (5) A marijuana production or processing facility shall not be located within 1,000 feet of a community center. 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 community center.

(6) A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

20.80.256 Forestry districts. (Adopted by reference in WCCP Chapter 2.)

(1) Setbacks shall be increased to 100 feet for those parcels in the Rural Forestry Zone situated adjacent to the Commercial Forestry Zone, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.42.651 shall be subject to the standard setback in WCC 20.80.210. Forest industry buildings, stationary equipment or storage areas excluding scaling stations and watchman's stations shall not be located within 100 feet of any other zone district.

(2) Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

(3) Where a parcel, created pursuant to the clustering provision (WCC 20.42.300) or the planned unit development provision (Chapter 20.85 WCC) or when a permitted residence (WCC 20.42.056), adjoins an existing parcel of 20 acres or more in size or a parcel that is being cultivated for commercial forestry production, a minimum building setback of 100 feet shall be established from the common property line.

(4) For parcels of less than five nominal acres, unless the provisions of subsection (2) of this section are applicable, the zoning setback established by the zoning district shall be observed.

(5) A marijuana production or processing facility shall not be located within 1,000 feet of a community center. 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 community center.

(6) A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

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WCC 20.80.410 Signs – General provisions – Applicable to all districts.

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(5) Marijuana retail facility license holders shall abide by WAC 314-55-155 (as amended) regarding signage.

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20.80.690 Marijuana Production and Processing

20.80.691 Marijuana State License Required.

Prior to commencing operations, a marijuana producer, processor, or retailer shall obtain approval as a state-licensed marijuana producer, processor, or retailer under Chapter 69.50 RCW, as amended, and Chapter 314-55 WAC, as amended.

20.80.692 Application for County Development Permits - Timing.

Applicants for marijuana production, processing, or retailing may apply for county development permits at any time. Applicants who wish to apply for county permits, or commence construction of facilities for producing, processing, or retailing of marijuana under chapter 69.50 RCW, prior to obtaining approval as a state-licensed marijuana producer, processor or retailer do so at their own risk. Final occupancy of the building will not be granted until a state liquor control board license has been approved.

20.80.693 Production

- (1) For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State Professional Engineer.
- (2) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining property and the public road.
- (3) No traffic shall be generated by such a facility in greater volume than would normally be expected in the applicable zoning district and appropriate for the road classification which serves the property.
- (4) Any need for parking generated by the conduct of such a facility shall meet the off-street parking requirements as specified in this title. At least one additional space shall be provided for each nonresident on-site employee.
- (5) The proposed use shall be compatible with the general appearance and character of the surrounding area. The Zoning Administrator at his or her discretion may require landscape screening pursuant to the requirements of WCC 20.80.345.

20.80.694 Processing

- (1) The facility employs no more than 10 permanent employees, except that in the Agriculture and Rural Forestry zones the facility may employ no more than 20 employees.
- (2) For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State Professional Engineer.
- (3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining property and the public road.

(4) No traffic shall be generated by such a facility in greater volume than would normally be expected in the applicable zoning district and appropriate for the road classification which serves the property.

(5) Any need for parking generated by the conduct of such a facility shall meet the off-street parking requirements as specified in this title. At least one additional space shall be provided for each nonresident on-site employee.

20.97 Definitions.

20.97.225 Marijuana, marihuana or cannabis.

"Marijuana," "marihuana" or "cannabis" means all parts of the plant cannabis, whether growing or not, with a THC 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.

20.97.226 Marijuana processing facility.

"Marijuana processing" means a facility licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers. A marijuana processing facility shall include any structure that is associated with the processing of marijuana.

20.97.227 Marijuana production facility.

"Marijuana production" means a facility licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors. The area of a marijuana production facility includes all the area enclosed within a structure or fence that is required by the state liquor control 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 non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier.

20.97.228 Marijuana retail facility.

"Marijuana retail" means a facility licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet. A marijuana retail facility shall include any building that is associated with the sale of marijuana.

20.97.229 Marina.

20.97.230 May.