

Call to Order

Pledge of Allegiance

Roll Call

Approval of the Agenda

Committee Reports

Presentations

Discussion Items

Approval of Minutes (*Written Comment Only Accepted from Audience.*)

1. Approval of the January 13, 2014 City Council Meeting Minutes.

Consent

2. Approval of the January 22, 2014 Claims in the Amount of \$909,096.08; Paid by Check Number's 89638 through 89746 with Check Number's 88740, 89433, 89554, and 89593 Voided.
3. Approval of the January 17, 2014 Payroll in the Amount of \$836,909.34; Paid by Check Number's 27318 through 27355.

Review Bids

Public Hearings

New Business

4. Consider the Final Plat of Rock Creek North Division 2, Phase 2.
5. Consider the Professional Services Agreement with HDR Engineering for Preliminary Engineering and Environmental Documentation in Support of the Interstate 5/SR 529 Interchange Expansion Project.
6. Consider an **Ordinance** Amending Marysville Municipal Code (MMC) Chapter 12.20 Entitled "Animals and Vehicles on Sidewalk"; Providing for Severability; and Effective Date.

Index #1

Call to Order/Pledge of Allegiance/Roll Call	7:00 p.m.
Approval of the Agenda	Approved
Committee Reports	
Presentations	
Police Promotion	Presented
Approval of Minutes	
November 25, 2013 City Council Meeting Minutes	Approved
December 2, 2013 City Council Meeting Minutes	Approved
December 9, 2013 City Council Meeting Minutes	Approved
Consent Agenda	
Approval of the December 11, 2013 Claims in the Amount of \$459,586.68; Paid by Check Number's 88783 through 88901 with No Check Numbers Voided.	Approved
Approval of the December 18, 2013 Claims in the Amount of \$5,134,304.61; Paid by Check Number's 88902 through 89078 with No Check Numbers Voided.	Approved
Approval of the December 25, 2013 Claims in the Amount of \$872,272.39; Paid by Check Number's 89079 through 89231 with No Check Numbers Voided.	Approved
Approval of the December 20, 2013 Payroll in the Amount of \$1,184,288.81; Paid by Check Number's 27234 through 27273 with Check Number 27217 Voided and Reissued with Check Number 27233.	Approved
Consider Approving the Professional Services Agreement with Strategies 360 for Lobbying Services.	Approved
Consider the Snohomish County Human Services Grant Agreement which will provide \$11,000 in Reimbursed Funds for the Salaries and Benefits of the Program Clerk Position at the Ken Baxter Community Center through December 31, 2014.	Approved
Consider Approving the Supplemental Agreement No. 2 with ECCOS Design LLC to Provide for a Contract Extension through June 30, 2014.	Approved
Consider the Fuel Tax Grant Agreements and Project Funding Status Form for Transportation Improvement Board (TIB) Grant Funding of the State Avenue 116th Street NE to 136th Street NE Project.	Approved
Consider Approving the Real Estate Conveyance Agreement with Marysville School District No. 25 and Associated Interlocal Agreement.	Approved
Approval of the December 26, 2013 Claims in the Amount of \$118,495.87; Paid by Check Number's 89232 through 89317 with Check Number 89199 Voided.	Approved
Approval of the January 1, 2014 Claims in the Amount of \$785,846.99; Paid by Check Number's 89318 through 89351 with No Check Number's Voided.	Approved
Approval of the January 3, 2014 Payroll in the Amount of \$1,532,530.14; Paid by Check Number's 27276 through 27317 with Check Number's 27274 and 27275 issued.	Approved
Review Bids	

Public Hearings	
New Business	
Consider an Ordinance Repealing Marysville Municipal Code (MMC) Chapter 7.04 Entitled "Unsanitary Condition-Nuisances;" and Amending MMC Section 6.24.050 Entitled "Types of Nuisances" Adding Subsection (30) through (34); Providing for Severability; and Effective Date.	Approved Ord. No. 2950
Consider an Ordinance Amending Portions of Marysville Municipal Code (MMC) Chapter 4.02 Entitled "Enforcement Procedures" and Chapter 6.24 Entitled "Public Nuisance"; Providing for Severability; and Effective Date.	Approved Ord. No. 2951
Consider an Ordinance of the City of Marysville Amending the 2013 Budget and Providing for the Increase of Certain Expenditure Items as Budgeted for in Ordinance No. 2911.	Approved Ord. No. 2952
A Resolution of the City Of Marysville Encouraging the Citizens of Marysville to Vote on Marysville School District Propositions No. 1 & 2 on the Election Ballot on February 11, 2014.	Approved Res. No. 2355
Consider an Ordinance Amending the Marysville City Code to Enact a New Chapter 12.06 Marysville Transportation Benefit District, Establishing a Transportation Benefit District, Specifying the Boundaries for the Transportation Benefit District, Specifying the Maintenance and Preservation of Existing Transportation Improvements and Fixing a Time when the Same Shall Become Effective.	Approved Ord. No. 2938
Legal	
Mayor's Business	
Staff Business	
Call on Councilmembers	
Choose a Council President	Approved Jeff Vaughan
Adjournment	7:55 p.m.
Executive Session	
Litigation – one item	
Real Estate – one item	Action
Adjournment	8:24 PM

COUNCIL



DRAFT
MINUTES

Regular Meeting
January 13, 2013

Call to Order / Pledge of Allegiance

Mayor Nehring called the meeting to order at 7:00 p.m. Pastor Steve Swanson of Vital Signs Ministry gave the invocation, and Mayor Nehring led those present in the Pledge of Allegiance.

Roll Call

Chief Administrative Officer Hirashima gave the roll call. The following staff and councilmembers were in attendance.

- Mayor:** Jon Nehring
- Council:** Steve Muller, Kamille Norton, Jeff Seibert, Michael Stevens, Rob Toyer, Jeff Vaughan, and Donna Wright
- Absent:** None
- Also Present:** Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, Police Chief Rick Smith, City Attorney Grant Weed, Public Works Director Kevin Nielsen, Parks and Recreation Director Jim Ballew, and Recording Secretary Laurie Hugdahl.

Approval of the Agenda

Motion made by Councilmember Stevens, seconded by Councilmember Muller, to approve the agenda as presented. **Motion** passed unanimously (7-0).

Committee Reports

Steve Muller reported on the January 9 Library Board meeting where they reviewed the accomplishments of the last year. Over the last year the upgrades of the facility on the inside were completed with the new technology center. In November they introduced a robotics program which has been extremely popular. Beginning next month there will be support for non-profits to research and apply for available grants.

Kamille Norton reported on the January 8 meeting of the Parks Advisory Board where a vote was taken to adjust park opening hours to 7 to allow Parks staff to open parks in a timely manner. There was also discussion about the upcoming projects for this year. Bayview Trail should be completed by mid-summer. The Spray Park will be going to bid soon.

Presentations

A. Police Promotion

Chief Smith reviewed the impressive record of James Maples who was promoted to Sergeant. Lt. Thomas discussed his positive experiences working with James Maples and presented him with his old sergeant stripes. Mayor Nehring then swore in Sgt. Maples.

Employee Services Awards

Audience Participation

Lisa Hunter, 3612 94th Place NE, Marysville, WA, discussed issues surrounding the marijuana regulations. She asked why this was put on hold back in September. CAO Hirashima noted that the current moratorium goes until September of this year. It was put in place while the City studies how it wants to enforce regulations on marijuana operations within the City under the Zoning Code. The Planning Commission will be holding a hearing tomorrow night and will be forwarding a recommendation to the City Council following that hearing. Ms. Hunter asked about the composition of the committee. CAO Hirashima explained that there was a planning commissioner, a council member, a pro-business/applicant representative, and a general citizen. They put together a menu of different alternatives that could be taken depending on how the City wanted to regulate marijuana businesses. Ms. Hunter recommended that the Council meet with the potential applicants to open up further dialogue and answer any questions.

Approval of Minutes

1. Approval of the November 25, 2013 City Council Meeting Minutes.

Motion made by Councilmember Wright, seconded by Councilmember Stevens, to approve the November 25, 2013 minutes as presented. **Motion** passed unanimously (7-0).

2. Approval of the December 2, 2013 City Council Work Session Minutes.

Kamille Norton referred to item 21 on page 5 of 10 of the minutes under the first paragraph and noted that the grant was not a CDBG grant, but instead should be corrected to Hotel Motel Tax Fund.

DRAFT

Motion made by Councilmember Muller, seconded by Councilmember Stevens, to approve the December 2, 2013 minutes with the correction as stated by Councilmember Norton. **Motion** passed unanimously (7-0).

3. Approval of the December 9, 2013 City Council Meeting Minutes.

Councilmembers Wright and Stevens indicated that they were absent and would not be voting.

Motion made by Councilmember Vaughan, seconded by Councilmember Norton, to approve the December 9, 2013 City Council Meeting Minutes. **Motion** passed 5-0 with Councilmembers Wright and Stevens abstaining.

Consent

4. Approval of the December 11, 2013 Claims in the Amount of \$459,586.68; Paid by Check Number's 88783 through 88901 with No Check Numbers Voided.
5. Approval of the December 18, 2013 Claims in the Amount of \$5,134,304.61; Paid by Check Number's 88902 through 89078 with No Check Numbers Voided.
6. Approval of the December 25, 2013 Claims in the Amount of \$872,272.39; Paid by Check Number's 89079 through 89231 with No Check Numbers Voided.
7. Approval of the December 20, 2013 Payroll in the Amount of \$1,184,288.81; Paid by Check Number's 27234 through 27273 with Check Number 27217 Voided and Reissued with Check Number 27233.
8. Consider Approving the Professional Services Agreement with Strategies 360 for Lobbying Services.
9. Consider the Snohomish County Human Services Grant Agreement which will provide \$11,000 in Reimbursed Funds for the Salaries and Benefits of the Program Clerk Position at the Ken Baxter Community Center through December 31, 2014.
10. Consider Approving the Supplemental Agreement No. 2 with ECCOS Design LLC to Provide for a Contract Extension through June 30, 2014.
11. Consider the Fuel Tax Grant Agreements and Project Funding Status Form for Transportation Improvement Board (TIB) Grant Funding of the State Avenue 116th Street NE to 136th Street NE Project.
15. Consider Approving the Real Estate Conveyance Agreement with Marysville School District No. 25 and Associated Interlocal Agreement.

DRAFT

20. Approval of the December 26, 2013 Claims in the Amount of \$118,495.87; Paid by Check Number's 89232 through 89317 with Check Number 89199 Voided.
21. Approval of the January 1, 2014 Claims in the Amount of \$785,846.99; Paid by Check Number's 89318 through 89351 with No Check Number's Voided.
22. Approval of the January 3, 2014 Payroll in the Amount of \$1,532,530.14; Paid by Check Number's 27276 through 27317 with Check Number's 27274 and 27275 issued.

Motion made by Councilmember Toyer, seconded by Councilmember Wright, to approve Consent Agenda items 4-11, 15, and 20-22. **Motion** passed unanimously (7-0).

Review Bids

Public Hearings

New Business

12. Consider an Ordinance Repealing Marysville Municipal Code (MMC) Chapter 7.04 Entitled "Unsanitary Condition-Nuisances;" and Amending MMC Section 6.24.050 Entitled "Types of Nuisances" Adding Subsection (30) through (34); Providing for Severability; and Effective Date.

Motion made by Councilmember Muller, seconded by Councilmember Seibert, to approve Ordinance No. 2950. **Motion** passed unanimously (7-0).

13. Consider an Ordinance Amending Portions of Marysville Municipal Code (MMC) Chapter 4.02 Entitled "Enforcement Procedures" and Chapter 6.24 Entitled "Public Nuisance"; Providing for Severability; and Effective Date.

Motion made by Councilmember Muller, seconded by Councilmember Toyer, to approve Ordinance No. 2951. **Motion** passed unanimously (7-0).

14. Consider an Ordinance of the City of Marysville Amending the 2013 Budget and Providing for the Increase of Certain Expenditure Items as Budgeted for in Ordinance No. 2911.

Motion made by Councilmember Wright, seconded by Councilmember Stevens, to approve Ordinance No. 2952. **Motion** passed unanimously (7-0).

17. A Resolution of the City of Marysville Encouraging the Citizens of Marysville to Vote on Marysville School District Propositions No. 1 & 2 on the Election Ballot on February 11, 2014.

Mayor Nehring explained that the School District had requested the Council take some sort of action on this ballot item.

Councilmember Wright pointed out that they are not taking sides; they are just encouraging citizens to vote.

Motion made by Councilmember Wright, seconded by Councilmember Toyer, to approve Resolution No. 2355.

Councilmember Stevens pointed out that under the first WHEREAS *Council's* should be changed to *Council*. There was consensus to approve the correction.

Motion passed unanimously (7-0).

23. Consider an Ordinance Amending the Marysville City Code to Enact a New Chapter 12.06 Marysville Transportation Benefit District, Establishing a Transportation Benefit District, Specifying the Boundaries for the Transportation Benefit District, Specifying the Maintenance and Preservation of Existing Transportation Improvements and Fixing a Time when the Same Shall Become Effective.

City Attorney Grant Weed gave a summary of this item. He explained that when this was addressed back in November part of the Council action included a limitation on the funding mechanism of the TBD to the .2 of 1% sales tax option and would have eliminated all other funding mechanisms that are provided by law. Following Council action his office did further research, and it was determined that Council did not have the authority to place that sort of limitation on the formation of another municipal entity. Reconsideration of the Ordinance, as originally written, would provide for all the funding mechanisms as provided by state law.

Councilmember Norton asked for confirmation that any other actions that future Councils might want to take in regards to the TBD would still have to be approved by voters. Only the \$20 car tab does not require the vote of the people. City Attorney Weed confirmed this.

Councilmember Seibert asked if another public hearing would be necessary. City Attorney Weed stated that it was not necessary since the public has already had the opportunity to provide input, but it is an option if Council desires.

Councilmember Seibert referred to the description on page 23-12, which says the ordinance adopting a TBD must include:

- A finding that the creation of a TBD must be in the public's best interest
- The boundaries of the TBD
- The functions of the TBD
- Description of the transportation improvements proposed by the district

Councilmember Seibert expressed concern that that these things were not included in this ordinance. City Attorney Weed explained that once the TBD is formed, staff would

bring the TBD a list of projects that would be funded if they decided to put a measure before the voters. The requirement is that the program be established in some manner such as the Transportation Improvement Program or the Capital Facilities Plan. These documents have already been approved by Council and have all of the projects that would be available to fund if the TBD is formed.

Motion made by Councilmember Stevens, seconded by Councilmember Toyer, to approve Ordinance No. 2938. **Motion** passed 5-2 with Councilmembers Seibert and Vaughan voting against the motion.

Legal

Mayor's Business

- Marysville Night at the Silvertips is this Saturday. Discounted tickets can be obtained by calling the Silvertips office.
- Snohomish County Cities Dinner will be held in Snohomish this Thursday evening. Contact Leah if you want to attend.
- National League of Cities is coming up. Council members should let Leah know if they will be attending.

Staff Business

Jim Ballew:

- The Park Board discussed a potential date of February 22 for the Doleshel Park grand opening.
- During the storm event over the weekend, the city suffered the loss of about a dozen large trees in Jennings Park in the ravine area and a lot of windfall at the golf course.

Chief Smith:

- There will be a Public Safety meeting next week on January 22 at the shop.
- Several search warrants have been served in the last couple weeks.
- Thanks to Mayor Nehring for attending the Volunteer Dinner last Thursday night. This was given to recognize the many volunteers who gave over 3100 hours of volunteer time over the last year.
- There was a great sergeants' meeting. He was asked by Councilmember Muller about what the Police Department is doing about crime reduction. Chief Smith explained that they are stressing being proactive and the importance of interacting with the community as opposed to just being responsive. Additionally, they are increasing internal and external communication.
- Lt. Akau has been working for a while on an issue with renters who have been selling drugs out of their rental homes. Chief Smith was pleased to report that the owners have been contacted, and the renters will be evicted out of those homes.

Kevin Nielsen:

- Transportation is a very large topic in Olympia.
- Staff is now picking up trash in the Sunnyside/Whiskey Ridge area.
- Everyone was kept in power during the storm even with wind, rain, and high tides.
- Go Hawks!

Sandy Langdon stated that the Finance Committee will be meeting in January.

Grant Weed stated the need for a 15-minute Executive Session to discuss two matters – one matter concerning purchase and sale of real estate and one matter concerning pending litigation with action taken on the item concerning real estate.

Call on Councilmembers

Kamille Norton had no comments.

Steve Muller cheered for the Seahawks.

Rob Toyer had no comments.

Michael Stevens congratulated Sgt. Maples, and said he is looking forward to the Silvertips game with his two junior Silvertips.

Jeff Seibert congratulated Sgt. Maples, the Police Department, and Public Works.

Donna Wright had no further comments.

Jeff Vaughan stated that he hadn't heard any comments about changes needed on committee assignments. He brought up the need to vote on Mayor Pro Tem / Council President.

Councilmember Seibert nominated Councilmember Vaughan for Council President. Seeing no further nominations, nominations closed.

Motion made by Councilmember Seibert, seconded by Councilmember Muller, to approve Councilmember Vaughan as Council President. **Motion** passed 6-1 with Councilmember Vaughan voting against the motion.

Council recessed at 7:55 for five minutes after which time they reconvened into Executive Session for 15 minutes to discuss one item concerning pending litigation and one item concerning the purchase and sale of real estate with possible action on the item concerning real estate.

*DRAFT***Executive Session**

- A. Litigation – one item – RCW 42.30.110(1)(a)
- B. Personnel
- C. Real Estate – one item – RCW 42.30.110 (1)(i)

Executive Session extended 5 minutes.

Executive Session ended and meeting reconvened into regular session at 8:20 pm.

Motion made by Councilmember Muller, seconded by Councilmember Toyer, to sign the Purchase and Sale Agreement with Cardenas. **Motion** passed unanimously (7-0).

Adjournment

Seeing no further business Mayor Nehring adjourned the meeting at 8:24 p.m.

Approved this _____ day of _____, 2014.

Mayor
Jon Nehring

April O'Brien
Deputy City Clerk

Index #2

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

AGENDA ITEM: Claims	AGENDA SECTION:	
PREPARED BY: Sandy Langdon, Finance Director	AGENDA NUMBER:	
ATTACHMENTS: Claims Listings	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

Please see attached.


RECOMMENDED ACTION:

The Finance and Executive Departments recommend City Council approve the **January 22, 2014** claims in the amount of **\$909,096.08** paid by **Check No.'s 89638 through 89746 with Check No.'s 88740, 89433, 89554 & 89593 voided.**

COUNCIL ACTION:

BLANKET CERTIFICATION
CLAIMS
FOR
PERIOD-1

I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIMS IN THE AMOUNT OF \$909,096.08 PAID BY CHECK NO.'S 89638 THROUGH 89746 WITH CHECK NO. 88740, 89433, 89554 & 89593 VOIDED ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF MARYSVILLE, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND TO CERTIFY SAID CLAIMS.



AUDITING OFFICER

1/28/14

DATE

MAYOR

DATE

WE, THE UNDERSIGNED COUNCIL MEMBERS OF MARYSVILLE, WASHINGTON DO HEREBY APPROVE FOR PAYMENT THE ABOVE MENTIONED CLAIMS ON THIS 10th DAY OF FEBRUARY 2014.

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 1/17/2014 TO 1/22/2014

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
89638	ACTIVE NETWORK,LTD	ACTIVE/CLASS MAINTENANCE RENEW	COMPUTER SERVICES	3,420.90
89639	ALBERTO, CATHERINE	UTILITY TAX REBATE	NON-DEPARTMENTAL	31.54
89640	AMERICAN ELECTRICAL	PAY ESTIMATE #1	UTILITY CONSTRUCTION	-6,058.25
	AMERICAN ELECTRICAL		WATER CAPITAL PROJECTS	12,116.50
89641	ARAMARK UNIFORM	UNIFORM SERVICE	MAINTENANCE	10.86
	ARAMARK UNIFORM		MAINTENANCE	11.13
	ARAMARK UNIFORM		EQUIPMENT RENTAL	26.01
89642	ASSOC OF SHERIFFS	MEMBERSHIP DUES-SMITH	POLICE ADMINISTRATION	365.00
89643	BANK OF AMERICA	SUPPLY REIMBURSEMENT	UTILITY BILLING	28.93
	BANK OF AMERICA		TECHNOLOGY REPLACEMEN	129.35
89644	BANK OF AMERICA		COMMUNITY EVENTS	65.29
	BANK OF AMERICA		PARK & RECREATION FAC	76.27
	BANK OF AMERICA		PRO-SHOP	95.61
89645	BANK OF AMERICA	EMPLOYEE APPRECIATION	UTIL ADMIN	295.38
89646	BANK OF AMERICA	REGISTRATION REIMBURSEMENT	EXECUTIVE ADMIN	286.52
	BANK OF AMERICA		CITY COUNCIL	450.00
89647	BANK OF AMERICA	TRAINING REIMBURSEMENT	EXECUTIVE ADMIN	1,575.00
89648	BANK OF AMERICA	SUPPLY REIMBURSEMENT	GENERAL FUND	-202.75
	BANK OF AMERICA		POLICE TRAINING-FIREARMS	2,560.21
89649	BANK OF AMERICA	TABLES-COUNCIL CHAMBERS	GENERAL FUND	-363.27
	BANK OF AMERICA		TECHNOLOGY REPLACEMEN	4,587.27
89650	BLACK ROCK CABLE INC	IRU MAINTENANCE FEE	CENTRAL SERVICES	83.47
	BLACK ROCK CABLE INC	I-NET LEASE	CENTRAL SERVICES	535.94
89651	BLUMENTHAL UNIFORMS	UNIFORM CREDIT-BELLEME	POLICE PATROL	-167.48
	BLUMENTHAL UNIFORMS	UNIFORM-BELLEME	POLICE PATROL	167.48
	BLUMENTHAL UNIFORMS	NIK KITS	POLICE PATROL	294.79
89652	BRONSON, FRANCES	UTILITY TAX REBATE	NON-DEPARTMENTAL	70.27
89653	BUD BARTON'S GLASS	MIRROR AND CLIPS	MAINT OF GENL PLANT	26.88
89654	CHILD ADVOCACY CTR	INTERVIEW SPECIALIST-4TH QTR 2	POLICE INVESTIGATION	2,779.20
89655	CODE PUBLISHING	ELECTRONIC UPDATE	CITY CLERK	354.23
89656	CORRECTIONS, DEPT OF	INMATE MEALS	DETENTION & CORRECTION	3,418.74
89657	DANIELS, DON	UTILITY TAX REBATE	NON-DEPARTMENTAL	67.27
89658	DANILES, DARLENE	REFUND CLASS FEES	PARKS-RECREATION	40.00
89659	DATEC, INC	PATROL CAR EQUIPMENT	POLICE PATROL	2,858.08
89660	DIAMOND B CONSTRUCT	HVAC MAINTENANCE	SOURCE OF SUPPLY	96.65
	DIAMOND B CONSTRUCT		PARK & RECREATION FAC	202.41
	DIAMOND B CONSTRUCT		NON-DEPARTMENTAL	226.97
	DIAMOND B CONSTRUCT		MAINT OF GENL PLANT	246.19
	DIAMOND B CONSTRUCT		COMMUNITY CENTER	299.06
	DIAMOND B CONSTRUCT		WATER FILTRATION PLANT	611.62
	DIAMOND B CONSTRUCT		MAINT OF GENL PLANT	669.20
	DIAMOND B CONSTRUCT		COURT FACILITIES	800.53
	DIAMOND B CONSTRUCT		UTIL ADMIN	814.20
	DIAMOND B CONSTRUCT		ADMIN FACILITIES	864.24
	DIAMOND B CONSTRUCT		WASTE WATER TREATMENT F	1,023.60
	DIAMOND B CONSTRUCT		LIBRARY-GENL	1,116.55
	DIAMOND B CONSTRUCT		PUBLIC SAFETY BLDG.	1,234.23
89661	DICKS TOWING	TOWING EXPENSE-MP14-0099	POLICE PATROL	43.44
89662	DIGITAL DOLPHIN SUPP	CREDIT FOR DEFECTIVE TONER	POLICE ADMINISTRATION	-66.52
	DIGITAL DOLPHIN SUPP	TONER	GENERAL FUND	-5.98
	DIGITAL DOLPHIN SUPP	CREDIT FOR DEFECTIVE TONER	GENERAL FUND	5.27
	DIGITAL DOLPHIN SUPP	TONER	PRO ACT TEAM	75.52
89663	DYER, STEVEN	REFUND BUILDING PERMIT FEES	NON-BUS LICENSES AND PEF	70.00
89664	E&E LUMBER	REC EXPRESS SUPPLIES	RECREATION SERVICES	2.70
	E&E LUMBER	PUTTY AND CAULKING	MAINT OF GENL PLANT	10.39

**CITY OF MARYSVILLE
 INVOICE LIST
 FOR INVOICES FROM 1/17/2014 TO 1/22/2014**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
89664	E&E LUMBER	LITTER GRABBERS	PARK & RECREATION FAC	47.94
	E&E LUMBER	EXTENSION POLES	PARK & RECREATION FAC	83.38
89665	ECO 3	RE-CERTIFICATION (3)	STORM DRAINAGE	225.00
89666	ECOLOGY, DEPT. OF	CONFERENCE REGISTRATION FEE-DU	COMMUNITY DEVELOPMENT-	75.00
89667	EDWARDS, BARBARA	UTILITY TAX REBATE	UTIL ADMIN	37.70
	EDWARDS, BARBARA		NON-DEPARTMENTAL	38.06
	EDWARDS, BARBARA		UTIL ADMIN	140.49
89668	ERGA, ERIC	CDL REIMBURSEMENT	UTIL ADMIN	85.00
89669	EVERETT HERALD	SUBSCRIPTION RENEWAL	COMMUNITY CENTER	180.00
89670	EVERGREEN SECURITY	MONITORING AND COMM TESTS-COUR	COURT FACILITIES	117.00
89671	EVERGREEN STATE	INSTALL HVAC SYSTEM	MAINT OF GENL PLANT	14,532.87
89672	FBINAA WASHINGTON	FBINAA DUES-SMITH	POLICE ADMINISTRATION	90.00
89673	FIRE PROTECTION,INC	ALARM MONITORING AND INSPECTIO	WATER FILTRATION PLANT	529.50
	FIRE PROTECTION,INC	SPRINKLER SERVICE	PUBLIC SAFETY BLDG.	1,433.52
89674	GALLS, LLC	PRINT KIT, FLASHLIGHTS AND WAN	GENERAL FUND	-135.89
	GALLS, LLC		POLICE PATROL	1,715.93
89675	GARROD, SANDRA	REFUND CLASS FEES	PARKS-RECREATION	56.00
89676	GOVCONNECTION INC	DVD WRITERS	COMPUTER SERVICES	137.27
	GOVCONNECTION INC	MEMORY UPDATE	COMPUTER SERVICES	175.19
	GOVCONNECTION INC	PRINTER REPLACEMENTS	COMPUTER SERVICES	619.15
	GOVCONNECTION INC	MEMORY UPGRADE	IS REPLACEMENT ACCOUNTS	1,162.80
89677	GRAY AND OSBORNE	PROFESSIONAL SERVICES	SURFACE WATER CAPITAL PF	1,025.60
89678	GRAYBAR ELECTRIC CO	PANEL FOR CORE SWITCH PROJECT	TECHNOLOGY REPLACEMENT	89.93
89679	GRIFFEN, CHRIS	PUBLIC DEFENDER	LEGAL - PUBLIC DEFENSE	150.00
	GRIFFEN, CHRIS		LEGAL - PUBLIC DEFENSE	180.00
89680	HOUVNER, PAUL	UB 850410000001 7719 59TH AVE	WATER/SEWER OPERATION	42.49
89681	INSTITUTE OF TRANS	MEMBERSHIP DUES-HANNAHS	ENGR-GENL	289.28
89682	INTL ASSOC CHIEFS	MEMBERSHIP DUES-LAMOUREUX	POLICE ADMINISTRATION	120.00
	INTL ASSOC CHIEFS	MEMBERSHIP DUES-SMITH	POLICE ADMINISTRATION	120.00
89683	JONES & CO. PETS	K-9 FOOD NOV AND DEC 2013	K9 PROGRAM	271.45
89684	KIM, JAMIE S.	PUBLIC DEFENDER	LEGAL - PUBLIC DEFENSE	300.00
89685	KINNEY, PAUL	TEAM BUILDING EXPENSE REIMBURS	TRAINING	104.50
89686	KUSTOM SIGNALS INC	BATTERIES	POLICE PATROL	767.34
89687	LEWIS, MIKE	PUD INSPECTION AND CONNECTION	MAINT OF GENL PLANT	247.00
89688	LICENSING, DEPT OF	BENNETT, RUSSELL (ORIGINAL)	GENERAL FUND	18.00
	LICENSING, DEPT OF	ENGLISH, STEVEN (ORIGINAL)	GENERAL FUND	18.00
	LICENSING, DEPT OF	HANSEN, VALERIE (ORIGINAL)	GENERAL FUND	18.00
	LICENSING, DEPT OF	MCGARRY, ERIC (RENEWAL)	GENERAL FUND	18.00
	LICENSING, DEPT OF	REED, ISAAC (ORIGINAL)	GENERAL FUND	18.00
	LICENSING, DEPT OF	JOHNSTON, HOWARD (LT RENEWAL)	GENERAL FUND	21.00
89689	LOWES HIW INC	SAWBLADE	MAINT OF GENL PLANT	56.83
	LOWES HIW INC	STAIN, SHIMS, SIGN AND HARDWAR	MAINT OF GENL PLANT	58.49
89690	LURAGHI, JOHN & LISA	UB 846909860000 6909 86TH AVE	WATER/SEWER OPERATION	17.44
89691	LYONS, JULIE	UTILITY TAX REBATE	NON-DEPARTMENTAL	36.09
	LYONS, JULIE		UTIL ADMIN	37.70
	LYONS, JULIE		UTIL ADMIN	140.49
89692	MARYSVILLE AWARDS	ENGRAVING	POLICE ADMINISTRATION	29.32
	MARYSVILLE AWARDS		DETENTION & CORRECTION	50.82
89693	MARYSVILLE PRINTING	TREASURE TROVE PRINTING	COMMUNITY CENTER	21.18
	MARYSVILLE PRINTING	ENVELOPES	POLICE PATROL	135.75
	MARYSVILLE PRINTING	BUSINESS CARDS	COMMUNITY CENTER	169.13
89694	MARYSVILLE ROTARY	MEMBERSHIP DUES-SMITH	POLICE ADMINISTRATION	450.00
89695	MARYSVILLE SCHOOL	FACILITY USEAGE FEES-TMS	RECREATION SERVICES	81.00
	MARYSVILLE SCHOOL		RECREATION SERVICES	81.00
	MARYSVILLE SCHOOL		RECREATION SERVICES	108.00

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 1/17/2014 TO 1/22/2014

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
89696	MOTION PICTURE	MPLC UMBRELLA LICENSE	BAXTER CENTER APPRE	305.40
89697	NATIONAL BARRICADE	NO PARKING SIGNS	TRANSPORTATION MANAGEM	2,226.30
89698	NEHRING, JON	ROTARY MEMBERSHIP DUE REIMBURS	NON-DEPARTMENTAL	450.00
89699	NIKE USA INC	SEAHAWKS GEAR	GOLF COURSE	534.64
89700	NORTHWEST BIOSOLIDS	2014 MEMBERSHIP DUES-BYDE	UTIL ADMIN	77.00
89701	OB MARYSVILLE PROPER	REFUND SEWER CAPITAL IMPROVEME	SWR CONTR-UTILITIES/ENVIF	954.90
89702	OFFICE DEPOT	OFFICE SUPPLIES	EXECUTIVE ADMIN	64.76
	OFFICE DEPOT	CASE FILE SUPPLIES	OFFICE OPERATIONS	161.88
	OFFICE DEPOT	OFFICE SUPPLIES	COMMUNITY DEVELOPMENT-	189.60
	OFFICE DEPOT	FILE CABINET	POLICE ADMINISTRATION	427.82
89703	OGDEN MURPHY WALLACE	LID 71 HEARING EXAMINER SERVIC	ROADS/STREETS CONSTRUC	525.00
89704	OLIVARES, RAUL & ROS	UB 030110000002 5510 88TH ST N	WATER/SEWER OPERATION	28.76
89705	PARTS STORE, THE	FILTERS	PARK & RECREATION FAC	13.78
	PARTS STORE, THE	BLOW GUN, ADAPTER, COUPLER AND	ROADWAY MAINTENANCE	34.11
	PARTS STORE, THE	MISC TOOLS AND HARDWARE	MAINTENANCE	107.64
	PARTS STORE, THE	FILTER AND BATTERY	PARK & RECREATION FAC	145.91
	PARTS STORE, THE	OIL, AIR FILTERS, WD40 AND REL	ER&R	242.81
89706	PEACE OF MIND	MINUTE TAKING SERVICE	CITY CLERK	139.50
89707	PETERSEN, ELIZABETH	UTILITY TAX REBATE	NON-DEPARTMENTAL	132.20
89708	PETTY CASH- PW	MEETING, PARKING, SCALE AND IN	W/S-OTHER MISC REV	-0.20
	PETTY CASH- PW		UTIL ADMIN	5.00
	PETTY CASH- PW		STORM DRAINAGE	6.00
	PETTY CASH- PW		EQUIPMENT RENTAL	10.00
	PETTY CASH- PW		UTIL ADMIN	15.20
	PETTY CASH- PW		EQUIPMENT RENTAL	28.00
	PETTY CASH- PW		STORM DRAINAGE	30.24
	PETTY CASH- PW		SURFACE WATER CAPITAL PF	32.58
	PETTY CASH- PW		UTIL ADMIN	63.78
89709	PNWS-AWWA	WWUC MEMBERSHIP DUES-BYDE	UTIL ADMIN	1,500.00
89710	PROFORCE LAW ENFORC	FLASHLIGHTS	POLICE PATROL	298.33
89711	PUD	ACCT #2042-5421-3	PARK & RECREATION FAC	57.12
89712	PUGET SOUND CLEAN	2014 CLEAN AIR ASSESSMENT	NON-DEPARTMENTAL	26,901.00
89713	PUGET SOUND SECURITY	KEYS MADE	POLICE PATROL	7.05
89714	RECREATION & PARK	WRPA CONFERENCE-BALLEW	PARK & RECREATION FAC	169.00
	RECREATION & PARK	WRPA CONFERENCE-MIZELL	RECREATION SERVICES	279.00
89715	RONGERUDE, JOHN	PUBLIC DEFENDER	LEGAL - PUBLIC DEFENSE	300.00
89716	RUSHER, GALYN & DARL	UB 762960000000 6606 66TH DR N	WATER/SEWER OPERATION	194.35
89717	SAFEWAY INC.	MEETING SUPPLIES	EXECUTIVE ADMIN	36.90
89718	SCHRIER, MARK	REFUND CLASS FEES	PARKS-RECREATION	30.00
89719	SEACON, LLC	HYDRANT METER REFUND	WATER-UTILITIES/ENVIRONM	-163.30
	SEACON, LLC		WATER/SEWER OPERATION	1,150.00
89720	SERS	2014 SERS OPERATING ASSESSMENT	COMMUNICATION CENTER	167,150.00
89721	SNO CO PUBLIC WORKS	MARYSVILLE AID AGREEMENT	ENGR-GENL	147.20
89722	SONITROL	SECURITY MONITORING SERVICES	PUBLIC SAFETY BLDG.	97.00
	SONITROL		PARK & RECREATION FAC	128.00
	SONITROL		COMMUNITY CENTER	138.00
	SONITROL		ADMIN FACILITIES	323.00
	SONITROL		UTIL ADMIN	406.00
	SONITROL		WASTE WATER TREATMENT F	476.66
89723	SOUND POWER	HEDGE TRIMMER REPAIR	ROADSIDE VEGETATION	13.30
	SOUND POWER	STIHL BAR OIL 1 GALLON	ROADSIDE VEGETATION	55.22
89724	SPIRIT HALLOWEEN SUP	UB 410520000000 17020 SMOKEY P	WATER/SEWER OPERATION	316.85
89725	STATE PATROL	BACKGROUND CHECKS-DEC 2013	PERSONNEL ADMINISTRATIOI	150.00
	STATE PATROL	FINGERPRINT ID SERVICES-DEC 20	GENERAL FUND	330.00
89726	STIFF, JONATHAN & JA	UB 570703850001 17611 29TH AVE	WATER/SEWER OPERATION	245.19

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 1/17/2014 TO 1/22/2014

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
89727	SWANSON CARPET SERVI	CARPET CLEANING	POLICE ADMINISTRATION	172.90
89728	SWICK-LAFAVE, JULIE	JAIL SUPPLY REIMBURSEMENT	DETENTION & CORRECTION	88.50
89729	TALMADGE-FITZPATRICK	LEGAL SERVICES-NOV 2013	NON-DEPARTMENTAL	4,421.25
	TALMADGE-FITZPATRICK	LEGAL SERVICES-DEC 2013	NON-DEPARTMENTAL	5,338.75
89730	THOMPSON, WAYNE	UB 820930100000 6902 62ND DR N	WATER/SEWER OPERATION	196.61
89731	TITLEIST	BUCKET HATS	GOLF COURSE	115.44
	TITLEIST	WOODS	GOLF COURSE	173.00
	TITLEIST	WEDGES	GOLF COURSE	183.36
89732	TORO NSN	TORO NSN PLAN	MAINTENANCE	134.00
89733	UNITED PARCEL SERVIC	SHIPPING EXPENSE LATE FEE	POLICE PATROL	1.18
	UNITED PARCEL SERVIC	SHIPPING EXPENSE	TRANSPORTATION MANAGEM	164.05
89734	VERIZON/FRONTIER	AMR LINES/TELEMETRY M2M	WASTE WATER TREATMENT F	18.05
	VERIZON/FRONTIER		UTIL ADMIN	18.05
	VERIZON/FRONTIER		METER READING	463.74
89735	VINYL SIGNS & BANNER	LAMINATED MAP	PARK & RECREATION FAC	134.66
89736	WABO	ELEC/BUILDING INSPECTOR POSTIN	COMMUNITY DEVELOPMENT-	100.00
89737	WALTERS, BUNNY	REFUND CLASS FEES	PARKS-RECREATION	40.00
89738	WCIA	LIABILITY & PROPERTY PROGRAM A	ER&R	4,352.00
	WCIA		GOLF COURSE	27,353.00
	WCIA		GARBAGE	45,381.00
	WCIA		CITY STREETS	56,570.00
	WCIA		GENERAL FUND	208,252.00
	WCIA		WATER/SEWER OPERATION	279,745.00
89739	WEED GRAAFSTRA	EARNST 1ST STREET	GMA - STREET	500.00
	WEED GRAAFSTRA	CLOSING COSTS MSD JONES CREEK	STORM DRAINAGE	502.97
89740	WELENOFSKY, SUSAN	UTILITY TAX REBATE	NON-DEPARTMENTAL	21.71
	WELENOFSKY, SUSAN		UTIL ADMIN	37.70
	WELENOFSKY, SUSAN		UTIL ADMIN	140.49
89741	WELVAERT, DESIREE		NON-DEPARTMENTAL	25.30
89742	WEST PAYMENT CENTER	WEST INFORMATION CHARGES	POLICE INVESTIGATION	194.99
	WEST PAYMENT CENTER		LEGAL - PROSECUTION	682.51
89743	WESTERN FACILITIES	JANITORIAL SUPPLIES	DETENTION & CORRECTION	745.22
89744	WIDE FORMAT COMPANY	WIDE FORMAT SCANNER RENTAL	COMMUNITY DEVELOPMENT-	1,629.00
89745	WWGCSA	2014 MEMBERSHIP DUES	MAINTENANCE	225.00
89746	XIONG, VONG	UB 983524000000 3524 66TH AVE	WATER/SEWER OPERATION	24.89

WARRANT TOTAL:

910,849.18

REASON FOR VOIDS:

- INITIATOR ERROR
- WRONG VENDOR
- CHECK LOST/DAMAGED IN MAIL
- UNCLAIMED PROPERTY

CHECK # 88740	INITIATOR ERROR	(5.00)
CHECK # 89433	WRONG VENDOR	(289.28)
CHECK # 89554	WRONG VENDOR	(1,433.52)
CHECK # 89593	INITIATOR ERROR	(25.30)

909,096.08

Index #3

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

AGENDA ITEM: Payroll	AGENDA SECTION:	
PREPARED BY: Sandy Langdon, Finance Director	AGENDA NUMBER:	
ATTACHMENTS: Blanket Certification	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

RECOMMENDED ACTION:

The Finance and Executive Departments recommend City Council approve the January 17, 2014 payroll in the amount \$836,909.34 Check No.'s 27318 through 27355.

COUNCIL ACTION:

Index #4

CITY OF MARYSVILLE
EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

AGENDA ITEM: Final Plat Approval for Rock Creek North, Division 2, Phase 2	AGENDA SECTION: New Business	
PREPARED BY: Cheryl Dungan, Senior Planner	APPROVED BY:	
ATTACHMENTS: 1. Hearing Examiner's Decision dated 02/05/2007 2. Site Plan 3. Vicinity Map 4. Final Plat Checklist		
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

DESCRIPTION:

On May 25th, 2006, the Snohomish County Hearing Examiner approved the preliminary plat of Rock Creek North Division 2, creating 143 lots on approximately 33 acres. The applicant is constructing the project in multiple phases. Phase 2 which consists of 15 lots, has been constructed.

The plat is generally located on the east side of 83rd Ave NE and south of 84th St NE.

The applicant has met all conditions of final plat approval.

RECOMMENDED ACTION: City staff recommends the City Council approve and authorize the Mayor to sign the Final Plat of Rock Creek North Division 2, Phase 2.
--

COUNCIL ACTION:

BEFORE THE

SNOHOMISH COUNTY HEARING EXAMINER

DECISION of the DEPUTY HEARING EXAMINER

In the Matter of the Application of)	
)	FILE NO. 05 118415
HARBOUR HOMES, INC.)	
)	
Preliminary plat for a 143-lot subdivision utilizing lot)	
size averaging and a rezone from R-9,600 to R-7,200)	

DATE OF DECISION: May 25, 2006

PLAT/PROJECT NAME: *Rock Creek North, Division II*

DECISION (SUMMARY): The requests for a preliminary plat for a 143-lot subdivision utilizing lot size averaging provisions and for a rezone from Residential-9,600 to Residential-7,200 are hereby **CONDITIONALLY APPROVED**.

BASIC INFORMATION

GENERAL LOCATION: This project is located at 7515 83rd Avenue NE, Marysville, Washington.

ACREAGE: 33 acres

NUMBER OF LOTS: 143

AVERAGE LOT SIZE: 4,930 square feet

MINIMUM LOT SIZE: 3,341 square feet

DENSITY: 4.33 du/ac (gross)
8.80 du/ac (net)

ZONING: CURRENT: R-9,600
PROPOSED: R-7,200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential (4-6 du/ac).
 Subarea Plan: Marysville
 Subarea Plan Designation: Rural (1 du/2.3 ac)

UTILITIES:

Water/Sewer: City of Marysville

SCHOOL DISTRICT: Marysville No. 25

FIRE DISTRICT: No. 22

SELECTED AGENCY RECOMMENDATIONS:Department of:

Planning and Development Services (PDS): Approval subject to conditions
 Public Works (DPW): Approval subject to conditions

INTRODUCTION

The applicant filed the Master Application on August 8, 2005. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 21, 22 and 23)

A SEPA determination was made on April 17, 2006. (Exhibit 20) No appeal was filed.

The Examiner held an open record hearing on May 10, 2006, the 109th day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on May 10, 2006 at 10:04 a.m.

1. The Examiner announced that he had read the PDS staff report, reviewed the file and viewed the area and therefore was generally apprised of the particular request involved.
2. The applicant, Harbour Homes, Inc., was represented by James Barnett of D.R. Strong. Snohomish County was represented by Darryl Eastin of the Department of Planning and Development Services.
3. Citizen Dean Fink, a concerned vicinity resident, testified and questioned the County's and applicant's witnesses at the hearing. By the conclusion of the hearing, it appeared that his issues on concern had been addressed to his satisfaction.

The hearing concluded at 10:23 a.m.

NOTE: For a complete record, an electronic recording of this hearing is available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS OF FACT

Based on all the evidence of record, the following findings of fact are entered.

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file as if set forth in full herein.
2. The PDS staff report has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Policy Act (SEPA). That staff report is hereby adopted by the Examiner as if set forth in full herein.
3. The request is for a rezone of 33 acres from R-9,600 to R-7,200 in order to construct a 143-lot subdivision using lot size averaging. Average weekday vehicle trips are 1,255, of which 98 are a.m. peak hour trips and 132 are p.m. peak hour trips.
4. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$48.82 for each new single-family home.
5. The DPW reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC (Title 26B SCC) as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.
6. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions.
7. The site contains four Category 3 wetlands of various sizes. Three of the wetlands extend off-site to the north, east and south. The site also contains a Type 5 stream along the northern boundary of the largest wetland. Approximately 4,356 square feet (SF) of the largest wetland will be filled and the Type 5 stream will be impacted to construct the new 87th Avenue NE. A portion of the buffer around the smallest wetland will be impacted to construct a new cul-de-sac and create a developable area for lots 51 and 64.
8. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC (Title 24 SCC).
9. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished. Public water and sewer service and electrical power will be available for this development.

10. The property is designated Urban Low Density Residential (ULDR 4-6 du/ac) on the General Policy Plan (GPP) Future Land Use Map (FLUM) and is located within an Urban Growth Area (UGA). Land in this category may be developed at a density of 4-6 du/ac and one of the implementing zones is the R-7,200 zone which is the case here.
11. The proposed use (single-family detached development) is essentially compatible with existing single-family detached developments on larger lots. Because the property is within a UGA, policies were adopted to promote urban densities of development. A comparison with the present lower density character of much of the area is inappropriate since the present density of development in much of the surrounding area is inconsistent with both the adopted comprehensive plans and the present zoning.
12. The request complies with the Snohomish County Subdivision Code, Chapter 30.41A SCC (Title 19 SCC) as well as the State Subdivision Code, RCW 58.17. The proposed plat complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.
13. Chapter 30.42A covers rezoning requests and applies to site-specific rezone proposals that conform to the Comprehensive Plan. The decision criteria under SCC 30.42A.100 provides as follows:

The hearing examiner may approve a rezone only when all the following criteria are met:

- (1) the proposal is consistent with the comprehensive plan;
- (2) the proposal bears a substantial relationship to the public health, safety, and welfare; and
- (3) where applicable, minimum zoning criteria found in Chapters 30.31A through 30.31F SCC are met.

It is the finding of the Examiner that the request meets these requirements generally and should be approved.

14. The proposal has been evaluated by PDS for compliance with the lot size averaging provisions of SCC 30.41A.240 and SCC 30.23.210. This proposal is consistent with these provisions.
15. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
16. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

Based on the findings of fact entered above, the following conclusions of law are entered.

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There are no changes to the recommendations of the staff report.

2. The Department of Public Works recommends that the request be approved as to traffic use subject to conditions specified below herein.
3. The request is consistent with the (1) GMACP, GMA-based County codes, (2) the type and character of land use permitted on the site, (3) the permitted density, and (4) the applicable design and development standards.
4. The request is for a rezonè and therefore must comply with Chapter 30.42A. This is a site specific rezonè that conforms to the Comprehensive Plan. Because no evidence was submitted of non-compliance with the requirements of Chapter 30.42A, the application is presumed to meet those requirements.
5. The request should be approved subject to compliance by the applicant with the following conditions:

CONDITIONS

- A. The preliminary plat received by the Department of Planning and Development Services on April 28, 2006 (Exhibit 25A) shall be the official site plan and approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
 - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
 - ii. The platlor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
 - iii. A final mitigation plan based on the Critical Areas Report and Conceptual Mitigation Plan for Rock Creek North Division II prepared by The Jay Group, Inc. dated August 8, 2005 as submitted late on August 10, 2005 (Exhibit 8) shall be submitted for review and approval during the construction review phase of this project.
- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
 - i. "The lots within this subdivision will be subject to school impact mitigation fees for the Marysville School District No. 25 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for the six (6) existing parcels. Lots 1 through 6 shall receive credit."
 - ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:
 - \$1,798.60 per lot for mitigation of impacts on county roads paid to the County,
 - \$28.28 per lot for mitigation of impacts on state highways paid to the County, (WSDOT ID #34 -- SR 9 at 108th Street NE)

\$1,949.37 per lot for mitigation of impacts on city streets for the City of Marysville paid to the City. Proof of payment shall be provided.

\$202.34 per lot (\$28,935.29 total) for mitigation of impacts on city streets for the City of Arlington paid to the City. Proof of payment shall be provided.

These payments are due prior to or at the time of building permit issuance for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision of the lot(s) therein. Once building permits have been issued all mitigation payments shall be deemed paid by PDS.

- iii. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made);

"All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities as set forth in UDC 30.91N 010 are allowed when approved by the County."

- iv. The existing ingress/egress easement providing access to parcel #30052500201900 shall be extinguished upon recording of the final plat and access relocated to 87th Avenue NE as stipulated in AFN #2414830.
- v. New 87th Avenue NE road including curb, gutter, sidewalk and planter shall be constructed to the property boundaries of parcel #30052500201900.
- vi. New 85th Avenue NE road including curb, gutter, sidewalk and planter shall be constructed to the south boundary of the subject property.
- vii. The developer shall pay the County \$48.82 per new dwelling unit as mitigation for parks and recreation impacts in accordance with Chapter 30.66A SCC; provided, however, the developer may elect to postpone payment of the mitigation requirement until issuance of a building permit for that lot. The election to postpone payment shall be noted by a covenant placed on the face of the recorded plat and included in the deed for each affected lot within the subdivision.

D. Prior to recording of the final plat:

- i. Features on the approved TDM plan shall be constructed/installed.
- ii. Urban frontage improvements shall be constructed along the parcel's frontage on 83rd Ave NE to the specifications of the City of Marysville.
- iii. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The platlor may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the county biologist. The design and proposed locations for the NGPA signs shall be submitted to the Land Use Division for review and approval prior to installation.

- iv. The final wetland mitigation plan shall be completely implemented.
- B. In conformity with applicable standards and timing requirements:
- i. The Detention Pond Landscape Plan received April 28, 2006 (Exhibits 24A & 24B) shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.
- F. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this permit/approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Preliminary plats which are approved by the county are valid for five (5) years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41A.300.

- 6. Any conclusion in this decision which should be deemed a finding of fact is hereby adopted as such.

DECISION

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The requests for a preliminary plat for a 143-lot subdivision utilizing lot size averaging provisions and for a rezone from Residential-9,600 to Residential-7,200 are hereby **CONDITIONALLY APPROVED**, subject to the conditions set forth in Conclusion No. 5 above.

Decision issued this 25th day of May 2006.

Ed Good, Deputy Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **JUNE 5, 2006**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.”** [SCC 30.72.065]

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner’s attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner’s decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with

the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **JUNE 8, 2006** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s); if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

The grounds for filing an appeal shall be limited to the following:

- (a) The decision exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- (c) The Hearing Examiner committed an error of law; or
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the County file number in any correspondence regarding the case.

Staff Distribution:

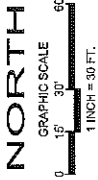
Department of Planning and Development Services: Darryl Eastin
 Department of Public Works: Mark Brown

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.

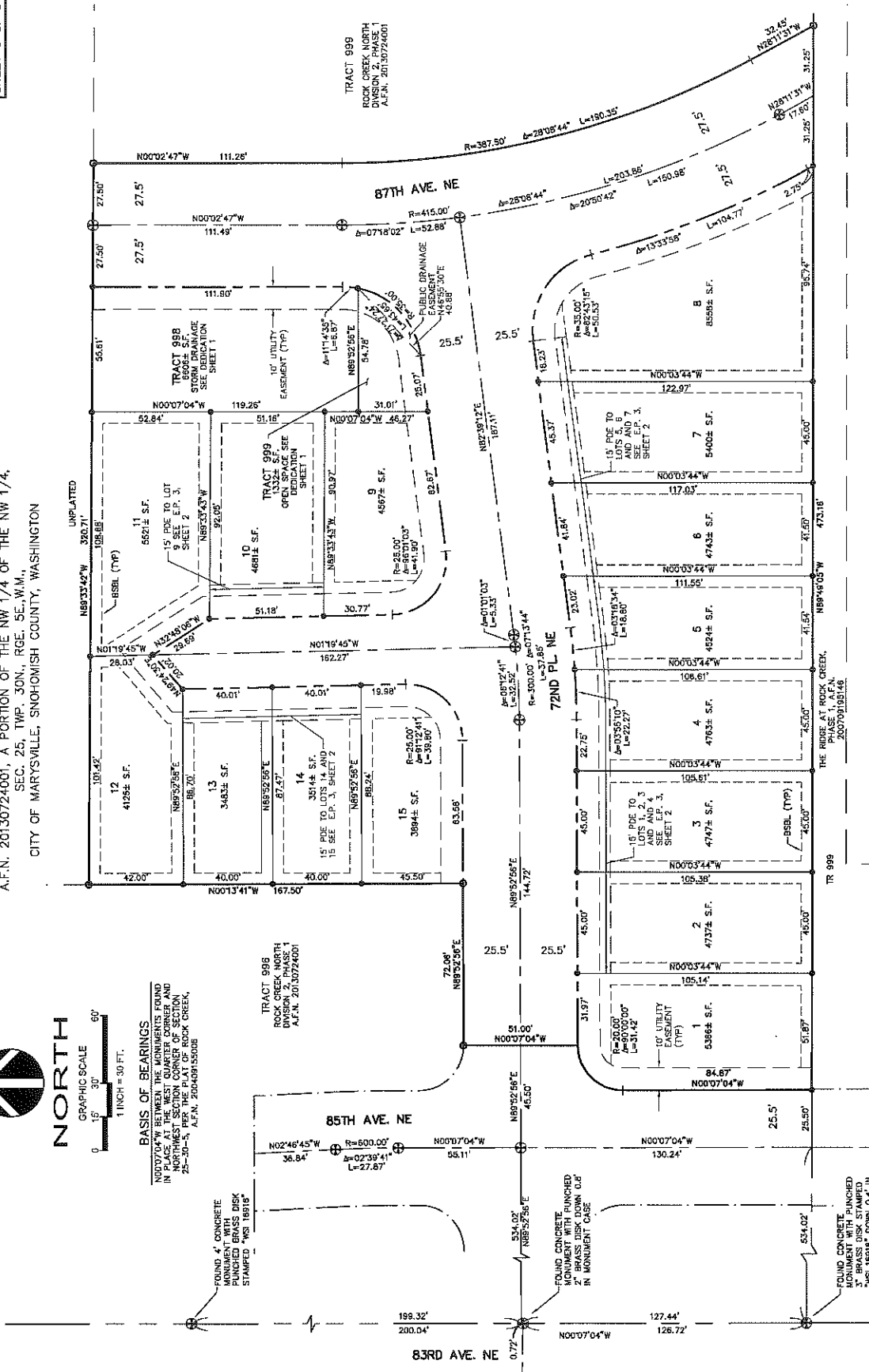
VOL/PG
RECORDING NO.
SHEET 3 OF 3

ROCK CREEK NORTH DIVISION 2, PHASE 2

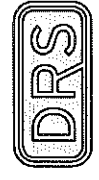
A REPLAT OF TRACT 995, ROCK CREEK NORTH DIVISION 2, PHASE 1,
A.F.N. 201307024001, A PORTION OF THE NW 1/4 OF THE NW 1/4,
SEC. 25, TWP. 30N., RGE. 5E., W.M.,
CITY OF MARYSVILLE, SNOHOMISH COUNTY, WASHINGTON



BASIS OF BEARINGS
N00°07'04"W BETWEEN THE MONUMENTS FOUND
IN THE NORTHWEST CORNER OF SECTION
25-30-5, PER THE PLAT OF ROCK CREEK,
A.F.N. 200409155008



- LEGEND**
- ⊕ MONUMENT PER REFERENCE 5, EXCEPT AS NOTED OTHERWISE.
 - ⊕ SET STANDARD CITY OF MARYSVILLE MONUMENT WITH BRASS DISK STAMPED "095 37555" IN MONUMENT CASE.
 - FOUND CORNER MONUMENT AS AS NOTED.
 - SET 5/8" X 24" REBAR WITH PLASTIC CAP STAMPED "DRS 37555"
 - BSBL BUILDING SETBACK LINE
 - P/E PRIVATE STORM DRAINAGE EASEMENT
 - E.P. EASEMENT PROVISIONS

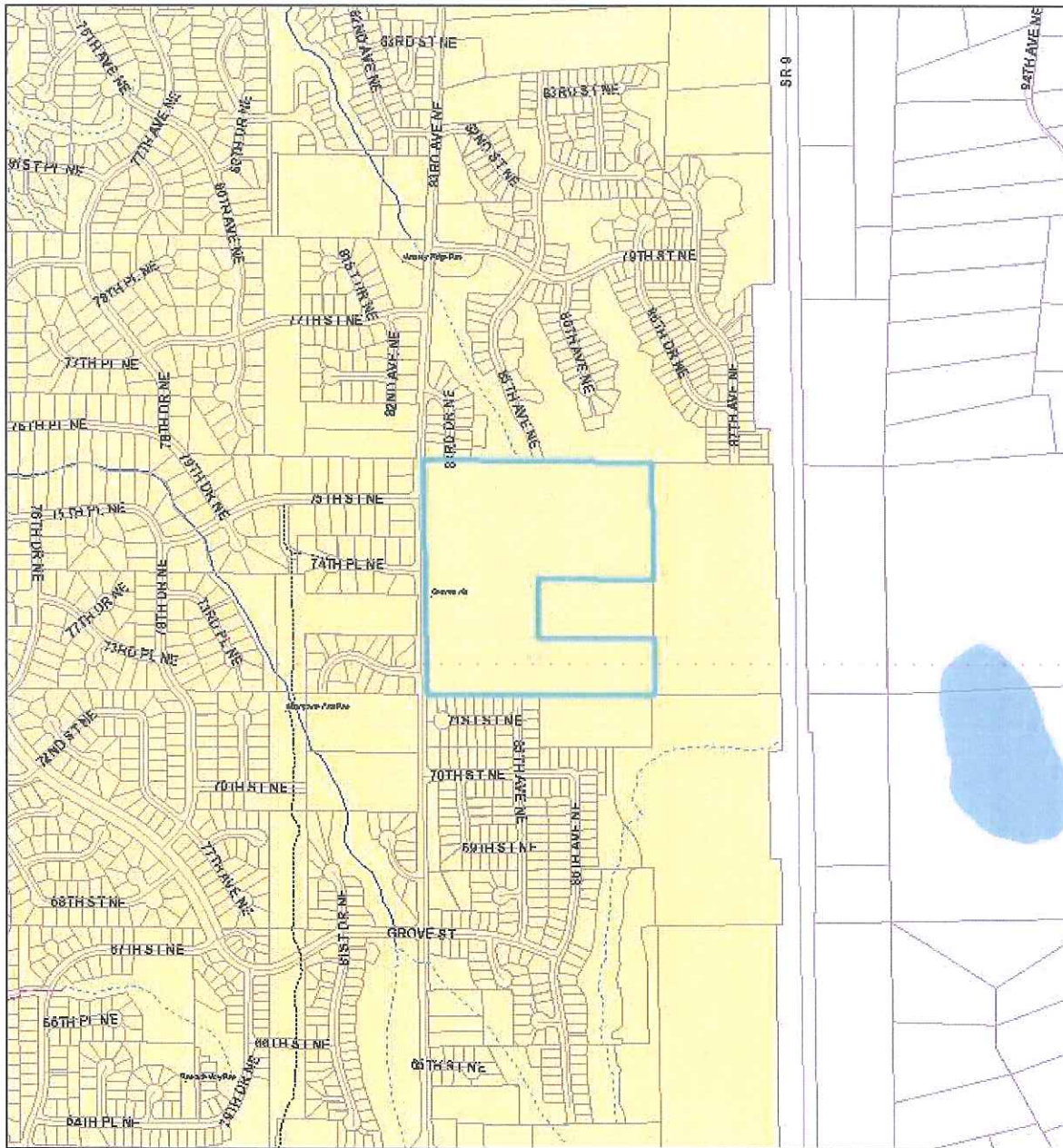


D.R. STRONG
CONSULTING ENGINEERS
ENGINEERS PLANNERS SURVEYORS
680 7TH AVENUE, MARYSVILLE, WA 98933
O 425.827.3883 F 425.827.2423
www.drseng.com

JOB NO. 11034

A.F.N.

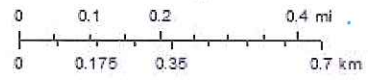
ZA 05-118415



January 24, 2014

1:14,217

- | | | |
|-------------------|------------------------------------|--------------|
| Parcels | Stream | EVERETT |
| Places | Tributary | LAKE STEVENS |
| Railroad | Intermittent stream | MARYSVILLE |
| Streets | Swale | |
| Trails | Intermittent stream, not regulated | |
| Arlington airport | Piped Stream | |
| Water bodies | ARLINGTON | |



THE CITY OF MARYSVILLE DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS OF THIS DATA FOR ANY PARTICULAR PURPOSE, EITHER EXPRESSED OR IMPLIED.



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue, Marysville, WA 98270
(360) 363-8100, (360) 651-5099 FAX

FINAL PLAT CHECK LIST


Plat Name:	RockCreek North Div 2, Phase 2	EA # ZFA#	05-118415
FINAL PLAT CHECK LIST			
Item	Department	Initials	Date
1. Plat Map- Checked & Approved	Land Dev.	RJ	1/14/14
	Planning	COW	1-24-14
2. Letter of Segregation to Assessor	Planning	COW	1-24-14
3. Water System/Sewer System			
Letter of Acceptance	Const. Insp.	SAS	1/9
Asbuilts – Including Digital Files	Const. Insp.	SAC	1/9
Bill(s) of Sale	Const. Insp.	SAC	1/9
Maintenance and Warranty Funding	Const. Insp.	SAC	1/9
4. Road/Storm Sewer			
Letter of Acceptance	Const. Insp.	SAS	1/9
Asbuilts – Including Digital Files	Const. Insp.	SAS	1/9
Bill(s) of Sale	Const. Insp.	SAS	1/9
Maintenance and Warranty Funding	Const. Insp.	SAS	1/9
5. Performance Bond – Submitted/Approved			
(If Required - Road and Storm Drain Only)	Const. Insp.	N/A	SAS
6. Inspection Fees - Calculated and Paid	Const. Insp.	SA	1/9
7. Final Plat Fee - Calculated and Paid	Planning	CAB	12-19-13
8. TIP Fees: _____	Planning	COW	07-24-14

Index #5

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

AGENDA ITEM: Professional Services Agreement with HDR Engineering for preliminary engineering and environmental documentation in support of the Interstate 5/SR 529 Interchange Expansion Project	
PREPARED BY: Patrick Gruenhagen, Project Manager	DIRECTOR APPROVAL: 
DEPARTMENT: Public Works / Engineering	
ATTACHMENTS: Professional Services Agreement	
BUDGET CODE: 30500030.563000 R1402	AMOUNT:

SUMMARY:

On August 26, 2013, the City issued a Request for Proposals to three firms from its 2013 consultant roster, asking that they submit proposals stating their qualifications to deliver preliminary design and environmental documentation for the City's Interstate 5 / SR 529 Interchange Expansion Project. The three firms included BergerABAM, CTS Engineers, and HDR Engineering.

Subsequent to the City's review of proposals, each of the three firms was invited to assemble teams to participate in interviews, which were conducted on October 23. As with the proposals, the purpose of the interviews was to provide the City an opportunity to assess the relative qualifications of each of the three firms, and to make a determination as to which of the three was the best "fit" for the project and the work at hand. After considerable deliberation, the City's selection committee ultimately developed an appreciation that all of the firms were extremely high caliber and well-poised to undertake the type of work anticipated on this project, but concluded that HDR was in fact the best equipped of the three.

The attached Professional Services Agreement would establish the framework for pursuit of the following elements of work: a) advancement of preliminary design (*plans, specifications and estimate, through 30% completion*) for expansion of the existing I-5 / SR 529 interchange; b) preparation of environmental documentation in accordance with SEPA and NEPA; c) coordination with resource agencies for the purposes of applying for and, ultimately, obtaining necessary environmental permits; and d) support for Right of Way acquisition.

HDR impressed the City for having a strong background on projects very similar to the current project, and its team members appear genuinely enthusiastic about the prospect of working with the City to ensure that the project becomes a success. Moreover, it is staff's opinion that the negotiated fee of \$ [REDACTED] is fair and reasonable. In light of these facts, staff is confident that the City would be well-served by this contract.

RECOMMENDED ACTION:


Staff recommends that Council authorize the Mayor to sign the enclosed professional services agreement with HDR, Inc. in the amount of \$ [REDACTED].

Index #6

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

AGENDA ITEM: An Ordinance Amending Marysville Municipal Code Chapter 12.20	
PREPARED BY: Commander Robb Lamoureux	DIRECTOR APPROVAL: Chief Richard Smith 
DEPARTMENT: Police	
ATTACHMENTS: Draft Ordinance	
BUDGET CODE:	AMOUNT:

SUMMARY:

In order to provide for and promote public safety we bring forward a proposal amendment to Marysville Municipal Code Chapter 12.20 **BICYCLES AND OTHER WHEELED PERSONAL TRANSPORTATION ON SIDEWALKS.**

The original MMC Chapter 20.12 was written into City Code by ordinance back in 1900. This proposed amendment brings the Code more up-to-date; referencing modern personal transportation methods and eliminating long ago used transportation methods. In addition, the proposed amendment revises the penalty associated with violation of the Code.

The proposed amendment was drafted by and approved as to form by the City Attorney's Office

RECOMMENDED ACTION: Staff recommends City Council authorize the mayor to sign the ordinance amending Marysville Municipal Code MMC Chapter 20.12
--

**CITY OF MARYSVILLE
Marysville, Washington**

ORDINANCE _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON,
AMENDING CHAPTER 12.20 ~~OF TO~~ THE MARYSVILLE MUNICIPAL CODE
ENTITLED “ANIMALS AND VEHICLES ON SIDEWALKS”; PROVIDING
FOR SEVERABILITY; AND EFFECTIVE DATE.**

~~NOW THEREFORE,~~ ¶ The City Council of the City of Marysville, Washington do ordain as follows:

Section 1. MMC Chapter 12.20 entitled “ANIMALS AND VEHICLES ON SIDEWALKS” is hereby amended to be entitled “BICYCLES AND OTHER WHEELED PERSONAL TRANSPORTATION ON SIDEWALKS” and ~~shall to~~ read as follows:

**Chapter 12.20
ANIMALS AND VEHICLES BICYCLES AND OTHER WHEELED PERSONAL
TRANSPORTATION ON SIDEWALKS**

Sections:

~~12.20.010 Animals or vehicles on sidewalks – Penalty.~~

~~12.20.010 Bicycles and other wheeled personal transportation on sidewalks –
Penalty.~~

~~12.20.020 Bicycles on sidewalks – Penalty.~~

~~12.20.030 Costs of prosecution – Working off fine.~~

~~12.20.010 Animals or vehicles on sidewalks – Penalty.~~

~~Any person who shall ride, lead or drive any horse or other animal or move any vehicle other than a light buggy for children or a wheelbarrow upon any sidewalk of the city of Marysville unless for the purpose of necessarily crossing the same shall, upon conviction thereof, be fined not less than \$2.00 nor more than \$15.00. (Ord. 80 § 17, 1900).~~

~~12.20.010 Bicycles and other wheeled personal transportation on sidewalks – Penalty.~~

~~Any person who shall ride a bicycle on any sidewalk on First or Front Street in the city of Marysville, or who shall ride a bicycle on any sidewalk, within the city limits at a greater speed than five miles an hour shall, upon conviction thereof, be fined in any sum not exceeding \$25.00. (Ord. 80 § 20, 1900).~~

~~Any person who shall ride a bicycle, skateboard, **roller skates** or scooter, or other method of personal transportation **to include roller skates, and rollerblades**, on any sidewalk within the city limits at a speed greater than **10 15** miles per hour, or in a negligent **or reckless** manner~~

regardless of speed that could reasonably cause harm to the rider, other pedestrians, or property shall be a guilty of a civil infraction with a penalty in the amount of \$50.00 plus any costs or assements.

a. For the purpose of this section, “to operate in a negligent or reckless manner” means the operation in such a manner as to endanger or be likely to endanger any persons or property and may be under crowded or dangerous (such as inclement weather, snow and ice) sidewalk conditions even if travelling at be less than 10 15 miles per hour.

b. This section does not apply to implements known as walkers, wheel chairs, or scooters used for human transportation for persons with disabilities or injuries or children’s strollers.

~~12.20.020 Bicycles on sidewalks—Penalty.~~

~~Any person who shall ride a bicycle on any sidewalk on First or Front Street in the city of Marysville, or who shall ride a bicycle on any sidewalk, within the city limits at a greater speed than five miles an hour shall, upon conviction thereof, be fined in any sum not exceeding \$25.00. (Ord. 80 § 20, 1900).~~

~~12.20.030 Costs of prosecution—Working off fine.~~

~~Every violation of the provisions of this chapter shall be deemed a misdemeanor, and any person convicted of any such violation shall be adjudged to pay the costs of prosecution in addition to the penalty imposed, and every person who shall be in default of payment of such fine and costs of prosecution shall be committed to the city jail unless such fine and costs are paid; which imprisonment shall be at the rate of one day’s imprisonment for every \$2.00 of such fine and costs. (Ord. 80 § 21, 1900).~~

Section 2. General Duty. It is expressly the purpose of this ordinance to provide for and promote the health safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. It is the specific intent of this ordinance that no provision nor any term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this ordinance by its officers, employees or agents.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 4. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

| PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 201~~3~~⁴.

CITY OF MARYSVILLE

By _____
Jon Nehring, Mayor

ATTEST:

By _____
April O'Brien, Deputy City Clerk

Approved as to form:

By _____
Grant Weed, City Attorney

Date of Publication: _____

Effective Date (5 days after publication): _____

Index #7

**MARYSVILLE TRANSPORTATION BENEFIT DISTRICT
Marysville, Washington**

RESOLUTION 2014 - ____

A RESOLUTION OF THE GOVERNING BOARD OF THE MARYSVILLE TRANSPORTATION BENEFIT DISTRICT OF THE CITY OF MARYSVILLE, WASHINGTON, PROVIDING FOR A BALLOT PROPOSITION TO BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE DISTRICT ON April 22, 2014, TO IMPOSE A SALES AND USE TAX IN THE AMOUNT OF TWO-TENTHS OF ONE PERCENT (0.2%) WITHIN THE BOUNDARIES OF THE DISTRICT FOR A PERIOD OF TEN YEARS TO FUND OR FINANCE SPECIFIED TRANSPORTATION PROJECTS.

WHEREAS, the City of Marysville (the "City") approved Ordinance No. 2938 on January 13, 2014, creating the Marysville Transportation Benefit District ("TBD") of the City of Marysville, Washington (the "District") pursuant to Chapter 36.73 RCW; and

WHEREAS, the City has identified the sales and use tax as an authorized source of revenue identified in Chapter 36.73 RCW to finance the transportation capital improvements identified in the "Washington Transportation Plan for 2007-2026" and/or the City's Transportation Plan; and

WHEREAS, the District is authorized pursuant to RCW 36.73.040(3)(a) to impose a sales and use tax in accordance with RCW 82.14.0455 in the amount of two-tenths of one percent (0.2%) for a period of ten years upon a favorable vote of the qualified electors within the District for the purpose of funding or financing certain transportation improvements; and

WHEREAS, with voter approval, the District may impose a sales and use tax upon the occurrence of any taxable event within the boundaries of the District to fund or finance transportation improvements; and

WHEREAS, projects related to public transportation are included in the definition of a transportation improvement project pursuant to RCW 36.73.015(3) and are eligible Transportation Benefit District projects; and

WHEREAS, if approved by the voters, the sales and use tax will apply to persons who shop and thereby use the roads in the City of Marysville and not just to City residents; and

WHEREAS, the sales and use tax is estimated to generate an average of \$1,600,000.00 of revenue per year, which will be used entirely to fund the shortfall in funding for the projects included in the Washington Transportation Plan for 2007-2026

and/or the City's Transportation Plan as adopted or hereafter amended and as allowed by state law and other transportation projects identified in Ordinance No. 2938 creating the Marysville Transportation Benefit District.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE MARYSVILLE TRANSPORTATION BENEFIT DISTRICT OF THE CITY OF MARYSVILLE, WASHINGTON AS FOLLOWS:

Section 1. Current Purpose and Need.

The Governing Board of the District (the "Board") hereby finds that the best interests of the inhabitants of the District require the District to impose a sales and use tax through this Resolution in the amount of two-tenths of one percent (0.2%) pursuant to RCW 36.73.040(3)(a) and RCW 82.14.0455 for the purpose of providing a portion of the funds necessary to finance transportation improvement projects.

The following items are identified as proposed transportation improvements:

1. Street Preservation which extends life cycle of street section (i.e. pavement repair, overlay, chip seal, patching)
2. Other projects as identified in the Washington Transportation Plan 2007 – 2026 and/or the City's Transportation Plan.

The cost of all necessary design, engineering, financial, legal and other consulting services, inspection and testing, administrative and relocation expenses, and other costs incurred in connection with the foregoing TBD Projects shall be deemed a part of the costs of the TBD Projects.

The Board shall determine the application of moneys available for the TBD Projects so as to accomplish, as nearly as may be practical, all of the TBD Projects. In the event that the proceeds of sales and use taxes authorized herein, plus any other money of the District legally available therefore, are insufficient to accomplish all of the TBD Projects, the Board shall use the available funds for paying the cost of those portions of the TBD Projects deemed by the Board most necessary and in the best interests of the District.

The Board shall determine the exact locations and specifications for the elements of the TBD Projects as well as the timing, order, and manner of implementing or completing the TBD Projects. The Board may alter, make substitutions to, and amend the TBD Project descriptions as it determines is in the best interests of the District consistent with the general descriptions provided above and in accordance with the material change policy adopted by the Board and the notice, hearing, and other procedures described in Chapter 36.73 RCW, including RCW 36.73.050(2)(b), in each case as the same may be amended from time to time.

If the Board shall determine that it has become impractical to acquire, construct, or implement all or any portion of the TBD Projects by reason of changed conditions, incompatible development, costs substantially in excess of the amount of sales and use

tax proceeds estimated to be available, or acquisition by a superior governmental authority, the Board shall not be required to acquire, construct, or implement such portions. If all of the TBD Projects have been acquired, constructed, implemented or duly provided for, or found to be impractical, the Board may apply the sales and use tax proceeds (including earnings thereon) or any portion thereof to other transportation improvements then identified in the City's Transportation Improvement Program in accordance with the material change policy adopted by the Board and the notice, hearing, and other procedures described in Chapter 36.73 RCW, including RCW 36.73.050(2)(b), in each case as the same may be amended from time to time.

Section 2. Findings of Fact.

1. The Marysville Transportation Benefit District is permitted to place a ballot measure before the voters and is so authorized pursuant to RCW 36.73.040(3)(a) to impose a sales and use tax in accordance with RCW 82.14.0455.
2. The provisions of Ordinance No. 2938 adequately state the purpose and need for the Transportation Benefit District Governing Board.

Section 3. Ballot Measure.

It is hereby found and declared that the best interests of the District require the submission to the qualified electors of the District a proposition whether the District shall impose a sales and use tax within the limitations established in RCW 82.14.0455 for their ratification or rejection at a special election to be held on April 22, 2014 for the purpose of providing funds necessary to pay or finance a portion of the costs of the Project, the Snohomish County Auditor, as *ex officio* supervisor of elections in Snohomish County, Washington, is hereby requested to call and conduct such special election to be held within the District on such day and to submit to the qualified electors of the District for their approval or rejection, a proposition to impose a sales and use tax in the amount of two-tenths of one percent (0.2%) of the selling price in the case of a sales tax, or value of the article used in the case of the use tax. The sales and use tax authorized by this section is in addition to any other taxes authorized by law, shall be collected from those persons who are taxable by the State of Washington under Chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the District, and shall be imposed for a period of ten years from its first date of collection. Upon approval of the voters of the proposition hereinafter set forth, the District may use proceeds of such sales and use tax for the purpose of paying or financing a portion of the costs of TBD Projects. The Clerk of the Board is hereby authorized and directed to certify said proposition to said official in the following form:

**MARYSVILLE TRANSPORTATION BENEFIT DISTRICT
MARYSVILLE, WASHINGTON
SALES AND USE TAX FOR
TRANSPORTATION IMPROVEMENTS**

The Board of the Marysville Transportation Benefit District, Marysville, Washington, adopted Resolution _____ concerning a sales and use tax to fund transportation improvements. This proposition would authorize a sale and use tax of two-tenths of one percent (0.2%) to be collected within the District in accordance with RCW 82.14.0455 for a term of ten years. Such revenues would be used for the purpose of funding the following transportation improvement projects: street preservation, including pavement repair, overlay, chip seal and patching and other capitol projects as identified in the State and City’s Transportation Plan. Should this proposition be:

Approved.....

Rejected.....

Section 4. Corrections.

The Clerk of the District and the codifiers of this resolution are authorized by the Marysville Transportation Benefit District Governing Board to make necessary clerical corrections to this resolution including, but not limited to, the correction of scrivener’s/ clerical errors, references, resolution numbering, section/subsection numbers and any references thereto, and to make corrections or revisions consistent with the requirements of the Snohomish County Prosecutor’s office which do not change the substantive meaning of this resolution.

Section 5. Severability.

If any section, sentence, clause, or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or constitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this resolution.

PASSED by the Board of the Marysville Transportation Benefit District, Marysville, Washington, at a regular open public meeting thereof held on this ____ day of February, 2014.

MARYSVILLE TRANSPORTATION BENEFIT DISTRICT

By _____
Chairperson

ATTEST:

By _____
Secretary/Treasurer

Approved as to form:

By _____
City Attorney

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 2/10/14

AGENDA ITEM: Special Facilities and Market Conditions Resolution – Sunnyside Well Treatment Facility	
PREPARED BY: Patrick Gruenhagen DEPARTMENT: Engineering	DIRECTOR APPROVAL:
ATTACHMENTS: Resolution of the City Council of the City of Marysville, Washington establishing that Special Market Conditions exist with respect to the procurement of water filtration equipment and related technical assistance for the Sunnyside Well Treatment Facility Project	
BUDGET CODE: 40220594.563000 – W1302	AMOUNT: \$0.00

SUMMARY:

On January 11, 2014, the City published a Request for Proposals (RFP) to provide the City with equipment and services related to the ongoing design and planned construction of its Sunnyside Well Treatment Facility Project. Subsequent to the RFP, the City received Proposals from various equipment suppliers, on February 6, 2014.

The RFP specifically focuses on a subset of the overall project design, involving water filtration equipment necessary to remove elevated levels of iron and manganese that are currently present in source water from the two wells which reside on site of the future project. Due to the variable sizes, configurations, and performance of available iron and manganese removal systems and their impact to the proposed building footprint and configuration, the City recognizes the unique benefit of selecting one manufacturer of the iron and manganese removal system as the basis of design. This will in-turn streamline and solidify the design and bidding process. Moreover, by taking this approach the City will help to guarantee that the project design is as cost-effective as possible, both in the near-term and over time (life cycle costs).

The City intends to undertake a detailed evaluation of Proposals in accordance with evaluation criteria published in the RFP. The evaluation criteria include a) equipment performance, b) configuration, c) serviceability, d) capital and life cycle costs, and e) installation references. This evaluation process provides unique value to the City that could not be attained through the usual competitive bidding process. Accordingly, the attached resolution provides authorization for City staff to move forward and select an equipment supplier pursuant to the Request for Proposals, in accordance with RCW 39.04.280(1)(b), thereby waiving the competitive bidding requirement that would otherwise apply.

RECOMMENDED ACTION:

Staff recommends that Council adopt the attached resolution establishing that Special Market Conditions exist with respect to the procurement of water filtration equipment and related technical assistance for the Sunnyside Well Treatment Facility Project, in light of the fact that it qualifies as a “Special Facility” relative to RCW 39.04.280(1)(b).

CITY OF MARYSVILLE

Marysville, Washington

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF MARYSVILLE, WASHINGTON, ESTABLISHING THAT SPECIAL MARKET CONDITIONS EXIST WITH RESPECT TO THE PURCHASE OF CERTAIN WATER FILTRATION EQUIPMENT AND TECHNICAL ASSISTANCE AND THEREBY WAIVING THAT COMPETITIVE BIDDING OCCUR.

WHEREAS the City requires certain iron and manganese removal equipment (systems) and technical assistance to design and construct its Sunnyside Well Treatment Facility Project; and

WHEREAS the City issued a Request for Proposals for the equipment and assistance, but has not issued an invitation to competitive bid; and

WHEREAS the City received responses from equipment suppliers pursuant to the Request for Proposals; and

WHEREAS the responses demonstrate that potential suppliers offer unique equipment and technical assistance which will be integral to the design and construction of this special facility; and

WHEREAS the variable sizes, configurations, and performance of available iron and manganese removal systems will directly and uniquely influence the overall project footprint and configuration; and

WHEREAS it is in the best interest of the City to procure that unique combination of equipment and technical assistance required for the design and construction of the Sunnyside Well Treatment Facility Project, which could not be guaranteed through a traditional competitive bid; and

WHEREAS it is in the best interest of the City that because of these unique market conditions and the special nature of the Sunnyside Well Treatment Facility, to the extent otherwise applicable, the requirement of competitive bidding be waived under RCW 39.04.280(1)(b);

NOW, THEREFORE, THE CITY COUNCIL OF MARYSVILLE, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The City Council adopts as its findings the recitals set out above.

Section 2. The City Council by this resolution hereby waives any and all applicable competitive bidding requirements for the purchase of water filtration equipment and related technical assistance for the Sunnyside Well Treatment Facility Project because the purchase involves special facilities and market conditions under RCW 39.04.280(1)(b).

PASSED this _____ day of February, 2014 and signed in authentication of its passage this _____ day of February, 2014.

CITY OF MARYSVILLE

By: _____

JON NEHRING, MAYOR

ATTEST:

By: _____

APRIL O'BRIEN, DEPUTY CLERK

APPROVED AS TO FORM:

By: _____

GRANT WEED, CITY ATTORNEY

Index #8

CITY OF MARYSVILLE
EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

AGENDA ITEM: PA 13-024 – I-502 Marysville Recreational Marijuana Regulation Alternatives Discussion	AGENDA SECTION: New Business	
PREPARED BY: Cheryl Dungan, Senior Planner	APPROVED BY:	
ATTACHMENTS: 1. Staff Memo to PC 01/09/2014I-502 Regulation Alternatives 2. PC Packet from 11/26/2013 3. PC Minutes – public hearing 01/14/14 4. PC Minutes – workshop 11/26/2013		
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

DESCRIPTION:

On October 28th, 2013 the Mayor established an I-502 committee to review Initiative 502 (the Initiative which directed the Washington State Liquor Control Board (WSLCB) to license and regulate marijuana production, distribution, and possession for persons over 21). The committee met twice and had some very good discussions, regarding the WSLCB Draft Rules and Regulations and the potential benefits, disadvantages and crime impacts medical marijuana retailers, producers, and processors could have in the City of Marysville. The committee was unable to reach a consensus on the six (6) alternatives presented to them by staff. On November 26th, 2013 the PC held a workshop to discuss potential regulations and the alternatives considered by the committee. The PC then held a public hearing on January 26th, 2014 to discuss the alternatives and to consider public testimony. The PC unanimously agreed to recommend Alternative 1 to the City Council for their consideration. The six (6) alternatives considered by the PC are as follows:

Alternative 1 – Producers, Processors and Retailers PROHIBITED.

Alternative 2 – A continued moratorium on I-502 until a time where the WSLCB and other entities have put in to place a set of rules, and said rules have been vetted by the courts, and Marysville has had an opportunity to monitor how other cities have implemented those rules and the impacts producers, processors, and retailers have on the implementing communities.

Alternative 3; 4 and 5 – Retailers (only) PROHIBITED (see Attachment 2 for further detailed analysis).

Alternative 6 – Retailers allowed in certain mapped commercial zones with restrictions (see Attachment 2) along with Producers and Processors.

RECOMMENDED ACTION: Staff recommends Council discuss the 6 alternatives that were presented to the PC and provide a recommendation to staff regarding Council direction prior to developing an ordinance for Council consideration.

COUNCIL ACTION:



COMMUNITY DEVELOPMENT DEPARTMENT
 80 Columbia Avenue ♦ Marysville, WA 98270
 (360) 363-8100 ♦ (360) 651-5099 FAX

MEMORANDUM

DATE: January 9, 2014
TO: Marysville Planning Commission
FROM: Chris Holland, Planning Manager *CH*
RE: I-502 Recreational Marijuana
 PA 13024
CC: Gloria Hirashima, CAO/CD Director
 Rick Smith, Marysville Police Chief
 Jeffrey Goldman, Marysville Police Commander
 Mark Thomas, Marysville Police Lieutenant
 I-502 Committee Members

The Planning Commission (PC) held a workshop on November 26, 2013 to discuss potential code amendments, related to Initiative 502 (I-502). As you know, I-502 allows the Washington State Liquor Control Board (WSLCB) to license and regulate marijuana production, distribution, and possession for persons over 21.

On September 9, 2013, Marysville City Council passed Ordinance No. 2936 adopting a 12-month moratorium on the establishment, siting, location, permitting, licensing or operation of marijuana retail, production and processing businesses within the City of Marysville. A *Recreational Marijuana Regulations Work Plan* was included in Ordinance No. 2936, which included establishment of an I-502 Committee.

On October 28, 2013 the Mayor appointed Councilmember Steve Muller, Planning Commissioner Kelly Richards, Business owner Cate Mighell and citizen Bruce Paquette to the I-502 Committee. The I-502 Committee was staffed by Gloria Hirashima, CAO/CD Director, Chris Holland, Planning Manager, Jeffrey Goldman, Marysville Police Commander and Mark Thomas, Marysville Police Lieutenant.

The I-502 Committee met on November 5, 2013 and November 19, 2013. The minutes of these meetings were provided to the PC on November 26, 2013. The minutes and all of the materials provided to the PC in November can be accessed via the following link:

[PC Packet Materials](#)

The I-502 Committee had some very good discussions regarding the WSLCB DRAFT Rules & Regulations and the potential benefits, disadvantages and crime impacts medical marijuana retailers, producers and processors could have in the city of Marysville. At the meeting held on November 19, 2013 staff presented six (6) alternatives for discussion purposes. These alternatives were drafted based on the WSLCB Draft Rules & Regulations and research regarding surrounding jurisdictions adopted/proposed interim and permanent regulations.

Based on the I-502 Committee's discussions, it became clear that a consensus recommendation would not be achieved. Therefore, staff polled each of the committee member regarding what, if any, of the six (6) alternatives presented they would recommend

for Planning Commission consideration. The following are the recommendations the I-502 Committee has for Planning Commission consideration:

- Committee Member Richards: Recommended allowing retail outlets only, as outlined in Alternative 6, however not to allow producers/processors and also limit the hours of operation between 10AM – 8PM.
- Committee Member Mighell: Recommended allowing retail outlets, as outlined in Alternative 6, allow producers and processors, as outlined in Alternative 5, however, the producer/processor area boundary is recommended to be expanded to 156th Street NE.
- Committee Member Muller: Recommended Alternative 2, continuing the moratorium until such a time where the WSLCB and other regulating entities have adopted and put into place a set of rules, and said rules have been vetted by the courts, and Marysville has had an opportunity to monitor how other cities have implemented those rules and the impacts producers, processors and retailers have on the implementing communities.
- Committee Member Paquette: Recommended Alternative 2. In addition Committee Member Paquette wants the City to be able to rescind any and all marijuana retail, producer and processor permits if said businesses are ultimately allowed to locate in Marysville and there is Police evidence that these businesses are having a negative impact on the community.
- Marysville Police (c/o Lt. Thomas): Recommended Alternative 1 – Prohibition on retail, producers and processors.

Community Development Staff respectfully requests the PC review the materials previously provided, take into consideration the recommendations of the I-502 committee and the testimony received at the public hearing, and make a recommendation to Marysville City Council regarding I-502.

For informational purposes, attached to this memo are the applications received by the WSLCB for production, processing and retail of marijuana in the City of Marysville. The WSLCB application deadline was December 20, 2013.

I-502 Marysville Regulation Alternatives

Alternative 1 – Producers, Processors and Retailers PROHIBITED

Alternative 2 – A continued moratorium on I-502 until a time where the WSLCB and other regulating entities have adopted and put into place a set of rules, and said rules have been vetted by the courts, and Marysville has had an opportunity to monitor how other cities have implemented those rules and the impacts producers, processors and retailers have on the implementing communities.

Alternative 3 – Retailers (only) PROHIBITED

Producers and Processors Restrictions:

- . Producers and processors can only be located in certain mapped Light Industrial (LI) zones from 12300 Block to 152nd Street NE
- . Production shall be limited to Tier 1 only (maximum 2,000 SF plant canopy)
- . Tier 2 (2,000 – 10,000 SF) and Tier 3 (10,000 – 30,000 SF) production facilities shall be prohibited
- . Cannot locate within 1,000' of an Residential zone, in addition to the 1,000' WSLCB rule
- . Producers and Processors can locate in the same building, however, they shall only be allowed in a fully-enclosed and secure structure
- . No more than one facility shall be allowed on a single parcel (producers and processors can be on a single parcel in the same building)
- . No Producer or Processor shall be allowed within 2,500 feet of any other legally permitted Producer or Processor, unless located within the same building.
- . Production and processing facilities shall be located fully indoors within a permanent structure. Outdoor production and processing shall be prohibited.
- . Shall not be located in a mobile structure
- . Shall not locate on a site or building with non-conforming status
- . Shall not be an accessory use to a primary use
- . Production, processing or delivery shall not be visible to the public nor may it be visible through windows
- . Shall not be allowed as a home occupation
- . All fertilizers, chemicals, gases and hazardous material shall be handled in compliance with all applicable local, state and federal regulations and shall not be allowed to enter a sanitary sewer or stormwater system nor be released into the atmosphere outside of the structure where the facility is located
- . Odors shall not be able to migrate beyond the interior portion of the structure
- . No use that constitutes or purports to be a marijuana producer or processor engaged in activity prior to the enactment of the ordinance shall be deemed to have been a legally established use and cannot claim legal nonconformance
- . All WSLCB Rules shall apply

- . Production and processing facilities shall be located fully indoors within a permanent structure. Outdoor production and processing shall be prohibited.
- . Shall not be located in a mobile structure
- . Shall not locate on a site or building with non-conforming status
- . Shall not be an accessory use to a primary use
- . Production, processing or delivery shall not be visible to the public nor may it be visible through windows
- . Shall not be allowed as a home occupation
- . All fertilizers, chemicals, gases and hazardous material shall be handled in compliance with all applicable local, state and federal regulations and shall not be allowed to enter a sanitary sewer or stormwater system nor be released into the atmosphere outside of the structure where the facility is located
- . Odors shall not be able to migrate beyond the interior portion of the structure
- . No use that constitutes or purports to be a marijuana producer or processor engaged in activity prior to the enactment of the ordinance shall be deemed to have been a legally established use and cannot claim legal nonconformance
- . All WSLCB Rules shall apply

Alternative 6

Retailers

- . Retailers can only be located in certain mapped General Commercial (GC) and Community Business (CB) zones from 80th Street to 8600 Block and 88th Street to 10500 Block (see attached map)
- . Cannot be located within 2,500' or any other legally permitted marijuana retailer, measured "as the crow flies"
- . No more than one facility shall be located on a single parcel
- . Only allowed in a fully-enclosed and secure structure
- . Shall not be located in a mobile or temporary structure
- . Shall not be located in a building where nonconforming retail uses have been established
- . Shall not operate as an accessory to a primary use
- . Shall not be allowed as a home occupation
- . Odors shall not be able to migrate beyond the interior portion of the structure
- . Retail sales shall not be visible to the public nor be visible through windows
- . No use that constitutes or purports to be a marijuana retailer engaged in activity prior to the enactment of the ordinance shall be deemed to have been a legally established use and cannot claim legal nonconformance
- . All WSLCB Rules shall apply

Producers and Processors Restrictions:

- . See restrictions for Alternative(s) 2, 3 & 4

Alternative 4 – Retailers (only) PROHIBITED

Producers and Processors Restrictions:

- . Producers and processors can only be located in certain mapped Light Industrial (LI) zones from 12300 Block to 152nd Street NE
- . Production shall be limited to Tier 1 (2,000 SF canopy) and Tier 2 (2,000 to 10,000 SF canopy) facilities
- . Tier 3 (10,000 – 30,000 SF) production facilities shall be prohibited
- . Cannot locate within 1,000' of an Residential zone, in addition to the 1,000' WSLCB rule
- . Producers and Processors can locate in the same building, however, they shall only be allowed in a fully-enclosed and secure structure
- . No more than one facility shall be allowed on a single parcel (producers and processors can be on a single parcel in the same building)
- . No Producer or Processor shall be allowed within 2,500 feet of any other legally permitted Producer or Processor, unless located within the same building.
- . Production and processing facilities shall be located fully indoors within a permanent structure. Outdoor production and processing shall be prohibited.
- . Shall not be located in a mobile structure
- . Shall not locate on a site or building with non-conforming status
- . Shall not be an accessory use to a primary use
- . Production, processing or delivery shall not be visible to the public nor may it be visible through windows
- . Shall not be allowed as a home occupation
- . All fertilizers, chemicals, gases and hazardous material shall be handled in compliance with all applicable local, state and federal regulations and shall not be allowed to enter a sanitary sewer or stormwater system nor be released into the atmosphere outside of the structure where the facility is located
- . Odors shall not be able to migrate beyond the interior portion of the structure
- . No use that constitutes or purports to be a marijuana producer or processor engaged in activity prior to the enactment of the ordinance shall be deemed to have been a legally established use and cannot claim legal nonconformance
- . All WSLCB Rules shall apply

Alternative 5 – Retailers (only) PROHIBITED

Producers and Processors Restrictions:

- . Producers and processors can only be located in certain mapped Light Industrial (LI) zones from 12300 Block to 152nd Street NE
- . Tier 1 (2,000 SF canopy), Tier 2 (2,000 to 10,000 SF canopy) and Tier 3 (10,000 to 30,000 SF canopy) production permitted
- . Cannot locate within 1,000' of an Residential zone, in addition to the 1,000' WSLCB rule
- . Producers and Processors can locate in the same building, however, they shall only be allowed in a fully-enclosed and secure structure
- . No more than one facility shall be allowed on a single parcel (producers and processors can be on a single parcel in the same building)
- . No Producer or Processor shall be allowed within 2,500 feet of any other legally permitted Producer or Processor, unless located within the same building.

BUSINESS NAME	LICENSE NUMBER	ADDRESS	CITY	STATE	COUNTY	ZIP	BUSINESS TYPE	1,000' buffer	SFR
PRODUCER									
BLUE STAR CK	412849	11520 37TH AVE NE	MARYSVILLE	WA	SNOHOMISH	982718466	MARIJUANA PRODUCER TIER 3	N	Y
BUDDIES FARMS	412289	4721 56TH PL NE # 1B	MARYSVILLE	WA	SNOHOMISH	982705700	MARIJUANA PRODUCER TIER 2	N	N
IMAGING SOLUTIONS	412541	1242 STATE ST #1173	MARYSVILLE	WA	SNOHOMISH	982703672	MARIJUANA PRODUCER TIER 1	Y	N
JODIE JOHNSON	052283	5128 134TH PL NE	MARYSVILLE	WA	SNOHOMISH	982717728	MARIJUANA PRODUCER TIER 2	Y	Y
KARI KING	054072	5128 134TH PL NE	MARYSVILLE	WA	SNOHOMISH	982717728	MARIJUANA PRODUCER TIER 2	Y	Y
NW MOTA, LLC	052238	3612 94TH PL NE	MARYSVILLE	WA	SNOHOMISH	982709110	MARIJUANA PRODUCER TIER 1	Y	Y
OGZ FIRE WEED LLC	054572	15318 39TH AVE NE # BE	MARYSVILLE	WA	SNOHOMISH	982718902	MARIJUANA PRODUCER TIER 3	N	N
SCOTT FRANCIS STANFIELD	413690	12712 44TH AVE NE	MARYSVILLE	WA	SNOHOMISH	982718718	MARIJUANA PRODUCER TIER 2	Y	Y
STONE CROW CANDY	053483	3923 88TH ST NE	MARYSVILLE	WA	SNOHOMISH	982707258	MARIJUANA PRODUCER TIER 1	N	N
WASHINGTON GREEN WORKS	054601	5910 70TH ST NE	MARYSVILLE	WA	SNOHOMISH	982704116	MARIJUANA PRODUCER TIER 1	Y	Y
PROCESSOR									
BLUE STAR CK	412849	11520 37TH AVE NE	MARYSVILLE	WA	SNOHOMISH	982718466	MARIJUANA PROCESSOR	N	Y
BUDDIES FARMS	412289	4721 56TH PL NE # 1B	MARYSVILLE	WA	SNOHOMISH	982705700	MARIJUANA PROCESSOR	N	N
IMAGING SOLUTIONS	412541	1242 STATE ST #1173	MARYSVILLE	WA	SNOHOMISH	982703672	MARIJUANA PROCESSOR	Y	N
NW MOTA, LLC	052238	3612 94TH PL NE	MARYSVILLE	WA	SNOHOMISH	982709110	MARIJUANA PROCESSOR	Y	Y
OGZ FIRE WEED LLC	054572	15318 39TH AVE NE # BE	MARYSVILLE	WA	SNOHOMISH	982718902	MARIJUANA PROCESSOR	N	N
STONE CROW CANDY	053483	3923 88TH ST NE	MARYSVILLE	WA	SNOHOMISH	982707258	MARIJUANA PROCESSOR	N	N
WASHINGTON GREEN WORKS	054601	5910 70TH ST NE	MARYSVILLE	WA	SNOHOMISH	982704116	MARIJUANA PROCESSOR	Y	Y
RETAILER									
420 ENTERPRISES	054488	9920 STATE AVE	MARYSVILLE	WA	SNOHOMISH	982702255	MARIJUANA RETAILER	N	N
ALL SPARK INC.	413388	17033 28TH DR NE	MARYSVILLE	WA	SNOHOMISH	982714742	MARIJUANA RETAILER	Y	N
BEST BUDZ	413964	12727 47TH DR NE	MARYSVILLE	WA	SNOHOMISH	982718634	MARIJUANA RETAILER	Y	Y
BUD MAN, LLC	053768	10305 STATE AVE STE 103	MARYSVILLE	WA	SNOHOMISH	982717227	MARIJUANA RETAILER	N	N
FIVE STAR TRADING COMPANY	413557	3915 152ND ST NE	MARYSVILLE	WA	SNOHOMISH	982718900	MARIJUANA RETAILER	N	N
GREEN GRIFFIN	414162	3710 136TH ST NE	MARYSVILLE	WA	SNOHOMISH	982717820	MARIJUANA RETAILER	N	N
GREEN GROTTO	414092	10118 SMOKEY POINT BLVD	MARYSVILLE	WA	SNOHOMISH	982717214	MARIJUANA RETAILER	N	N
JWC ENTERPRISES	413735	10305 STATE AVE UNIT A	MARYSVILLE	WA	SNOHOMISH	982717227	MARIJUANA RETAILER	N	N
R & N SMOKE SHOP	053011	3715 134TH ST NE	MARYSVILLE	WA	SNOHOMISH	982717811	MARIJUANA RETAILER	N	N
SAFETY FIRST	054909	3715 134TH ST NE STE B	MARYSVILLE	WA	SNOHOMISH	982717811	MARIJUANA RETAILER	N	N
TOP CAT ENTERPRISES	414511	10305 STATE AVE	MARYSVILLE	WA	SNOHOMISH	982717227	MARIJUANA RETAILER	N	N
YELLOW BLUE BUS	414530	9432 STATE AVE	MARYSVILLE	WA	SNOHOMISH	982702206	MARIJUANA RETAILER	Y	N
OUTSIDE CITY LIMITS									
FARMING FULL CIRCLE	412254	7508 108TH ST NE	MARYSVILLE	WA	SNOHOMISH	982717620	MARIJUANA PRODUCER TIER 1	N	Y
FARMING FULL CIRCLE	412255	7620 119TH ST NE SUITE B	MARYSVILLE	WA	SNOHOMISH	982717603	MARIJUANA PRODUCER TIER 2	Y	Y
FDG LLC	054485	6107 132ND ST NE	MARYSVILLE	WA	SNOHOMISH	982719009	MARIJUANA PRODUCER TIER 2	Y	Y
FARMING FULL CIRCLE	412254	7508 108TH ST NE	MARYSVILLE	WA	SNOHOMISH	982717620	MARIJUANA PROCESSOR	N	Y
FDG LLC	054485	6107 132ND ST NE	MARYSVILLE	WA	SNOHOMISH	982719009	MARIJUANA PROCESSOR	Y	Y



COMMUNITY DEVELOPMENT DEPARTMENT
 80 Columbia Avenue ♦ Marysville, WA 98270
 (360) 363-8100 ♦ (360) 651-5099 FAX

MEMORANDUM

DATE: November 20, 2013
TO: Marysville Planning Commission
FROM: Chris Holland, Planning Manager
RE: I-502 Recreational Marijuana
 PA 13024
CC: Gloria Hirashima, CAO/CD Director
 Rick Smith, Marysville Police Chief
 Jeffrey Goldman, Marysville Police Commander
 Mark Thomas, Marysville Police Lieutenant
 I-502 Committee Members

Initiative 502 allows the Washington State Liquor Control Board (WSLCB) to license and regulate marijuana production, distribution, and possession for persons over 21. On September 9, 2013, Marysville City Council passed Ordinance No. 2936 adopting a 12-month moratorium on the establishment, siting, location, permitting, licensing or operation of marijuana retail, production and processing businesses within the City of Marysville. A *Recreational Marijuana Regulations Work Plan* was included in Ordinance No. 2936, which included establishment of an I-502 Committee.

On October 28, 2013 the Mayor appointed Councilmember Steve Muller, Planning Commissioner Kelly Richards, Business owner Cate Mighell and citizen Bruce Paquette to the I-502 Committee. The I-502 Committee was staffed by Gloria Hirashima, CAO/CD Director, Chris Holland, Planning Manager, Jeffrey Goldman, Marysville Police Commander and Mark Thomas, Marysville Police Lieutenant.

The I-502 Committee met on November 5, 2013 and November 19, 2013 (see attached minutes). The following items were provided to the I-502 committee and are included in your packet:

- . Marysville Police Position Paper
- . I-502 Fact Sheet
- . FAQs on I-502
- . I-502 Official Timeline
- . Chapter 314-55 WAC
- . I-502 Draft Rule Summary
- . I-502 Proposed Rules FAQ
- . I-502 Retail Store Locations Spreadsheet
- . Surrounding City Allowances Spreadsheet
- . Surrounding City's Interim Regulations
- . Surrounding City's Permanent Regulations
- . I-502 Information provided by Committee Member Mighell
- . Staff prepared I-502 Alternatives
- . Staff prepared I-502 Zoning Map

The I-502 Committee had some very good discussions regarding the WSLCB DRAFT Rules & Regulations and the potential benefits, disadvantages and crime impacts medical marijuana retailers, producers and processors could have in the city of Marysville. At the meeting held on November 19, 2013 staff presented six (6) alternatives for discussion purposes. These alternatives were drafted based on the WSLCB Draft Rules & Regulations and research regarding surrounding jurisdictions adopted/proposed interim and permanent regulations.

Based on the I-502 Committee's discussions, it became clear that a consensus recommendation would not be achieved. Therefore, staff polled each of the committee member regarding what, if any, of the six (6) alternatives presented they would recommend for Planning Commission consideration. The following are the recommendations the I-502 Committee has for Planning Commission consideration:

- Committee Member Richards: Recommended allowing retail outlets only, as outlined in Alternative 6, however not to allow producers/processors and also limit the hours of operation between 10AM - 8PM.
- Committee Member Mighell: Recommended allowing retail outlets, as outlined in Alternative 6, allow producers and processors, as outlined in Alternative 5, however, the producer/processor area boundary is recommended to be expanded to 156th Street NE.
- Committee Member Muller: Recommended Alternative 2, continuing the moratorium until such a time where the WSLCB and other regulating entities have adopted and put into place a set of rules, and said rules have been vetted by the courts, and Marysville has had an opportunity to monitor how other cities have implemented those rules and the impacts producers, processors and retailers have on the implementing communities.
- Committee Member Paquette: Recommended Alternative 2. In addition Committee Member Paquette wants the City to be able to rescind any and all marijuana retail, producer and processor permits if said businesses are ultimately allowed to locate in Marysville and there is Police evidence that these businesses are having a negative impact on the community.
- Marysville Police (c/o Lt. Thomas): Recommended Alternative 1 - Prohibition on retail, producers and processors.

Community Development Staff respectfully requests the Planning Commission review the attached information, recommendations of the I-502 Committee and schedule a public hearing in order to take public testimony, prior to making a final recommendation to Marysville City Council.

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE 2936

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, ADOPTING A TWELVE (12) MONTH MORATORIUM WITHIN THE CITY OF MARYSVILLE ON THE ESTABLISHMENT, SITING, LOCATION, PERMITTING, LICENSING OR OPERATION OF MARIJUANA CULTIVATION, PRODUCTION OF MARIJUANA DERIVATIVES, AND THE SALE OF MARIJUANA OR MARIJUANA DERIVATIVES OR ANY OTHER ACTIVITIES ASSERTED TO BE AUTHORIZED OR ACTUALLY AUTHORIZED UNDER WASHINGTON STATE INITIATIVE NO. 502 OR ANY OTHER LAWS OF THE STATE OF WASHINGTON AND SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM, ADOPTING A WORK PLAN, PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 502 (I-502), approved by the voters of Washington state on November 6, 2012, purports to legalize the production, sale and use of marijuana products purchased from State licensed stores for adults age twenty-one (21) and over; and

WHEREAS, I-502 Section 1 (3) authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one (21) years of age and older, and add a new threshold for driving under the influence of marijuana; and

WHEREAS, I-502 Section 4 (1) allows the Washington State Liquor Control Board to license marijuana to process, package and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailer;

WHEREAS, I-502 Section 4 (3) allows the Washington State Liquor Control Board to license marijuana retailers to sell usable marijuana and marijuana-infused products at retail in retail outlets; and

WHEREAS, I-502 Section 6 (7) states that before the Washington State Liquor Control Board issues a new or renewed license to an applicant, it must give notice to the application to the chief executive officer of the incorporated city, and the city has the right to file its written objection to such licenses within 20 days after transmittal of the notice of application, but the Board makes the final decision whether to issue a license; and

WHEREAS, I-502 Section 6(8) establishes certain limitations on the Washington State Liquor Control Board's issuance of licenses for any premises that are within 1,000 feet of the perimeter of the grounds of any elementary school or secondary school, playground, recreation

facility, child care center, public park, public transit center or library, or any game arcade, admission to which is not restricted top persons aged twenty-one (21) years or older; and

WHEREAS, I-502 Section 9 contemplates that the Washington State Liquor Control Board will adopt rules to implement the provisions of I-502, which includes the equipment and management of retail outlets and premises where marijuana is produced and processed, and the inspection of same; methods of producing, processing, and packaging the marijuana and marijuana products; security requirements at such establishments; retail outlet locations and hours of operation; labeling requirements and restrictions on advertising of such products; licensing and licensing renewal rules; the manner and method to be used by licensees to transport and deliver marijuana and marijuana products (among other things); and

WHEREAS, I-502 Section 10 contemplates that the Washington State Liquor Control Board will adopt procedures and criteria by December 1, 2013 for issuing licenses to produce, process and sell marijuana (among other things) and

WHEREAS, I-502 Section 13 limits the number of retail outlets to be licensed in each county, for the purpose of making useable marijuana and marijuana-infused products available for sale to adults twenty-one (21) years of age or over; and

WHEREAS, I-502 decriminalizes, for purposes of state law, the production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana, as long as such activities are in compliance with I-502; and

WHEREAS, at this point in time, the City of Marysville does not have specific regulations addressing the facilities or uses identified in I-502, other than the requirement for a general business license; and

WHEREAS, I-502 prohibits anyone from engaging in the activities identified in I-502 without first obtaining a license from the Washington State Liquor Control Board; and

WHEREAS, the uses described in I-502 have never been allowed in any state or city in the United States, and City needs time to study the secondary land use impacts of these marijuana uses and the various development standards that should be considered to mitigate these impacts before adoption of any regulatory ordinance or issuance of any business license; and

WHEREAS, the Marysville City Council hereby finds that a moratorium to preserve the status quo is necessary, until the State Liquor Control Board definitively acts to establish a final and complete set of rules for the licensing of all of the new marijuana facilities and uses identified in I-502, and until the City can study, draft, hold public hearings and adopt the appropriate land use and/or licensing regulations to address these new uses; and

WHEREAS, RCW 36.70A.390 authorizes the City Council to adopt an immediate moratorium for a period of up to twelve months if a public hearing on the proposal is held within

at least sixty days of its adoption and a work plan is developed for related studies providing for the twelve-month moratoria period; and

WHEREAS, the City Council desires to impose an immediate twelve month moratorium on the acceptance of any development permit application or business license or application for the siting, location or operation of any marijuana processor, marijuana producer, or marijuana retailer; and

WHEREAS, RCW 69.51A.140 authorizes cities to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of marijuana or marijuana products within their jurisdiction; and

WHEREAS, RCW 36.70A.390 provides that, "A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal"; and

WHEREAS, 35.63.200 provides a similar process as described above for adopting and extending land use moratoriums; and

WHEREAS, moratoriums enacted under RCW 36.70A.390 and/or RCW 35.63.200 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, the Marysville Municipal Code does not currently have specific provisions addressing licensing, producing, processing or retailing of recreational marijuana; and

WHEREAS, in conformity with the responsibilities of the City of Marysville to meet public health, safety and welfare requirements and provide zoning and land use regulations pursuant to state law, and the City's authority to regulate land use activity within its corporate limits, the City intends to develop appropriate public health, safety and welfare requirements and zoning and land use regulations for the establishment of facilities producing, processing and retailing of recreational marijuana; and

WHEREAS, the City Council has determined it needs additional time to conduct appropriate research to analyze the effects of the pending rules and regulations to be established by the Washington State Liquor Control Board pursuant to I-502; and

WHEREAS, a moratorium will provide the City with additional time to review and amend its public health, safety and welfare requirements and zoning and land use regulations related to the establishment of facilities producing, processing and retailing recreational marijuana as authorized by I-502; and

WHEREAS, the City Council concludes that the City does have authority to establish a moratorium and that the City must adopt a moratorium concerning the filing, acceptance, and processing of new land use applications or licensing for the establishment of, or operation of, any facility, building or premises used for the production, processing or retailing of recreational marijuana, to protect the health, safety and welfare of the citizens of Marysville; and

WHEREAS, In addition, the cultivation, possession or distribution of cannabis marijuana, and marijuana products has been and continues to be a violation of federal law through the Controlled Substances Act ("CSA"); and

WHEREAS, the activities purported to be legalized under Initiative Measure No. 502 remain violations of federal law through the Controlled Substances Act, and the United States Supreme Court in Gonzales v. Raich, 545 U.S. 1, (2005) which held that the CSA's categorical prohibition of the manufacture and possession of marijuana as applied to the intrastate manufacture and possession of marijuana for medical purposes superseded a conflicting California State law; and

WHEREAS, two U.S. Attorneys (Federal Department of Justice) situated in Washington have gone on record stating that marijuana is a Schedule I controlled substance under federal law, and as such, growing, distributing and possessing marijuana in any capacity other than as part of a federally authorized research program is a violation of federal law, regardless of state laws permitting such activities, and also concluded publicly that local governmental employees who conducted marijuana regulatory activities under Washington State law are subject to prosecution under the CSA; and

WHEREAS, in 2012, the Board of Clark County Washington Commissioners requested a determination from the federal government whether such enforcement efforts would extend to local government activities implementing Washington state laws on marijuana, where those laws conflict with the CSA, and the responsive letter from Joseph T. Rannazzisi, Deputy Assistant Administrator, Office of Division Control, U.S. Department of Justice, Drug Enforcement Administration, states that anyone who knowingly carries out the marijuana activities contemplated by Washington state law which are inconsistent with the CSA, as well as anyone who facilitates such activities, or conspires to commit such violations of the CSA, is subject to criminal prosecution as provided in the CSA, including both local elected officials and local government staff; and

WHEREAS, the recently approved Initiative Measure No. 502 does not appear to change the basis for the analysis by the U.S. Attorneys, and any State or local officials who undertake marijuana regulatory activities remain subject to federal prosecution; and

WHEREAS, because prior to the passage of Initiative Measure No. 502, the possession or distribution of marijuana was a violation of both the Washington Uniform Controlled Substances Act and a violation of the federal CSA, the City has not studied or implemented zoning for uses involving the production or distribution of marijuana; and

WHEREAS, the City requires time to conduct appropriate research to understand the extent and validity of the changes provided in the new law to analyze impacts and potential liabilities under federal law and to determine an appropriate regulatory framework for the uses and activities that are allowed under Initiative Measure No. 502; and

WHEREAS, in addition to the legal issues, the City must study, without limitation, the impacts of the location of uses and facilities for the production, sale and use of marijuana products and the siting of marijuana cultivation facilities, facilities for the creation of marijuana products, and State licensed marijuana stores in commercial and residential zones, as well as impacts arising from the proximity of these uses, activities and facilities to schools, day cares, parks, religious and cultural facilities, and accordingly the City Council finds that a zoning, licensing and permitting moratorium should be established pending local review of appropriate locations and design requirements of these operations and impacts of the newly amended law and its interaction with federal law; and

WHEREAS, the City Council adopts the foregoing as its findings of facts justifying the adoption of this ordinance;

NOW THEREFORE, the City Council of the City of Marysville, Washington do ordain as follows:

Section 1. Preliminary Findings.

The recitals and findings set forth above are hereby adopted as the City Council preliminary findings in support of the moratorium imposed by this ordinance in compliance with RCW 36.70A.390 and RCW 35.63.200. The City Council may in its discretion adopt additional findings at the conclusion of the public hearing referenced in Section 6 below.

Section 2. Moratorium Imposed.

Pursuant to Washington State law, a moratorium is hereby enacted prohibiting within the City of Marysville the establishment, siting, location, operation, licensing, or maintenance of facilities, structures, businesses or any other activities involving the production, sale and use of marijuana and marijuana products asserted to be authorized or actually authorized under Washington State Initiative No. 502 or any other laws of the state of Washington (Marijuana Business). No building permit, occupancy permit, or other development permit or approval shall be issued for any of the purposes or activities listed above and no business license shall be granted or accepted while this moratorium is in effect. Any land use permits, business licenses, or other permits for any of these operations that are issued as a result of error or by use of vague or deceptive

descriptions in any license or development application during the moratorium are null and void and without legal force or effect.

Section 3. Definition of Marijuana Use.

As used in this ordinance the following list of terms shall have the meaning set forth below:

Marijuana Definitions.

"Marijuana Use" includes any store, agency, organization, dispensary, cooperative, network consultation, operation, or other business entity, group or person, no matter how described or defined, including any associated premises and equipment which has for its purpose or which is used to grow, select, measure, process, package, label, deliver, dispense, sell or otherwise transfer for consideration, or otherwise, marijuana in any form.

"Cannabis or 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. For the purposes of this Ordinance, "cannabis" or "marijuana" 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 processor" means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

"Marijuana producer" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

"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 useable marijuana.

"Marijuana retailer" means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana-infused products in a retail outlet.

"Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

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

Section 4. No Nonconforming Uses.

No use that constitutes or purports to be a Marijuana Use as that term is defined in this ordinance that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use under the provisions of the Marysville Municipal Code and that use shall not be entitled to claim legal nonconforming status.

Section 5. Effective Period for Moratorium.

The moratorium set forth in this ordinance shall be in effect for a period of twelve (12) months from the date this ordinance is passed and shall automatically expire at the conclusion of that twelve (12) month period unless the same is extended by the City as provided in State law or unless terminated sooner by ordinance.

Section 6. Public Hearing.

The City Council held a public hearing at the regular City Council meeting of September 9, 2013 at 7:00 p.m. in order to take public testimony.

Section 7. Work Program.

The work plan is attached as Exhibit A to this ordinance. The City Administrator and other responsible staff are hereby authorized to study and address issues related to determining the legality of Marijuana Uses as defined herein, including but not limited to review of the pending dispute between State and federal law enforcement authorities regarding the legality of Marijuana Uses under any circumstances and notwithstanding the adoption of Initiative Measure No. 502. In the event that such uses are ultimately determined to be legal, the work program should also develop appropriate land use regulations pursuant to the newly amended law, for review and recommendation for inclusion in the zoning regulations or other provisions of the Marysville Municipal Code, including business licensing and other regulations for review for inclusion in the Marysville Municipal Code.

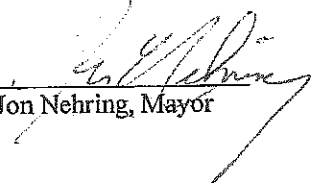
Section 8. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 9. Effective Date.

This Ordinance shall become affective five (5) days following passage and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor this 9th day of September, 2013.


CITY OF MARYSVILLE

By 
Jon Nehring, Mayor

ATTEST:

By 
April O'Brien, Deputy City Clerk

Approved as to form:

By 
Grant Weed, City Attorney

Date of Publication: 9/18/13

Effective Date: 9/23/13

Exhibit A- Recreational Marijuana Regulations Work Plan

Date*	Step	Principle or Requirement
September 9, 2013	City Council public hearing to consider work plan, draft regulations and adoption of moratorium for twelve (12) months.	Moratorium Ordinance 12 months effective from date of passage-through 9/8/14.
October 16, 2013	Washington State Liquor Control Board (WSLCB) adoption of proposed rules concerning Initiative 502	Rulemaking process
November 16, 2013	WSLCB rules become effective	Rulemaking process
November 18-December 18, 2013	WSLCB accepts applications for producer, processor and retail licenses	I-502 timeline for implementation
November 12, 2013	Committee review (Committee composed of Council, Planning Commission, citizens/businesses)	Review of adopted WSLCB rules and preliminary information compiled and reviewed by Community Development, Legal and Police staff.
December 17, 2013	Committee recommendation on draft regulations	Recommendation to Planning Commission
December 30, 2013	Notice of intent to amend development regulations sent to Dept. of Commerce	Final adoption 60 days after notice or 30 days if expedited review is allowed; February 1 or March 1, 2014
January 10, 2014	SEPA determination	14-day comment/appeal period ending January 24, 2014
January 28, 2014	Planning Commission workshop on permanent regulations and committee recommendations	
March 11, 2014	Planning Commission public hearing	10 day notice before hearing required
April 7/14, 2014	City Council workshop and potential public hearing on proposed regulations	10 day notice before hearing required

Exhibit A- Recreational Marijuana Regulations Work Plan

April 19, 2014	Ordinance published	Saturday after the Monday City Council meeting
April 24, 2014	Effective date of ordinance	5 days after publication
Date Permanent Regulations Required to be Adopted		
September 8, 2014	12 months after moratorium adopted	

*Some dates may be subject to change based on scheduling needs of the Planning Commission and/or City Council and the City Council may adjust such dates by motion at meetings open to the public



COMMUNITY DEVELOPMENT DEPARTMENT
 80 Columbia Avenue + Marysville, WA 98270
 (360) 363-8100 + (360) 651-5099 FAX

I-502 Committee Meeting Minutes

November 5, 2013

6:00 p.m.

Council – Meeting Room

Committee Members: Bruce Paquette, citizen
 Cate Mighell, business owner
 Steve Muller, City Council
 Kelly Richards, Planning Commission

Staff in Attendance: Gloria Hirashima, CAO/CD Director
 Chris Holland, Planning
 Lt. Mark Thomas, Police

Absent: None

I-502 Committee Meeting No. 1:

- . Introductions and background of the committee members
- . Staff gave a general overview of packet materials including:
 - Marysville Police Position Paper
 - I-502 Fact Sheet
 - FAQs on I-502
 - I-502 Official Timeline
 - Chapter 314-55 WAC
 - I-502 Draft Rule Summary
 - I-502 Proposed Rules FAQ
 - I-502 Retail Store Locations Spreadsheet
 - Marysville 1,000' buffer map
 - Surrounding City Allowances Spreadsheet
 - Surrounding City's Interim Regulations
 - Surrounding City's Permanent Regulations
- . The committee had a discussion regarding the smells a producing plant would have on surrounding properties. Committee member Mighell pointed out the specific DRAFT Rules from the Washington State Liquor Control Board (WSLCB) prohibiting smells outside of a producing plant.
- . The committee had a discussion about the health effects and benefits of marijuana.
- . Lt. Thomas stated that the Marysville Police Department has concerns regarding crime impacts marijuana producers, processors and retailers will have in Marysville and the surrounding community.
- . The committee had a discussion regarding the fire implications a producing plant may have.

- Committee member Mighell stated that marijuana producers and retailers are currently operating illegally in Marysville and that I-502 would make these operations legal and more predictable than the illegal operations currently occurring.
- The committee had discussions regarding the DRAFT WSLCB Rules related to specific security and processing requirements. Committee member Mighell stated that the DRAFT WSLCB Rules provide adequate security provisions.
- Lt. Thomas voiced his concerns regarding the fact that the WSLCB is underfunded and under staffed and stressed the Marysville Police Departments concerns regarding inspections and compliance with the rules that are ultimately adopted.
- A question was asked whether or not the Marysville Police Department would be allowed to inspect the production, processing and retail establishments. Currently, it unclear whether or not the WSLCB would allow local jurisdictions to inspect these establishments.
- Committee member Paquette stressed that we should wait to see what, if any, types of problems other jurisdictions that allow production, processing and retail establishments will have before allowing in Marysville.
- Councilmember Muller stated that he has real concerns regarding what effects I-502 will have on our youth.
- The Committee had a discussion regarding whether or not the City would see any tax revenue from the producers, processors or retailers. Planning Manager Holland stated that it is estimated that Marysville would receive approximately \$30,000 in annual tax revenues per retail outlet (3 total allowed by WSLCB). No tax revenue would be received at the producer/processor level.
- Committee member Mighell stated that tax revenues would increase from job creation related to producers, processors and retailers.
- Committee member Mighell stated that allowing producers and processors in the community would create living wage jobs.
- The committee discussed an article related to the gross revenues that the producers, processors and retailers would generate.
- Councilmember Muller stated that it would be beneficial to have the Council review the DRAFT I-502 Rules and provide direction to the committee, prior to making a recommendation to the Planning Commission.
- The committee discussed the differences between medical and recreational marijuana regulations and the fact that Marysville City Council has prohibited medical marijuana and collective gardens in Marysville.
- The committee discussed a recent article related to the City of Spokane's Interim regulations adopted in advance of the FINAL WSLCB rules.
- Committee member Paquette again stated that Marysville should wait to see what, if any, impacts I-502 will have on our Junior High and High School kids, and what kind of crime and policy activity occurs in other jurisdictions that allow production, processing and retail establishments.
- Committee member Mighell stated that it's clear that the voters have approved I-502 and that they want these businesses in the community.
- The committee had discussions regarding the fact that banking institutes are not allowed to get involved with marijuana money, as it is an illegal narcotic per federal regulations

and banks are federally backed. Lt. Thomas stated that these cash transactions have huge implications for increased risk of organized crime. Committee member Mighell stated Bank of America recently issued a statement that they would work with the producers, processors and retailers in Washington State.

- . Staff agreed to bring back some alternatives for the committee to consider at our next meeting.
- . Lt. Thomas will provide any information regarding what, if any, impacts the City of Mukilteo Police Department has had with allowing medical marijuana and collective gardens in Mukilteo.
- . A second meeting was scheduled for November 19, 2013 5:30PM in the Council - Meeting Room
- . ADJOURNED



 Chris Holland, Planning Manager

11/19/13

 Date



COMMUNITY DEVELOPMENT DEPARTMENT
 80 Columbia Avenue ♦ Marysville, WA 98270
 (360) 363-8100 ♦ (360) 651-5099 FAX

I-502 Committee Meeting Minutes

November 19, 2013

5:30 p.m.

Council – Meeting Room

Committee Members: Bruce Paquette, citizen
 Cate Mighell, business owner
 Steve Muller, City Council
 Kelly Richards, Planning Commission

Staff in Attendance: Gloria Hirashima, CAO/CD Director
 Chris Holland, Planning
 Lt. Mark Thomas, Police
 Commander Jeffrey Goldman, Police

Absent: None

I-502 Committee Meeting No. 2:

- Committee meeting minutes from November 5, 2013 approved unanimously.
- Staff gave a brief overview of materials provided to the committee, including:
 - I-502 Information provided by Committee Member Mighell
 - Staff prepared I-502 Alternatives
 - Staff prepared I-502 Zoning Map
- Committee Member Mighell provided a broader overview of the I-502 information she provided including crime statistics, indicating crime has not increased, and in some cases has decreased, in areas where marijuana dispensaries are located.
- Committee Member Paquette asked if any of the crime statistics provided analyzed increased crime as a whole in the communities where marijuana is legal, not just areas where dispensaries are located. The committee did not know of any such study.
- Committee Member Paquette asked if any of the taxes collected would go the Marysville Police or Schools. Staff answered that none of the taxes collected would go to the Marysville Police or Schools.
- Committee Member Mighell stated that she had discussed the tax collection concern of the Marysville I-502 Committee with the WSLCB and that money is earmarked towards education.
- Lt. Thomas had the list of tax distribution. Primarily taxes collected will be distributed to the Liquor Control Board for administration expenses, to the state's Basic Health Plan, to the state general fund, and to health-related programs. B&O and local retail sales taxes would apply at retail outlets.
- The committee had a general discussion regarding the DUI process for individuals under the influence of marijuana. Lt. Thomas gave a brief overview stating that it takes

approximately 2 – 4-hours to process a marijuana DUI arrest and a warrant is required in order to get a blood sample.

- Lt. Thomas discussed the article in the Everett Herald from Monday, November 18th. The topic of discussion was the fact that an individual quoted in the article stated that they would continue to purchase marijuana on the “black market” in order to avoid the increased prices due to taxation.
- Committee Member Mighell asked whether or not the City could potentially require security guards when a retail business was open in order to avoid loiterers, etc. CAO Hirashima stated that she believes this was a possibility.
- Lt. Thomas stated that CD Staff has prepared six (6) alternatives for consideration and asked each committee member which alternative they would recommend to the Planning Commission. The following are the recommended alternatives:
 - Committee Member Richards: Recommended allowing retail outlets only, as outlined in Alternative 6, however not to allow producers/processors and also limit the hours of operation between 10AM – 8PM.
 - Committee Member Mighell: Recommended allowing retail outlets, as outlined in Alternative 6, allow producers and processors, as outlined in Alternative 5, however, the producer/processor area boundary is recommended to be expanded to 156th Street NE.
 - Committee Member Muller: Recommended Alternative 2, continuing the moratorium until such a time where the WSLCB and other regulating entities have adopted and put into place a set of rules, and said rules have been vetted by the courts, and Marysville has had an opportunity to monitor how other cities have implemented those rules and the impacts producers, processors and retailers have on the implementing communities.
 - Committee Member Paquette: Recommended Alternative 2. In addition Committee Member Paquette wants the City to be able to rescind any and all marijuana retail, producer and processor permits if said businesses are ultimately allowed to locate in Marysville and there is Police evidence that these businesses are having a negative impact on the community.
 - Marysville Police (c/o Lt. Thomas): Recommend Alternative 1 – Prohibition on retail, producers and processors.
- Staff overviewed what the next steps are and that the committee would be informed of any and all upcoming workshops and hearings before the Marysville Planning Commission and Council.
- ADJOURNED

Chris Holland, Planning Manager

Date



U.S. Department of Justice


Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

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- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

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must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

Page 4

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation



MARYSVILLE POLICE DEPARTMENT



MEMORANDUM

To: CAO Gloria Hirashima

11.04.13

From: Chief Smith
 Commander Goldman
 Lt. Thomas

Re: The Police Departments position on marijuana businesses within the city limits of Marysville

Revisiting Like Issues:

Just four (4) short months ago the Marysville Police Department was asked to research the impact that medical cannabis collective gardens and dispensaries could have on our community, and make a recommendation based on that research. Chief Smith authored a six (6) page memo outlining the research.

On June 11, 2013, City Attorney Grant Weed, CAO Hirashima, and Chief Smith presented information to the Planning Commission recommending a prohibition on collective gardens/dispensaries within the city of Marysville. The Planning Commission unanimously approved that recommendation to the City Council.

On June 24, 2013, the City Council approved the Planning Commission's recommendation and adopted Ordinance 2932 prohibiting the establishment of medical cannabis collective gardens and dispensaries by a unanimous vote.

Four months later we are revisiting this topic with the only significant change being Recreational Marijuana "Production and Process" and Retail Sales vs. the previous Medical Marijuana Collective Grows and Dispensaries.

Recommendations:

The Marysville Police Department recommends to the Planning Commission and the City Council a continued prohibition on the establishment of marijuana businesses within the city limits of Marysville for both producers processors, and retail sale businesses.

1635 Grove Street, Marysville, Washington 98270
 360-363-8300



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Recommendation based on:

While we recognize that there is growing pressure to adopt the zoning and regulatory ordinances needed to establish marijuana businesses, we also recognize the need for responsible governance. The marijuana trade has always been associated with large amounts of cash, criminal activity, and violence. There is the vocal minority who are in a rush to get in "on the ground floor" of this new industry, motivated by lure of easy money. Now is the time to pause; because we can, doesn't mean we should. Responsible government requires that we insure our actions support our values and priorities; public safety, health and welfare of our citizens, and conformity with local, state, and federal law, being chief among those responsibilities.

This entire adventure of I-502 has been one of the "cart in front of the horse". You are being asked to vote on the zoning ordinances and rules needed to establish an industry. An industry, where at this point there are no adopted rules and regulations at the State level to govern and insure the protection from the many concerns and risks that are associated with the marijuana trade. Simply making recreational marijuana use legal did not make all of those risk and issues disappear.

Those risks and issues include:

- The thoroughly documented and reported criminal activity associated with marijuana production, processing and sales.
- The negative impact of marijuana on children.
- As of now, the many unanswered questions regarding the State's regulations and supervision of this "new industry".

Based on these risks and issues we have made the above recommendation.

Summary Of Process:

The remainder of this document summarizes the Public Safety concerns, statistics, and issues considered in making this recommendation:

- **Documented Criminal Activity Associated with Marijuana – Production, processing, and sales:**
The following information is taken from Chief Smith's memo to Mayor Nehring dated July 1st 2013 regarding the prohibition of medical marijuana collective grows and

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MARYSVILLE POLICE DEPARTMENT



dispensaries. The related criminal activity information and issues for marijuana businesses remain the same whether it is for medical or recreational use.

The introduction to The White Paper on Marijuana Dispensaries (2009) looked into the problems posed by Marijuana Dispensaries. The following outlines the basis for the California Police Chief's Association (CPCA) position:

Because they are repositories of valuable marijuana crops and large amounts of cash, several operators of dispensaries have been attacked and murdered by armed robbers both at their storefronts and homes, and such places have been regularly burglarized. Drug dealing, sales to minors, loitering, heavy vehicle and foot traffic in retail areas, increased noise, and robberies of customers just outside dispensaries are also common ancillary byproducts of their operations. To repel store invasions, firearms are often kept on hand inside dispensaries, and firearms are used to hold up their proprietors. These dispensaries are either linked to large marijuana grow operations or encourage home grows by buying marijuana to dispense. And, just as destructive fires and unhealthy mold in residential neighborhoods are often the result of large indoor home grows designed to supply dispensaries, money laundering also naturally results from dispensaries' likely unlawful operations. (p. v)

Within the report, the CPCA focused on the violent crime associated with marijuana dispensaries and reference, with some anecdotal evidence, less "violent" crimes. The examples of violent crime include robberies, burglaries, and the killing of offenders due to robberies/burglaries. Additionally, the CPCA pulled out a sampling of the state's violent crime associated with marijuana collective gardens, grow operations, and dispensaries.

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The following Violent Crime statistics were highlighted:

Year	Type of Crime	Number of Crimes	Injuries or Killed	Location
2002	Home invasion Robbery/Homicide	1	2 (victims)	Willits, CA
2004-2006	Robberies/Homicide	10	4 (suspect & victims)	Multiple places
2007	Robberies/Homicide	12	1 (victim)	Denver, CO
2007	Burglaries	1	1 (suspect)	Clairmont, CA
2008	Organized Crime Ring linked to Puget Sound	Org. Crime, Money Laundering, Firearms	NA	CA & WA
Total	Robberies/Burglaries	24	8	CA, CO, & WA

Additionally, the CPCA concluded that:

Furthermore, store front marijuana businesses are prey for criminals and create easily identifiable victims. The people growing marijuana are employing illegal means to protect their valuable cash crops. Many distributing marijuana are hardened criminals. Several are members of stepped criminal street gangs and recognized organized crime syndicates, while others distributing marijuana to the businesses are perfect targets for thieves and robbers. They are being assaulted, robbed, and murdered. Those buying and using medical marijuana are also being victimized. Additionally, illegal so-called "medical marijuana dispensaries" have the potential for creating liability issues for counties and cities. All marijuana dispensaries should generally be considered illegal and should not be permitted to exist and engage in business within a county's or city's borders. Their presence poses a clear violation of federal and state law; they invite more crime; and they compromise the health and welfare of law-abiding citizens.

Colorado

Marysville PD Crime Analyst Don Castanares provided me with the rise in burglary rates associated with Marijuana dispensaries. The rise can partially be attributed to the fact that the THC (active drug ingredient within marijuana) is higher in Colorado and is considered to be more potent than marijuana grown/cultivated in surrounding states. This issue will remain active as indoor marijuana grows typically produce a crop that yields a higher THC potency. The rise in burglaries can be correlated to out of state criminals burglarizing Colorado "dispensaries". These numbers reflect the Denver, CO area dispensary burglaries:

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Denver, CO Marijuana Dispensary Burglaries

Year	Number
2009	10
2010	64
2011	100
2012	102
Total	276

The California Study example was not included in these numbers as those were robberies. Additionally, the number of marijuana dispensary burglaries from January to March in 2013 was 22. The continuing trend with these types of burglaries remains elevated at over 80 burglaries per year (2011-2013).

Washington

Crime Analyst Castanares also provided me with information related to Washington State marijuana collective gardens, grow operations, and dispensaries. This information is also only a sample of the crime associated to marijuana collective gardens/grows/dispensaries and does not reflect this type of crime in totality within the State of Washington. Additionally, the crime captured within Washington includes 2011 – May 2013. These are only the noteworthy cases that have been compiled reflecting limited collection of the overall data.

Puget Sound Area Marijuana Collective Garden/Grow/Dispensary Crimes (2011-2013)

Type of Crime	Number of Crimes	Killed/injured
Homicide	3 (one in a robbery)	3 (victims)
Robberies / Unlawful Imprisonment	6 (does not include the homicide)	2 (suspects)
Arson	2	NA
Explosives	1 (C4 & firearms)	NA
Burglaries	11 (newsworthy only compiled)	NA
Total	23	5

The criminal activity surrounding marijuana collective gardens, grow operations, and dispensaries was documented in the CPCA, through Colorado crime stats, and compiled by the Marysville PD Crime Analyst. There is still much uncertainty as to the parameters

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of state law compared to how federal law will be applied to local jurisdictions. As the CPCA pointed out, local jurisdictions may be subject to criminal liability if allowing the sales and distribution of marijuana within jurisdictional boundaries. The zoning implications of applying the federal standard of prohibiting distribution or manufacturing of marijuana (medical or pleasurable), would be prevented in most of the City of Marysville anyway.

The criminal activities/behaviors surrounding marijuana collective gardens, grow operations, and dispensaries in the State of Washington, specifically the Puget Sound area, are on the rise. What is most problematic is the fact that violent crime is on the rise as the marijuana industry can be linked to criminal organizations locally and nationally. The CPCA report illuminated a link between California and the Puget Sound, as well as there is a commonly known fact that the drug trade utilizes "trafficking highways" to distribute all illicit drugs including marijuana. Since marijuana trafficking organizations are already embedded within our culture, they will not likely give up their territory and lose millions/billions of dollars to state and local manufacturers/distributors.

The concern that has not been exposed is the fact that criminal drug organizations utilize established businesses to launder drug moneys. We can even expect the violence to increase as control to marijuana industry money increases. At worst, collusion and corruption issues within the entire system may expand. These issues have not been thoroughly vetted through the legislative process, nor have the governing authorities substantially addressed how law enforcement is to manage and enforce regulations. Currently, most state prosecuting attorneys have taken a back seat until formal regulations have been established. In fact, the Snohomish County Prosecutors are not filing any charges related to marijuana, even if a grow operation is not within state guidelines.

- **Current status as a violation of federal law:**

When I-502 was passed into law there were many unanswered questions as to how this initiative would play out, since the manufacturing, processing, transportation, and sale of marijuana was still a violation of Federal Law. Some of these original concerns by local law enforcement were: which law takes precedent State or Federal? Would failure to enforce the Federal law jeopardize potential Federal funding? Does our Oath of Office require law enforcement officials to enforce those Federal Statutes? Are we

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liable for damages and expose the Department we work for, the city that employs us, and officers to liability claims by not enforcing marijuana laws?

Many believe these questions and many others were answered by the August 29th, 2013 3½ page memo published by US Deputy Attorney General James Cole. This memo was titled as Guidance Regarding Marijuana Enforcement and was directed to all Federal Prosecutors.

A careful read of this memo shows that the Federal Government did not divorce it's interest in law enforcement issues concerning marijuana in Washington and Colorado, but rather focused it efforts into several key areas. The memo establishes eight (8) priorities for federal prosecutors enforcing marijuana laws. Stating the DOJ will still prosecute individuals or entities to prevent;

1. the distribution of marijuana to minors;
2. revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
3. the diversion of marijuana from states where it is legal under state law in some form to other states;
4. state –authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
5. violence and the use of firearms in the cultivation and distribution of marijuana
6. drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
7. growing of marijuana on public lands and the attendant of public safety and environmental dangers posed by marijuana production on public land;
8. preventing marijuana possession or use on federal property.

The memo further stated that the State must have..... *"A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice."*

It is important to note that the entire last page of this now infamous memo acts like a disclaimer which retains the full weight of federal prosecution under a number of exceptions. Some of the key points raised on this last page are:

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- "...this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion."
- "...does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law."
- "Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action..."
- "This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural..."
- "...nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest."

All of which leaves one to wonder if the Federal position of allowing Washington State to proceed with the State law, could or would be reversed or significantly altered with the change in administration or circumstances.

- **The potential for Organized Crimes involvement in this trade:**

As noted above in US Deputy Attorney General James Cole's memo the Department of Justice and the Attorney General's Office supports the assertion that organized crime has long been associated with the manufacturing, delivery and sales of marijuana. Whether it was a local sophisticated Drug Trafficking Organization (DTO) or an international Outlaw Motorcycle Gang (OMG) controlling the distribution of "B.C.

Bud" from Vancouver, Canada, these organizations make millions of dollars in the manufacturing, distribution, and sales of marijuana. It would be naïve of us to think that these elements of criminal enterprise would simply walk away from the enormous potential profits associated with recreational marijuana.

George Santayana is credited with saying, "Those who cannot remember the past are condemned to repeat it." In 1920, The Volstead Act and the 18th Amendment to the Constitution created the prohibition of alcohol in the United States. This single act of

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legislation is credited with being the single largest source of economic power and the galvanizing event for groups of people that would later become known as the American Mafia. Like the Volstead Act, the status of marijuana being illegal prior to I-502 has been the source of economic power to gangs like the Hells Angels, Mexican drug cartels, Asian gangs, and various street gangs.

However, in 1933 with the repeal of the Volstead Act with the 21st Amendment organized crime, the American Mafia did not disappear. They simply changed their illegal operations, much of it was based around the trade they already knew and controlled alcohol. We cannot believe that today's organized crime element will simply disappear with the passage of I-502.

Even with a limited imagination, we can foresee where under I-502 legislation, legitimate legal Washington marijuana grows could be funded and controlled by organized crime factions with the intent to divert large amounts of legally grown marijuana headed for local retail establishments to States where marijuana still holds the status of a controlled substance and thus the sale of that marijuana is at a much higher price increasing the profit of the growing operation.

This was of such a concern and obvious possibility that of the 8 priorities established by the Attorney General's Office in their previously mentioned memo, 3 of them deal specifically with this issue.

If metric tons of OxyContin can be diverted from the course of pharmaceutical manufacturing to shipment, it's not a large leap to see how tons of marijuana, legally grown, in Washington State could be diverted to States like California, Arizona, Texas, and as far as New York, for enormous profits.

Since 9/11 organized crime groups greatest hurdle in getting "B.C. Bud" to the lower 48 States has been getting it across the U.S.- Canadian border. To overcome the increase in border security these organized crime elements have set up illegal grows in States. It is there that the biggest threat to their profitability became the detection of these grows and raids by local, state, and federal law enforcement. With the legalization of marijuana and the establishment of "legitimate" grows, their single greatest threat is now the simple diversion of a legally grown product regulated by an under-staffed,

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under-funded, Liquor Control Board. The Liquor Control Board is ill prepared for the enormity of the tasks being asked of them.

Imagine the Liquor Control Board being responsible to insure every potato grown in the State of Washington is harvested and shipped to market, and that no legally grown potato is diverted to another location without its knowledge. In essences that is what is being asked of them. To write and enforce the rules and regulations that insures every "bud" grown in a legal producer's grow is properly handled and shipped to a licensed retailer. This should give you a sense of the colossal responsibility that lays ahead for this organization and the enormous risk involved in not having those rules and regulations completed and in place prior to the roll out.

- **The status of marijuana as a "gateway" drug:**

Since the 1980's the term "Gateway Drug" has been hotly contested in the anti vs pro drug camps. Those in the anti drug camp believe that substances like marijuana, alcohol, and cigarettes, can and sometimes do lead to the use of harder drugs by individuals.

Where those in the pro camp often state that there is no evidence of this relationship and that the "Gateway Drug" cry is propoganda and scare tactics used by the anti drug groups.

Those of us in law enforcement have plenty of personal anecdotes as evidence to support the marijuana as a gateway drug claim, but there have been scientific studies to justify these concerns. A study done by the Yale University School of Medicine, which appeared in the on line Journal of Adolescent Health, showed that alcohol, cigarettes and marijuana were associated with an increased likelihood of prescription drug abuse in men 18 – 25. The research had a sample of 55,215 18 - 25 year olds. From that study we learned that those who had used marijuana were 2.5 times more likely to later "dabble" in prescription drugs, then those their age who abstained from marijuana. The lead author and an associate professor of medicine at Yale University School of Medicine said that further research is needed but, "it's a red flag, it sort of highlights that there's a potential association that's important here." Susannah Tung, a staff psychiatrist at St. Vincent's Behavioral Health in Westport who specializes in battling

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addiction, was more direct in her assessment. She commented that she frequently sees how early use of alcohol, cigarettes and marijuana can open the door to harder substances.

A recent study by Columbia University's Center on Addiction and Substance Abuse found a pronounced difference in future drug use between kids who used marijuana and those who did not. It revealed that teens who smoke marijuana are 85 times more likely to use cocaine than those who do not. And that 60% of the kids who smoke marijuana before the age of 15 move on to cocaine.

There is great debate on whether marijuana is a gateway drug or just because of its easy availability is the first in line of a long list of drugs those with a predisposition to addiction may have access to. Either way most if not all law enforcement officers will tell you this. I have met many people who have or do smoke marijuana and have not moved onto any other drugs or even quit smoking marijuana all together. However, I have never met a cocaine, meth, heroin, or ecstasy abuser who had not first smoked marijuana.

- **The banking institutions refusal to get involved in this industry:**

The US Attorney General's Office, through DAG James Cole's memo of August 29th 2013, stated that federal investigation and prosecution of marijuana offenses in states where they have adopted state laws governing the use of recreational and medical use of marijuana should be limited to the eight priorities established in that memo and covered earlier in this paper. That same memo further stated, "Congress had determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large scale criminal enterprises.... The Department of Justice is committed to enforcement of the CSA consistent with those determinations."

According to recently published reports; marijuana businesses, even those that will soon be legally licensed in this State, are considered criminal enterprises under federal law, which makes handling their money a crime in the eyes of DOJ. The message to banks was clear: don't do it.

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In a 2011 memo by DAG Cole he wrote regarding the proceeds of medical marijuana. "Those who engage in transactions involving the proceeds of such activity may also be in violation of federal money laundering statutes and other federal financial laws."

As a result those getting into the marijuana business cannot open bank accounts, secure lines of credit, or obtain loans from a federally insured financial institution. Denny Eliason, a lobbyist for the Washington Bankers Association was quoted as saying, "We're eager to but we're not willing because there is too much at stake." David Curtis, Director of Compliance Services for the Northwest Credit Union Association stated. "Our hands are tied," "Until we can get some official guidance everybody is in a holding pattern."

The net effect of this current status is that the now legal marijuana business is forced to be an all cash business. Even Governor Jay Inslee, WA and Governor John Hickenlooper, CO noted that, "This creates an unnecessary inviting target for criminal activity." Scott Jarvis, the Director of the State's Department of Financial Institutions has said, "Having all that cash running around doesn't really provide the kind of safe environment the Attorney General has said he wants to see."

With an all cash business the risk for violent robberies, organized crimes involvement, and the diversion of money to avoid taxes is significantly increased at all levels of this emerging industry. As evident by the fact that dispensary burglaries in Denver alone increased 1020% from 2009 to 2012.

This is all further evidence that, once again, the State of Washington has put the cart in front of the horse. There is pressure being applied to the council to quickly adopt the ordinances needed for this industry. However, even the banking institutions recognize the risk and are taking a wait and see approach until all the rules and regulations have been adopted and are in place. Do the citizens of Marysville deserve less?

- **The hazards associated with large scale marijuana grows:**

The hazards most commonly associated with indoor marijuana grows fall into four primary categories;

- Excessive mold spore exposure

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- Exposure to chemicals used in the manufacturing of marijuana; most common are fertilizers, root conditioners, and pesticides.
- Elevated CO2 levels
- Electrical hazards

Electrical hazards are the product of the demands made on an electrical system that require high intensity lights, ventilation systems, air scrubbers, and fans to grow marijuana in an indoor environment.

The following information is from a study completed by Division of Environmental and Occupational Health Science, Department of Medicine, of the National Jewish Health, a highly regarded respiratory hospital in Denver CO. the lead author is a Dr. John Martyny.

Indoor marijuana grow operations (MGO's) enable a year-long growing season in which conditions can be tightly controlled, resulting in plants with higher THC content per plant. A number of environmental factors must be monitored and kept in balance including the amount of light, the day-night periodicity, the carbon dioxide level, the humidity level and the temperature. In addition, the plants must be provided with adequate nutrition and pests must be kept under control.

Since a residential, [and most commercial] structure are not designed to function as a greenhouse, contamination by pesticides and fertilizers is more difficult to control, moisture can cause damage to building materials and result in excessive mold growth, and the risk of fire is significantly increased.

In order to provide the best growth environment for marijuana, temperature and humidity must be regulated. Temperature is normally kept between 69.8 degrees F. and 89.6 degrees F. (although some references indicate that the optimum temperature may be as high as 95 degrees F). The relative humidity is normally kept between 50% and 70% according to most sources although there have been some reports of relative humidity exceeding 90%. The elevated relative humidity coupled with the elevated temperatures and the need for irrigation, frequently enables fungal growth within the structure. Increased fungal growth within the structure results in elevated mold exposures.

Airborne levels of mold spores within these structures may subject the occupants, emergency personnel and other individuals to significant health hazards.

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A factor that is very important in determining the THC content of plants is an elevated carbon dioxide level. The normal carbon dioxide level in the outside air ranges from 300 ppm to 400 ppm. In MGO's it is desirable to have levels of carbon dioxide that exceed 700 ppm with 2000 ppm being the highest desirable level. Most marijuana operations attempt to keep carbon dioxide levels at between 700 ppm and 1500 ppm. While these levels of carbon dioxide are not of public health concern, they [present and] do cause to ancillary problems. First, in order to keep carbon dioxide levels high, ventilation rates normally need to be reduced often leading to excess moisture. Secondly, if the carbon dioxide is generated by the use of fossil fuel combustion, carbon monoxide and oxides of nitrogen can be produced. Both of these compounds can be very dangerous and cause significant health effects in exposed individuals.

Chemicals are also utilized as fertilizers and pesticides. Although these chemicals may not usually cause a high degree of concern when used by qualified individuals, the use by individuals unaware of the dangers may result in risk to the neighborhood.

This data indicates that the number of marijuana Grow Operations with elevated spore levels appear greatest when the number of plants exceeds 50.

Concerns include chemical contamination, carbon monoxide and other combustion products, as well as excessive fungal contamination due to the high humidity in the structure are real concerns, [that must be recognized and planned for on the front end, rather than trying to go back in and fix the problems after they have occurred.]

(The above health concerns were taken from the [Health Effects Associated with Indoor Marijuana Grow Operations](#) study completed by the National Jewish Health Denver Co. Dr John W. Martyn pages 1, 2, 5 and 21.)

Conclusion:

We believe that the above information fully supports a prohibition of marijuana related business within the city limits of Marysville, which is the right of a responsible government. A government which has the responsibility to insure that an emerging industry with a documented history of risks, crime, and hazards and, as of yet, no adopted regulatory rules and procedures, does not cause more harm than good. Truly the needs and the health, welfare, and public safety must outweigh the wants of a few who stand to make an enormous profit at the expense of our limited city resources.

At a minimum there is sufficient grounds to explore the continuation of the city's moratorium on marijuana related businesses until the State finally get's the horse in front of the cart, by

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answering the important questions raised in this paper and drafting, implementing, and demonstrating the ability to enforce those rules and regulations governing the recreational marijuana industry.

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Initiative 502's impact on the Washington State Liquor Control Board

Summary

Initiative 502 would license and regulate marijuana production, distribution, and possession for persons over 21; remove state-law criminal and civil penalties for activities that it authorizes. Tax marijuana sales and earmark marijuana-related revenues. The new tightly regulated and licensed system would be similar to those used to control alcohol.

Licenses and Fees

Creates an application process that mirrors the liquor license application process

Creates three new marijuana licenses: producer, processor, and retailer. The fee for each license is a \$250 application fee and \$1000 annual renewal fee.

- Marijuana Producer: produces marijuana for sale at wholesale to marijuana processors and allows for production, possession, delivery, distribution.
- Marijuana Processor: processes, packages, and labels marijuana/marijuana infused product for sale at wholesale to marijuana retailers and allows for processing, packaging, possession, delivery, distribution.
- Marijuana Retailer: allows for sale of useable marijuana/marijuana infused products at retail outlets regulated by the WSLCB.

The initiative allows the WSLCB to charge fees for anything done to implement/enforce the act. For example, fees could be charged on sampling, testing, and labeling that would be the cost of doing business as a licensee

Marijuana Taxes

The initiative creates three new excise taxes to be collected by the WSLCB:

- Excise tax equal to 25% of the selling price on each sale between licensed producer and licensed processor. Paid by the producer.
- Excise tax equal to 25% of the selling price on each sale of usable marijuana/marijuana infused product from a licensed processor to a licensed retailer. Paid by the processor.
- Excise tax equal to 25% of the selling price on each licensed retail sale of usable marijuana/marijuana infused product. Paid by the retailer. **This tax is in addition to any/all applicable general, state, and local sales and use taxes, and is part of the total retail price.**
- All funds from marijuana excise taxes are deposited in the Dedicated Marijuana Fund. Disbursements from the Dedicated Marijuana Fund shall be on authorization of the WSLCB or a duly authorized representative.

Initiative 502 allows for the WSLCB to enact rules that establish procedures and criteria for:

- The equipment, management and inspection of production, processing, and retail outlets.
- Books and records maintained by licensed premises.
- Methods of producing, processing and packaging of marijuana/marijuana infused products, to include conditions of sanitation.

- Standards of ingredients, quality, and identity of marijuana/marijuana infused products produced, processed and sold by licensees.
- Security requirements for retail outlets and premises where marijuana is produced and processed.

Retail Outlets

Specific number of retail outlets and licenses will be determined by the WSLCB in consultation with the Office of Financial Management taking into account population, security and safety issues, and discouraging illegal markets. The initiative also caps retail licenses by county.

- Retail outlets may not employ anyone under the age of 21, nor allow anyone under the age of 21 to enter the premises.
- Retail outlets are only authorized to sell marijuana/marijuana products or paraphernalia.
- Retailers are allowed one sign identifying the outlet's business or trade name, not to exceed 1600 square inches.
- They are not allowed to display marijuana or marijuana related products in a manner that is visible to the general public.

Possession

If enacted, individuals twenty-one years of age or older are legally authorized to possess and use marijuana-related paraphernalia and any combination of:

- One ounce of useable marijuana;
- 16 ounces of marijuana infused product in solid form; or
- 72 ounces of marijuana infused product in liquid form.

Individuals will still be subject to criminal prosecution for:

- Possession in amounts greater than what is listed above.
- Possession of any quantity or kind of marijuana/marijuana infused product by a person under 21 years of age.

Price

The Office of Financial Management places a **price estimate of \$12 per gram**. Medicinal marijuana dispensary prices on average range between \$10 and \$15 per gram with some premium products exceeding \$15 per gram.

Based on average retail mark-up practices, estimated producer price is \$3 per gram and estimated processor price is \$6 per gram.

Timeline

- November 6, 2012: Public vote on Initiative 502.
- December 6, 2012: Initiative 502 goes into effect (30 days after general election).
- December 1, 2013: Deadline for the WSLCB to establish the procedures and criteria necessary to implement the initiative.

###

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Washington State Liquor Control Board

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FAQs on I-502

Frequently Asked Questions about Implementing Initiative 502

Subtopics (links)

- [Licenses](#)
- [Retail Stores](#)
- [Public Safety/Criminal](#)
- [Federal Government](#)
- [WSLCB Hiring](#)
- [Financial](#)
- [Medical Marijuana](#)

Licenses

Q: When can I buy marijuana legally?

A: The initiative allows the Washington State Liquor Control Board (WSLCB) until December 1, 2013 to write the rules, or implementation details, of the new system. Because the WSLCB is building the system from seed to sale, it will likely take the full year to complete the rules.

Q: What is a license? How do I get it? When can I get it

A: I-502 creates three separate tiers: marijuana producer, marijuana processor, and marijuana retailer. Specific license requirements are detailed in the proposed rules which are available [here](#) [1]. BLS will begin accepting I-502 license applications on November 18, 2013 and the WSLCB will begin processing the applications on November 20. The best way to keep up to date on the process is to register for [email notifications](#) [2] on the WSLCB website www.liq.wa.gov [3].

Q: How much does a license cost?

A: I-502 establishes a license application fee at \$250 and a \$1,000 renewal fee for each of the three licenses; marijuana producer, marijuana processor and marijuana retailer.

Q: Can I hold all three license types?

A: Having all three licenses is not permitted under I-502. A licensee may hold both a producer and a processor license simultaneously. The initiative does not allow a producer to also be a retailer or a processor to also be a retailer.

Q: How many retail licenses will be issued?

A: The number of retail locations will be determined using a formula that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. Once the number of locations per city and at-large have been identified, the specific locations will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county.

Q: How many producer and processor licenses will be issued?

A: No limit. The LCB will open a 30 day window in November where anyone can apply, and qualified applicants will receive licenses.

Q: With a limited amount of retail licenses how will you determine who will receive them?

A: WSLCB staff are developing the guidelines for the retail license lottery in the event that there are more retail license applicants than available licenses. As more information becomes available we will notify stakeholders via the I-502 Listserv.

Q: Can a current farm just convert its crop to marijuana?

A: Converting a crop to marijuana would require a producer license and the farm would have to meet all of the guidelines set forth in the rules pertaining to outdoor growing.

Q: Can I grow my own marijuana now? Can I sell my homegrown marijuana?

A: Home grown marijuana for recreational use, as well as sale, is illegal. Recreational use marijuana must be purchased from a state-licensed retailer.

Retail Stores

Q: Are there restrictions on where I can set up a store?

A: You cannot set up a store within 1000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or game arcade that allows minors to enter. Local authorities will also be notified and have an opportunity to object.

Q: Will the retail outlets be run by the state?

A: Stores will be licensed and regulated by the WSLCB but will be private-sector businesses.

Q: Can I incorporate marijuana sales into my existing business?

A: No. The initiative is clear that retail outlets may only sell marijuana, marijuana infused products and marijuana paraphernalia.

Q: Can customers smoke in a retail store?

A: No. On-premise consumption is not allowed under Initiative 502.

Q: Are there any restrictions on advertising?

A: Retailers are limited to one 1,600 square inch sign bearing their business/trade name. They cannot put

products on display to the general public such as through window fronts. No licensee can advertise marijuana/infused product in any form or through any medium whatsoever within 1,000 ft. of school grounds, playgrounds, child care, public parks, libraries, or game arcades that allows minors to enter. Also, you can't advertise on public transit vehicles/shelters or on any publicly owned or operated property.

Q: Will non-Washington residents be able to purchase marijuana?

A: Yes, but the marijuana products are to be consumed in Washington.

Public Safety/Criminal

Note: The WSLCB is a licensing and regulatory agency and does not handle criminal prosecutions

Q: What will the WSLCB do to ensure public safety, especially preventing access by minors?

A: Public safety is central to the WSLCB mission. As expected by the voters, the rules we create will include minimums for security, preventing minors' access to marijuana and other provisions. Educating retailers and preventing minors access to alcohol is an important part of our enforcement work today. Something similar for marijuana sales is likely.

Q: What is the DUI provision?

A: The initiative sets a per se DUI limit of "delta-9" THC levels at greater than or equal to 5 nanograms per milliliter of blood (5 ng/mL). State and local law enforcement agencies are tasked with enforcing the DUI limit.

Q: Since it's legal to possess marijuana Dec. 6, 2013, but there will not be licensed retailers from which to purchase it until 2014 can I still be arrested for possession?

A: I-502 decriminalizes marijuana possession and use in Washington State for those age 21 and older and who possess any combination of: one ounce of marijuana, 16 ounces of marijuana in solid form or 72 ounces in liquid form. The Seattle Police Department wrote an [FAQ document](#) ^[4] that addresses how its officers will be handling marijuana possession going forward. Each jurisdiction may be handling it differently so it's important to check with local law enforcement on how to proceed.

Q: Can I still be drug tested now that marijuana is legal

A: I-502 does not address the topic of drug testing but it is our understanding that employers may still conduct drug testing at their discretion. Since marijuana is illegal under federal law institutions that receive federal funds will still be subject to mandated testing. Organizations such as the NFL and NBA have issued statements that marijuana consumption is a violation of their conduct policy and they intend to continue testing for it.

Q: The initiative says I cannot consume marijuana in public. What is the definition of "in public?"

A: Initiative 502 states that it is unlawful to open/consume a package of marijuana or marijuana infused product in view of the general public.

Q: Can marijuana purchased legally in Washington be transported to other states?

A: No. Marijuana and marijuana products are to be consumed in Washington State.

Federal Government

Q: What is the federal government going to do?

A: On August 29, 2013 Attorney General Eric Holder called both Governors Jay Inslee and John Hickenlooper (Colorado) to outline the federal government's guidance on legalized marijuana. That guidance was also outlined in a memo which focuses on eight points of federal emphasis such as youth access and public safety which the LCB's proposed rules address. I-502's regulatory system, and the rules written by the Board appears to meet those eight points. The memo does not change federal law. Governor Inslee's office is maintaining an open dialogue with the federal government and the WSLCB is moving forward to carry out the expectations of the agency under the new law.

Q: Since marijuana is legal in Washington can the federal government still prosecute me?

A: Yes. I-502 does not preempt federal law. Presently Washington State residents involved in marijuana production /retailing could still be subject to prosecution if the federal government chooses to do so.

Q: Can the federal government confiscate my assets?

A: Yes. Confiscation of assets is one of the enforcement tactics available to federal authorities.

Q: What about industrial hemp? Does this create a new market for hemp products?

A: No. I-502 is focused on legalizing the recreational use of marijuana. I-502 modifies the definition of "marijuana" to include only cannabis greater than 0.3 percent THC concentration. Cannabis under this limit – industrial hemp – is not treated as recreational "marijuana."

WSLCB Hiring

Q: Will you be hiring after the passage of Initiative 502?

A: Yes. The task of regulating an entirely new system is a big one and the agency will have to expand to meet those challenges. We are estimating about 35 hires, mostly in licensing and enforcement.

Q: How can I apply for a job with WSLCB?

A: All job openings will be posted in the [careers section](#) ^[5] of our website. The actual application process is done through [Careers.wa.gov](#) ^[6]. Visit their website and fill out your profile in advance so you are ready when opportunities become available.

Q: Does the WSLCB drug test new employees?

A: The WSLB does not drug test administrative staff at the time of hiring. However, we do test potential enforcement staff for drugs, including marijuana. The WSLCB is a drug-free workplace. All employees are expected to not be impaired at work. Should a reasonable suspicion arise that an employee is impaired, that person may be tested.

Q: I'm an expert in the field of marijuana how can I be involved in the process?

A: Our rule-making system is a public process so we will be engaging citizens along the way. Like hiring, the best way to keep up to date on the process is to register for [email notifications](#) [2]. We will be sending out timelines and requests for public comment using email.

Financial

Q: What is retail marijuana going to cost?

A: OFM's fiscal impact statement places a price estimate of a \$3 per gram producer price, a \$6 per gram processor price and a pre-tax \$12 per gram average retail purchase price.

Q: How much tax revenue will I-502 generate?

A: Estimates range anywhere between \$0 and \$2 billion dollars during the first five years. Without knowing what the market will look like or what the federal reaction will be, it is not presently possible to accurately gauge the total amount of revenue produced.

Q: How is it going to be taxed?

A: The initiative applies a 25% excise tax on each level of the system: producer to a processor, processor to a retailer, and retailer to the customer. In addition, B&O taxes on the production and local retail sales taxes apply.

Q: I-502 tax rates are too high, can you lower them?

A: The tax structure for I-502 is prescriptive in the initiative and has become law with its passing. WSLCB officials do not have the authority to change the taxes that were voted for by the public. A change to the tax structure would have to come from the legislature. During the first two years a change to the initiative would require a two thirds majority.

Medical Marijuana

Note: I-502 does not address medical marijuana. The state does not currently license or regulate medical marijuana outlets. I-502 does not change how or where they operate.

Q: Can medical marijuana patients continue to cooperatively grow?

A: I-502 is silent on medical marijuana.

Q: Is it true that the WSLCB is just going to license current medical marijuana outlets to retail marijuana?

A: No. Retail licenses will be issued to qualified applicants who meet the licensing criteria. A medical marijuana outlet that wants to convert to a recreational outlet will have to go through the same application process as any other potential applicant. If they were to obtain a retail license they would only be allowed to sell marijuana purchased from the recreational system, they would not be allowed to comingle medical and recreational marijuana.

Q: Where can I learn more about medical marijuana?

A: The Washington State Department of Health has information about medical marijuana on its website [here](#) [7].

Q: Will the Washington State Liquor Control Board be changing its name?

A: Presently there are no plans to change the agency's name. Any change would have to come from the state Legislature and that is a low priority at the moment.

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Source URL: http://www.liq.wa.gov/marijuana/faqs_i-502

Links:

- [1] <https://lcb.box.com/adopted-rules>
- [2] <http://www.liq.wa.gov/node/5591>
- [3] <http://www.liq.wa.gov>
- [4] <http://spdblotter.seattle.gov/2012/11/09/marijwhatnow-a-guide-to-legal-marijuana-use-in-seattle/>
- [5] <http://www.liq.wa.gov/node/23>
- [6] <http://Careers.wa.gov>
- [7] [http://www.doh.wa.gov/SearchResults.aspx?tag=Medical%20Marijuana%20\(Cannabis\)](http://www.doh.wa.gov/SearchResults.aspx?tag=Medical%20Marijuana%20(Cannabis))



Washington State Liquor Control Board

I-502 Implementation Timeline

The below timeline reflects the Washington State Liquor Control Board's official timeline for implementation of Initiative 502. The Board and staff are working from this timeline going forward.

By law, the WSLCB must have the rules written by December 1, 2013. The agency is on track to meet this deadline. If and/or when timeframes change we will communicate those changes via the [WSLCB Listserv](#) and our agency [Twitter](#).

Date (2013)	Milestone
September 4	File supplemental CR 102 with revised proposed rules
October 8	Seattle public hearing/special meeting on proposed rules
October 9	Spokane public hearing/special meeting on proposed rules
October 16	Board adopts or rejects proposed rules (CR 103)
November 18	BLS begins accepting applications for all license types
November 20	WSLCB begins processing applications for all license types (30-day window)
December 1	Rules are complete (as mandated by law)
December 19	30-day window closes for producer, processor and retailer license applications

For more information on the implementation of I502 and to join our listserv to receive email updates, please visit our website at www.liq.wa.gov.

###

**Chapter 314-55 WAC
MARIJUANA LICENSES, APPLICATION PROCESS, REQUIREMENTS, AND REPORTING**

NEW SECTION

WAC 314-55-005 What is the purpose of this chapter? The purpose of this chapter is to outline the application process, qualifications and requirements to obtain and maintain a marijuana license and the reporting requirements for a marijuana licensee.

NEW SECTION

WAC 314-55-010 Definitions. Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

(6) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

(7) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

(8) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(9) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(10) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

(11) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(12) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

(13) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

(14) "Perimeter" means a property line that encloses an area.

(15) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

(16) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

(17) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

(18) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

(19) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

(20) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

(21) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

(22) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

NEW SECTION

WAC 314-55-015 General information about marijuana licenses. (1) A person or entity must meet certain qualifications to receive a marijuana license, which are continuing qualifications in order to maintain the license.

(2) All applicants and employees working in each licensed establishment must be at least twenty-one years of age.

(3) Minors restricted signs must be posted at all marijuana licensed premises.

(4) A marijuana license applicant may not exercise any of the privileges of a marijuana license until the board approves the license application.

(5) The board will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

(6) The board will not approve any marijuana license for a location on federal lands.

(7) The board will not approve any marijuana retailer license for a location within another business. More than one license could be located in the same building if each licensee has their own area separated by full walls with their own entrance. Product may not be commingled.

(8) Every marijuana licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the board in a conspicuous place on the premises.

(9) In approving a marijuana license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a marijuana license.

(10) A marijuana processor or retailer licensed by the board shall conduct the processing, storage, and sale of marijuana-infused products using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(11) Marijuana licensees may not allow the consumption of marijuana or marijuana-infused products on the licensed premises.

NEW SECTION

WAC 314-55-020 Marijuana license qualifications and application process. Each marijuana license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the marijuana license application. The

application requirements for a marijuana license include, but are not necessarily limited to, the following:

(1) Per RCW 69.50.331, the board shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the marijuana license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(2) The board will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

(3) The board will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the board and submission of fingerprints to a vendor approved by the board. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check. Financiers must meet the three month residency requirement.

(4) The board will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

(5) The board may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

(6) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license requested.

(7) Per RCW 69.50.331 (1)(b), all applicants applying for a marijuana license must have resided in the state of Washington for at least three months prior to application for a marijuana license. All partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a marijuana license must be formed in Washington. All members must also meet the three month residency requirement. Managers or agents who manage a licensee's place of business must also meet the three month residency requirement.

(8) Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the board. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).

(9) As part of the application process, each applicant must submit in a format supplied by the board an operating plan detailing the following as it pertains to the license type being sought. This operating plan must also include a floor plan or site plan drawn to scale which illustrates the entire operation being proposed. The operating plan must include the following information:

Producer	Processor	Retailer
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process, and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	Description of the types of products to be processed at this location together with a complete description of all equipment and solvents, gases, chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers

After obtaining a license, the license holder must notify the board in advance of any substantial change in their operating plan. Depending on the degree of change, prior approval may be required before the change is implemented.

(10) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

(11) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

(12) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application may be administratively closed or denial of the application will be sought.

NEW SECTION

WAC 314-55-035 What persons or entities have to qualify for a marijuana license? A marijuana license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> • All general partners and their spouses. • All limited partners and spouses.
Limited liability company	<ul style="list-style-type: none"> • All members and their spouses. • All managers and their spouses.
Privately held corporation	<ul style="list-style-type: none"> • All corporate officers (or persons with equivalent title) and their spouses. • All stockholders and their spouses.
Publicly held corporation	<p>All corporate officers (or persons with equivalent title) and their spouses.</p> <p>All stockholders and their spouses.</p>
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).
Any entity or person (inclusive of financiers) that are expecting a percentage of the profits in exchange for a monetary loan or expertise.	<p>Any entity or person who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year.</p> <p>Any entity or person who exercises control over the licensed business in exchange for money or expertise.</p> <p>For the purposes of this chapter:</p> <ul style="list-style-type: none"> • "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. • "Net profit" means gross sales minus cost of goods sold.
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the

lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(3) **Financiers** - The board will conduct a financial investigation as well as a criminal background of financiers.

(4) **Persons who exercise control of business** - The board will conduct an investigation of any person or entity who exercises any control over the applicant's business operations. This may include both a financial investigation and/or a criminal history background.

NEW SECTION

WAC 314-55-040 What criminal history might prevent a marijuana license applicant from receiving or keeping a marijuana license? (1) When the board processes a criminal history check on an applicant, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a marijuana license or renew a license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board will administratively close the application.

(3) The board may not issue a marijuana license to anyone who has accumulated eight or more points as referenced above. This is a discretionary threshold and it is further recommended that the following exceptions to this standard be applied:

Exception to criminal history point assignment. This exception to the criminal history point assignment will expire on July 1, 2014:

(a) Prior to initial license application, two federal or state misdemeanor convictions for the possession only of marijuana within the previous three years may not be applicable to the criminal history points accumulated. All criminal history must be reported on the personal/criminal history form.

(i) Regardless of applicability, failure to disclose full criminal history will result in point accumulation;

(ii) State misdemeanor possession convictions accrued after December 6, 2013, exceeding the allowable amounts of marijuana, usable marijuana, and marijuana-infused products described in chapter 69.50 RCW shall count toward criminal history point accumulation.

(b) Prior to initial license application, any single state or federal conviction for the growing, possession, or sale of marijuana will be considered for mitigation on an individual basis. Mitigation will be considered based on the quantity of product involved and other circumstances surrounding the conviction.

(4) Once licensed, marijuana licensees must report any criminal convictions to the board within fourteen days.

NEW SECTION

WAC 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license? The board will conduct an investigation of all applicants' marijuana law or rule administrative violation history. The board will not normally issue a marijuana license to a person, or to an entity with a true party of interest, who has the following violation history; or to any person who has demonstrated a pattern of disregard for laws or rules.

Violation Type (see WAC 314-55-515)	Period of Consideration
<ul style="list-style-type: none"> • Three or more public safety violations; 	<ul style="list-style-type: none"> • Violations issued within three years of the date the application is received by the board's licensing and regulation division.
<ul style="list-style-type: none"> • Four or more regulatory violations; or 	
<ul style="list-style-type: none"> • One to four, or more license violations. 	<ul style="list-style-type: none"> • Violations issued within the last three years the true party(ies) of interest were licensed.

NEW SECTION

WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license. Following

is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

(1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.

(2) Failure or refusal to submit information or documentation requested by the board during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the board during the application process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the board to be gained in a manner which is in violation by law.

(7) Denies the board or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or board rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of the entities listed below:

(a) Elementary or secondary school;

(b) Playground;

(c) Recreation center or facility;

(d) Child care center;

(e) Public park;

(f) Public transit center;

(g) Library; or

(h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

(12) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

(13) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

(14) The operating plan does not demonstrate, to the satisfaction of the board, the applicant is qualified for a license.

(15) Failure to operate in accordance with the board approved operating plan.

(16) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

NEW SECTION

WAC 314-55-070 Process if the board denies a marijuana license application. If the board denies a marijuana license application, the applicants may:

(1) Request an administrative hearing per chapter 34.05 RCW, the Administrative Procedure Act.

(2) Reapply for the license no sooner than one year from the date on the final order of denial.

NEW SECTION

WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license? (1) A marijuana producer license allows the licensee to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. Marijuana production must take place 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. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) The board will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana producer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

(5) Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production is limited to two million square feet. Applicants must designate on their operating plan the size category of the production premises and the

amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 - Less than two thousand square feet;
- (b) Tier 2 - Two thousand square feet to ten thousand square feet; and
- (c) Tier 3 - Ten thousand square feet to thirty thousand square feet.

(7) The board may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum of two million square feet the board will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the board may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds two million square feet, the board reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

- (a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or
- (b) Indoor grows - Six months of their annual harvest.

NEW SECTION

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license?

(1) A marijuana processor license allows the licensee to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers.

(2) A marijuana processor is allowed to blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(4) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(5) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are re-

ceived and processed, and at subsequent times when the board deems necessary.

(6) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

(7) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

NEW SECTION

WAC 314-55-079 What is a marijuana retailer license and what are the requirements and fees related to a marijuana retailer license? (1) A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older.

(2) Marijuana extracts, such as hash, hash oil, shatter, and wax can be infused in products sold in a marijuana retail store, but RCW 69.50.354 does not allow the sale of extracts that are not infused in products. A marijuana extract does not meet the definition of a marijuana-infused product per RCW 69.50.101.

(3) Internet sales and delivery of product is prohibited.

(4) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(5) The annual fee for issuance and renewal of a marijuana retailer's license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(6) Marijuana retailers may not sell marijuana products below their acquisition cost.

(7) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

NEW SECTION

WAC 314-55-081 Who can apply for a marijuana retailer license?

(1) Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the liquor control board will determine the maximum number of marijuana retail locations per county.

The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated. Once the number of locations per city and at large have been identified, the eligible applicants will be selected by lottery in the event the number of applications exceeds

the allotted amount for the cities and county. Any lottery conducted by the board will be witnessed by an independent third party.

(2) The number of marijuana retail licenses determined by the board can be found on the liquor control board web site at www.liq.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses with no multiple location licensee allowed more than thirty-three percent of the allowed licenses in any county or city.

(4) The board will initially limit the opportunity to apply for a marijuana retailer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana retailer license application to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana retailer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

NEW SECTION

WAC 314-55-082 Insurance requirements. Marijuana licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the marijuana licensees. Marijuana licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the board that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(1) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(2) Insurance carrier rating: The insurance required in subsection (1) of this section shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) Additional insured. The board shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

NEW SECTION

WAC 314-55-083 What are the security requirements for a marijuana licensee? The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a complete video surveillance with minimum camera resolution of 640x470 pixel and must be internet protocol (IP) compatible and recording system for controlled areas within the licensed premises and entire perimeter fencing and gates enclosing an outdoor grow operation, to ensure control of the area. The requirements include image acquisition, video recording, management and monitoring hardware and support systems. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) All controlled access areas, security rooms/areas and all points of ingress/egress to limited access areas, all points of ingress/egress to the exterior of the licensed premises, and all point-of-sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of all entry and exit points.

(b) Camera placement shall allow for the clear and certain identification of any individual on the licensed premises.

(c) All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions. The surveillance system storage device must be secured on-site in a lock box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(d) All perimeter fencing and gates enclosing an outdoor grow operation must have full video surveillance capable of clearly identifying any activities occurring within twenty feet of the exterior of the perimeter. Any gate or other entry point that is part of the enclosure for an outdoor growing operation must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of the exterior, twenty-four hours a day. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.

(e) Areas where marijuana is grown, cured or manufactured including destroying waste, shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities at all times.

(f) All marijuana or marijuana-infused products that are intended to be removed or transported from marijuana producer to marijuana pro-

cessor and/or marijuana processor to marijuana retailer shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the liquor control board or designees.

(g) All camera recordings must be continuously recorded twenty-four hours a day. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the board or law enforcement officer upon request.

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the board. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts and marijuana-infused products must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the board:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana-infused product is to be destroyed;

(d) When usable marijuana or marijuana-infused products are transported;

(e) Any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, or other item containing marijuana;

(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed or a lot or batch of marijuana or marijuana-infused product may be destroyed;

(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before a lot of marijuana is transported from a producer to a processor;

(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before useable marijuana, or marijuana-infused products are transported from a processor to a retailer.

(i) Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happen when a plant is moved from the seed germination or clone area to the vegetation production area;

(j) A complete inventory of all marijuana seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract and marijuana-infused products;

(k) All point of sale records;

- (l) Marijuana excise tax records;
- (m) All samples sent to an independent testing lab and the quality assurance test results;
- (n) All free samples provided to another licensee for purposes of negotiating a sale;
- (o) All samples used for testing for quality by the producer or processor;
- (p) Samples containing usable marijuana provided to retailers;
- (q) Samples provided to the board or their designee for quality assurance compliance checks; and
- (r) Other information specified by the board.

(5) **Start-up inventory for marijuana producers.** Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises. The producer must immediately record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

(6) **Samples.** Free samples of usable marijuana may be provided by producers or processors, or used for product quality testing, as set forth in this section.

(a) Samples are limited to two grams and a producer may not provide any one licensed processor more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The producer must record the amount of each sample and the processor receiving the sample in the traceability system.

(b) Samples are limited to two grams and a processor may not provide any one licensed retailer more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(c) Samples are limited to two units and a processor may not provide any one licensed retailer more than six ounces of marijuana infused in solid form per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(d) Samples are limited to two units and a processor may not provide any one licensed retailer more than twenty-four ounces of marijuana-infused liquid per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(e) Samples are limited to one-half gram and a processor may not provide any one licensed retailer more than one gram of marijuana-infused extract meant for inhalation per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(f) Producers may sample one gram of useable marijuana per strain, per month for quality sampling. Sampling for quality may not take place at a licensed premises. Only the producer or employees of the licensee may sample the useable marijuana for quality. The producer must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(g) Processors may sample one unit, per batch of a new edible marijuana-infused product to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employees of the licensee may sample the edible marijuana-infused product. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(h) Processors may sample up to one quarter gram, per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employee(s) of the licensee may sample the marijuana-infused extract for inhalation. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(i) The limits described in subsection (3) of this section do not apply to the usable marijuana in sample jars that may be provided to retailers described in WAC 314-55-105(8).

(j) Retailers may not provide free samples to customers.

NEW SECTION

WAC 314-55-084 Production of marijuana. Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of marijuana:

(1) Materials listed or registered by the Washington state department of agriculture (WSDA) or Organic Materials Review Institute (OMRI) as allowable for use in organic production, processing, and handling under the U.S. Department of Agriculture's national organics standards, also called the National Organic Program (NOP), consistent with requirements at 7 C.F.R. Part 205.

(2) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana. Pesticides must be used consistent with the label requirements.

(3) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

(4) Potting soil and other growing media available commercially in the state of Washington may be used in marijuana production. Producers growing outdoors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

NEW SECTION

WAC 314-55-085 What are the transportation requirements for a marijuana licensee? (1) **Notification of shipment.** Upon transporting any marijuana or marijuana product, a producer, processor or retailer shall notify the board of the type and amount and/or weight of marijuana and/or marijuana products being transported, the name of transporter, times of departure and expected delivery. This information must be reported in the traceability system described in WAC 314-55-083(4).

(2) **Receipt of shipment.** Upon receiving the shipment, the licensee receiving the product shall report the amount and/or weight of marijuana and/or marijuana products received in the traceability system.

(3) **Transportation manifest.** A complete transport manifest containing all information required by the board must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the marijuana licensee or an employee of the licensee may transport product;

(b) Marijuana or marijuana products must be in a sealed package or container approved by the board pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products;

(e) Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other facilities receiving product.

NEW SECTION

WAC 314-55-086 What are the mandatory signs a marijuana licensee must post on a licensed premises? (1) Notices regarding persons under twenty-one years of age must be conspicuously posted on the premises as follows:

Type of licensee	Sign must contain the following language:	Required location of sign
Marijuana producer, marijuana processor, and marijuana retailer	"Persons under twenty-one years of age not permitted on these premises."	Conspicuous location at each entry to premises.

The board will provide the required notices, or licensees may design their own notices as long as they are legible and contain the required language.

(2) **Signs provided by the board prohibiting opening a package of marijuana or marijuana-infused product in public or consumption of marijuana or marijuana-infused products in public, must be posted as follows:**

Type of premises	Required location of sign
Marijuana retail	Posted in plain view at the main entrance to the establishment.

(3) **The premises' current and valid master license with appropriate endorsements must be conspicuously posted on the premises and available for inspection by liquor enforcement officers.**

NEW SECTION

WAC 314-55-087 What are the recordkeeping requirements for marijuana licensees? (1) Marijuana licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a three-year period and must be made available for inspection if requested by an employee of the liquor control board:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) All employee records, to include training;

(f) Records of each daily application of pesticides applied to the marijuana plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:

(i) Full name of each employee who applied the pesticide;

(ii) The date the pesticide was applied;

(iii) The name of the pesticide or product name listed on the registration label which was applied;

(iv) The concentration and total amount of pesticide per plant; and

(v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.

(g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing marijuana;

(h) Production and processing records, including harvest and curing, weighing, destruction of marijuana, creating batches of marijuana-infused products and packaging into lots and units;

(i) Records of each batch of extracts or infused marijuana products made, including at a minimum, the lots of usable marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

(j) Transportation records as described in WAC 314-55-085;

(k) Inventory records;

(l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing usable marijuana provided to retailers; and

(p) Records of any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, marijuana-infused product, or other item containing marijuana.

(2) If the marijuana licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

NEW SECTION

WAC 314-55-089 What are the tax and reporting requirements for marijuana licensees? (1) Marijuana licensees must submit monthly report(s) and payments to the board. The required monthly reports must be:

(a) On a form or electronic system designated by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day;

(d) Filed separately for each marijuana license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the board.

A marijuana producer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale to a licensed marijuana processor.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana processor licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale of usable marijuana and marijuana-infused product to a licensed marijuana retailer.

(4) **Marijuana retailer's licensees:** On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana retailer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each retail sale of usable marijuana or marijuana-infused products.

NEW SECTION

WAC 314-55-092 What if a marijuana licensee fails to report or pay, or reports or pays late? (1) If a marijuana licensee does not submit its monthly reports and payment(s) to the board as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the board to suspend or revoke a marijuana license.

NEW SECTION

WAC 314-55-095 Marijuana servings and transaction limitations. Marijuana dosage and transaction limitations are as follows:

(1) **Single serving.** A single serving of a marijuana-infused product amounts to ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(2) **Maximum number of servings.** The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana-infused extract for inhalation cannot exceed one gram.

(3) **Transaction limitation.** A single transaction is limited to one ounce of usable marijuana, sixteen ounces of marijuana-infused product in solid form, seven grams of marijuana-infused extract for inhalation, and seventy-two ounces of marijuana-infused product in liquid form for persons twenty-one years of age and older.

NEW SECTION

WAC 314-55-097 Marijuana waste disposal-Liquids and solids. (1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it designates as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from marijuana flowers, trim and solid plant material used to create an extract (per WAC 315-55-104).

(ii) Waste solvents used in the marijuana process (per WAC 315-55-104).

(iii) Discarded plant waste, spent solvents and laboratory wastes from any marijuana processing or quality assurance testing.

(iv) Marijuana extract that fails to meet quality testing.

(b) Marijuana wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A marijuana plant, usable marijuana, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) Marijuana waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered unusable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, retail facility, or laboratory. Disposal of the marijuana waste rendered unusable must follow the methods under subsection (6) of this section.

(a) Wastes that must be rendered unusable prior to disposal include, but are not limited to, the following:

(i) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."

(ii) Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

(iii) Solid marijuana sample plant waste possessed by third-party laboratories accredited by the board to test for quality assurance that must be disposed of.

(iv) Other wastes as determined by the LCB.

(b) A producer or processor must provide the board a minimum of seventy-two hours notice in the traceability system described in WAC 314-55-083(4) prior to rendering the product unusable and disposing of it.

(5) The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent

nonmarijuana waste by volume. Other methods to render marijuana waste unusable must be approved by LCB before implementation.

Material used to grind with the marijuana falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

- (i) Food waste;
- (ii) Yard waste;
- (iii) Vegetable based grease or oils; or
- (iv) Other wastes as approved by the LCB.

(b) Noncompostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

- (i) Paper waste;
- (ii) Cardboard waste;
- (iii) Plastic waste;
- (iv) Soil; or
- (v) Other wastes as approved by the LCB.

(6) Marijuana wastes rendered unusable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the marijuana waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

- (i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.
- (ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the marijuana waste rendered unusable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of marijuana waste rendered unusable.

NEW SECTION

WAC 314-55-099 Standardized scales. (1) Marijuana producer and processor licensees must have at least one scale on the licensed premises for the traceability and inventory of products.

(2) The scales and other measuring devices are subject to chapter 19.94 RCW, and must meet the requirements of the most current version of chapters 16-662 and 16-664 WAC.

(3) Licensees must register scales on a business license application with business license services through the department of revenue as required under chapter 19.94 RCW.

NEW SECTION

WAC 314-55-102 Quality assurance testing. (1) A person with financial interest in an accredited third-party testing lab may not have

direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests.

(2) As a condition of accreditation, each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director shall meet the following minimum qualifications:

(a) Has earned, from a college or university accredited by a national or regional certifying authority a doctorate in the chemical or biological sciences and a minimum of two years' post-degree laboratory experience; or

(b) Has earned a master's degree in the chemical or biological sciences and has a minimum of four years' of post-degree laboratory experience; or

(c) Has earned a bachelor's degree in the chemical or biological sciences and has a minimum of six years of post-education laboratory experience.

(3) As a condition of accreditation, labs must follow the most current version of the Cannabis Inflorescence and Leaf monograph published by the *American Herbal Pharmacopoeia* or notify the board what alternative scientifically valid testing methodology the lab is following for each quality assurance test. The board may require third-party validation of any monograph or analytical method followed by the lab to ensure the methodology produces scientifically accurate results prior to them using those standards when conducting required quality assurance tests.

(4) As a condition of accreditation, the board may require third-party validation and ongoing monitoring of a lab's basic proficiency to correctly execute the analytical methodologies employed by the lab.

(5) Labs must adopt and follow minimum good lab practices (GLPs), and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the board. The board or authorized third-party organization can conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(6) The general body of required quality assurance tests for marijuana flowers, infused products, and extracts may include moisture content, potency analysis, foreign matter inspection, microbiological screening, pesticide and other chemical residue and metals screening, and residual solvents levels.

(7) Table of required quality assurance tests.

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Flowers to be sold as usable marijuana (see note below)	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening	Up to 7 grams
Flowers to be used to make an extract (nonsolvent) like kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources	None	None
Extract (nonsolvent) like kief, hashish, bubble hash or infused dairy butter, or oils or fats derived from natural sources	1. Potency analysis 2. Foreign matter inspection 3. Microbiological screening	Up to 7 grams
Flowers to be used to make an extract (solvent based), made with a CO ₂ extractor, or with a food grade ethanol or glycerin	1. Foreign matter inspection 2. Microbiological screening	Up to 7 grams

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Extract (solvent based) made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity	1. Potency analysis 2. Residual solvent test 3. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with a CO ₂ extractor like hash oil	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with food grade ethanol	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with food grade glycerin or propylene glycol	1. Potency analysis	Up to 1 gram
Infused edible	1. Potency analysis 2. Microbiological screening	1 unit
Infused liquid like a soda or tonic	1. Potency analysis 2. Microbiological screening	1 unit
Infused topical	1. Potency analysis	1 unit

(8) Independent testing labs may request additional sample material in excess of amounts listed in the table in subsection (7) of this section for the purposes of completing required quality assurance tests. Labs meeting the board's accreditation requirements may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab.

(9) Labs meeting the board's accreditation requirements are not limited in the amount of useable marijuana and marijuana products they may have on their premises at any given time, but they must have records to prove all marijuana and marijuana-infused products only for the testing purposes described in WAC 314-55-102.

(10) At the discretion of the board, a producer or processor must provide an employee of the board or their designee samples in the amount listed in subsection (7) of this section for random compliance checks. Samples may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other quality assurance tests deemed necessary by the board. All costs of this testing will be borne by the producer or processor.

(11) No lot of usable flower or batch of marijuana-infused product may be sold or transported until the completion of all required quality assurance testing.

(12) Any useable marijuana or marijuana-infused product that passed the required quality assurance tests may be labeled as "Class A." Only "Class A" useable marijuana or marijuana-infused product will be allowed to be sold.

(13) If a lot of marijuana flowers fail a quality assurance test, any marijuana plant trim, leaf and other usable material from the same plants automatically fails quality assurance testing also. Upon approval of the board, a lot that fails a quality assurance test may be used to make a CO₂ or solvent based extract. After processing, the CO₂ or solvent based extract must still pass all required quality assurance tests in WAC 314-55-102.

(14) At the request of the producer or processor, the board may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor.

NEW SECTION

WAC 314-55-104 Marijuana processor license extraction requirements. (1) Processors are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the board. These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in a spark free environment with proper ventilation, and follow all applicable local fire, safety and building codes in processing and the storage of the solvents.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch and follow all applicable local fire, safety and building codes in processing and the storage of the solvents. The CO₂ must be of at least ninety-nine percent purity.

(4) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(5) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts.

(6) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(7) Parts per million for one gram of finished extract cannot exceed 500 parts per million or residual solvent or gas when quality assurance tested per RCW 69.50.348.

NEW SECTION

WAC 314-55-105 Packaging and labeling requirements. (1) All usable marijuana and marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(2) Any container or packaging containing usable marijuana or marijuana products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana or marijuana product.

(3) Upon the request of a retail customer, a retailer must disclose the name of the accredited third-party testing lab and results of the required quality assurance test for any usable marijuana or other marijuana product the customer is considering purchasing.

(4) usable marijuana and marijuana products may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(5) The accredited third-party testing lab and required results of the quality assurance test must be included with each lot and disclosed to the customer buying the lot.

(6) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:

- (a) Lot number;
- (b) UBI number of the producer; and
- (c) Weight of the product.

(7) Marijuana-infused products meant to be eaten, swallowed, or inhaled, must be packaged in child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act or use standards specified in this subsection. Marijuana-infused product in solid or liquid form may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamper-proof measure. Marijuana-infused product in liquid form may also be sealed using a metal crown cork style bottle cap.

(8) A processor may provide a retailer free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of usable marijuana. The sample jar and the usable marijuana within may not be sold to a customer and must be either returned to the licensed processor who provide the usable marijuana and sample jar or destroyed by the retailer after use in the manner described in WAC 314-55-097 and noted in the traceability system.

(9) A producer or processor may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the usable marijuana.

(10) Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.

(11) All usable marijuana when sold at retail must include accompanying material that contains the following warnings that state:

- (a) "Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health";
- (b) "There may be health risks associated with consumption of this product";
- (c) "Should not be used by women that are pregnant or breast feeding";
- (d) "For use only by adults twenty-one and older. Keep out of reach of children";
- (e) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";
- (f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.

(12) All marijuana-infused products sold at retail must include accompanying material that contains the following warnings that state:

- (a) "There may be health risks associated with consumption of this product";
- (b) "This product is infused with marijuana or active compounds of marijuana";
- (c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours";

(g) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to the infused product; and

(h) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.

(13) **Labels affixed to the container or package containing usable marijuana sold at retail must include:**

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot number;

(c) Concentration of THC, THCA, CBD, including a total of active cannabinoids (potency profile);

(d) Net weight in ounces and grams or volume as appropriate;

(e) Warnings that state: "This product has intoxicating effects and may be habit forming";

(f) Statement that "This product may be unlawful outside of Washington state";

(g) Date of harvest.

(h) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.

(14) **Sample label mock up for a container or package containing usable marijuana sold at retail with required information:**

UBI: 1234567890010001	Lot#: 1423
	Date of Harvest: 4-14
<i>The Best Resins</i>	
Blueberry haze	
16.7 % THC 1.5% CBD	
Warning – This product has intoxicating effect and may be habit forming	
<u>THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE</u>	
Net weight: 7 grams	

(15) **Labels affixed to the container or package containing marijuana-infused products sold at retail must include:**

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot numbers of all base marijuana used to create the extract;

(c) Batch number;

(d) Date manufactured;

- (e) Best by date;
- (f) Recommended serving size and the number of servings contained within the unit, including total milligrams of active tetrahydrocannabinol (THC), or Delta 9;
- (g) Net weight in ounces and grams, or volume as appropriate;
- (h) List of all ingredients and any allergens;
- (i) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours."
- (j) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;
- (k) Warnings that state: "This product has intoxicating effects and may be habit forming";
- (l) Statement that "This product may be unlawful outside of Washington state";
- (m) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.
- (16) **Sample label mock up (front and back) for a container or package containing marijuana-infused products sold at retail with required information:**

(Front of label)

UBI: 1234567890010001	Batch#: 5463
<i>The Best Resins</i>	
<i>Space cake</i>	
CAUTION: when eaten the effects of this product can be delayed by as much as two hours.	
Net weight: 6oz (128grams)	
<u>THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE</u>	

(Back of label)

Manufactured at: 111 Old Hwy Rd., Mytown, WA on 1/14/14 Best by 2/1/14
INGREDIENTS: Flour, Butter, Canola oil, Sugar, Chocolate, Marijuana, Strawberries, CONTAINS ALLERGENS: Milk, Wheat,
Serving size: 10 MG of THC This product contains 10 servings and a total of 100 MG of THC
Warning- This product has intoxicating effects and may be habit forming

NEW SECTION

WAC 314-55-120 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the qualifying persons in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the qualifying persons for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the qualifying persons in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75

(2) The board may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

NEW SECTION

WAC 314-55-125 Change of location. (1) Changing your marijuana license to a new location requires an application, per the process outlined in WAC 314-55-020.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

NEW SECTION

WAC 314-55-130 Change of business name. (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of revenue, business license service.

(2) If you wish to change your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See chapter 434-12 WAC for guidelines for trade names.

NEW SECTION

WAC 314-55-135 Discontinue marijuana sales. You must notify the board's enforcement and education division in writing if you plan to stop doing business for more than thirty days, or if you plan to permanently discontinue marijuana sales.

NEW SECTION

WAC 314-55-140 Death or incapacity of a marijuana licensee. (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

NEW SECTION

WAC 314-55-145 Are marijuana license fees refundable? When a license is suspended or canceled, or the licensed business is discontinued, the unused portion of the marijuana license fee will not be refunded.

NEW SECTION

WAC 314-55-147 What hours may a marijuana retailer licensee conduct sales? A marijuana retailer licensee may sell usable marijuana, marijuana-infused products, and marijuana paraphernalia between the hours of 8 a.m. and 12 a.m.

NEW SECTION

WAC 314-55-150 What are the forms of acceptable identification?

(1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of purchasing marijuana:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the Dis-

trict of Columbia, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) The identification document is not acceptable to verify age if expired.

NEW SECTION

WAC 314-55-155 Advertising. (1) **Advertising by retail licensees.** The board limits each retail licensed premises to one sign identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to sixteen hundred square inches.

(2) **General.** All marijuana advertising and labels of useable marijuana and marijuana-infused products sold in the state of Washington may not contain any statement, or illustration that:

(a) Is false or misleading;

(b) Promotes over consumption;

(c) Represents the use of marijuana has curative or therapeutic effects;

(d) Depicts a child or other person under legal age to consume marijuana, or includes:

(i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or

(ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(3) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, usable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter;
or

(c) On or in a publicly owned or operated property.

(4) Giveaways, coupons, and distribution of branded merchandise are banned.

(5) All advertising must contain the following warnings:

- (a) "This product has intoxicating effects and may be habit forming.";
- (b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";
- (c) "There may be health risks associated with consumption of this product."; and
- (d) "For use only by adults twenty-one and older. Keep out of the reach of children."

NEW SECTION

WAC 314-55-160 Objections to marijuana license applications. (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a marijuana license?** Per RCW 69.50.331, the board will notify cities, counties, tribal governments, and port authorities of the following types of marijuana applications. In addition to these entities, any person or group may comment in writing to the board regarding an application.

Type of application	Entities the board will/may notify
<ul style="list-style-type: none"> • Applications for an annual marijuana license at a new location. 	<ul style="list-style-type: none"> • Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.
<ul style="list-style-type: none"> • Applications to change the class of an existing annual marijuana license. 	
<ul style="list-style-type: none"> • Changes of ownership at existing licensed premises. 	<ul style="list-style-type: none"> • Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.

(2) **What will happen if a person or entity objects to a marijuana license application?** When deciding whether to issue or deny a marijuana license application, the board will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the board shall not issue a new marijuana license if any of the following are within one thousand feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public

parks, public transit centers, libraries, game arcade where admission is not restricted to persons twenty-one years of age or older.

(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a marijuana license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the board for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within twenty days of the date the intent to deny notification was mailed.

NEW SECTION

WAC 314-55-165 Objections to marijuana license renewals. (1) How can local cities, counties, tribal governments, or port authorities object to the renewal of a marijuana license?

(a) The board will give governmental jurisdictions approximately ninety days written notice of premises that hold annual marijuana licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a marijuana license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the board for an extension for good cause shown.

(d) This letter must be received by the board at least thirty days before the marijuana license expires. The objection must state specific reasons and facts that show issuance of the marijuana license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) What will happen if a city, county, tribal government, or port authority objects to the renewal of a marijuana license? The board will give substantial weight to a city, county, tribal govern-

ment, or port authority objection to a marijuana license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the board will decide to either renew the marijuana license, or to pursue nonrenewal.

(a) Board decides to renew the marijuana license:	(b) Board decides to pursue nonrenewal of the marijuana license:
<p>(i) The board will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p> <p>(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to renew notification was mailed. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p> <p>(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to deny notification was mailed.</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.</p> <p>(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the marijuana license until a final decision is made.</p>

NEW SECTION

WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a liquor control board statute or regulation? (1) When an enforcement officer believes that a licensee has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent, or employee.

(2) The AVN notice will include:

(a) A complete narrative description of the violation(s) the officer is charging;

(b) The date(s) of the violation(s);

(c) A copy of the law(s) and/or regulation(s) allegedly violated;

(d) An outline of the licensee's options as outlined in WAC 314-55-510; and

(e) The recommended penalty.

(i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.

(ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty.

NEW SECTION

WAC 314-55-506 What is the process once the board summarily suspends a marijuana license? (1) The board may summarily suspend any license after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.

(3) When a license has been summarily suspended by the board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the board.

NEW SECTION

WAC 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license? (1) Upon summary suspension of a license by the board pursuant to WAC 314-55-506, an affected licensee may petition the board for a stay of suspension pursuant to RCW 34.05.467 and 34.05.550(1). A petition for a stay of suspension must be received by the board within fifteen days of service of the summary suspension order. The petition for stay shall state the basis on which the stay is sought.

(2) A hearing shall be held before an administrative law judge within fourteen days of receipt of a timely petition for stay. The hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified to allow the conduct of limited activities under current licenses or permits.

(3) Any hearing conducted pursuant to subsection (2) of this section shall be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing shall consist of the documentary information upon which the summary suspension was based. The licensee or permit holder shall have the burden of demonstrating by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay shall be effective immediately upon service unless another date is specified in the order.

NEW SECTION

WAC 314-55-508 Review of orders on stay. (1) The licensee, or agency, may petition the board for review of an initial order on stay. Any petition for review must be in writing and received by the board within ten days of service of the initial order. If neither party has requested review within ten days of service, the initial order shall be deemed the final order of the board for purposes of RCW 34.05.467.

(2) If the board receives a timely petition for review, the board shall consider the petition within fifteen days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the board on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

NEW SECTION

WAC 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation? (1) A licensee has twenty days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) **What happens if a licensee does not respond to the administrative violation notice within twenty days?**

(a) If a licensee does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect.

(b) If the penalty does not include a suspension, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

(3) **What are the procedures when a licensee requests a settlement conference?**

(a) If the licensee requests a settlement conference, the hearing examiner or designee will contact the licensee to discuss the violation.

(b) Both the licensee and the hearing examiner or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or designee will prepare a compromise settlement agreement. The hearing examiner or designee will forward the compromise settlement agreement, authorized by both parties, to the board, or designee, for approval.

(i) If the board, or designee, approves the compromise, a copy of the signed settlement agreement will be sent to the licensee and will become part of the licensing history.

(ii) If the board, or designee, does not approve the compromise, the licensee will be notified of the decision. The licensee will be given the option to renegotiate with the hearing examiner or designee, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee and the hearing examiner or designee cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or designee will forward a request for an administrative hearing to the board's hearings coordinator.

NEW SECTION

WAC 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule? (1) The purpose of WAC 314-55-515 through 314-55-540 is to outline what penalty a marijuana licensee can expect if a licensee or employee violates a liquor control board law or rule. (WAC rules listed in the categories provide reference areas, and may not be all inclusive.)

(2) Penalties for violations by marijuana licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-55-520.

(b) Group Two—Regulatory violations, WAC 314-55-525.

(c) Group Three—License violations, WAC 314-55-530.

(d) Group Four—Producer violations involving the manufacture, supply, and/or distribution of marijuana by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-55-535.

(3) For the purposes of chapter 314-55 WAC, a three-year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the board may offer a monetary option in lieu of suspension, or alternate penalty, during a settlement conference as outlined in WAC 314-55-510(3).¹

(a) Mitigating circumstances	(b) Aggravating circumstances
<p>Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Having a signed acknowledgment of the business' responsible handling and sales policies on file for each employee; • Having an employee training plan that includes annual training on marijuana laws. 	<p>Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of marijuana license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor control board officer, or when people have sustained injuries.

NEW SECTION

WAC 314-55-520 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4).

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Violations involving minors:	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Sale or service to minor: Sale of marijuana and/or paraphernalia to a person under twenty-one years of age WAC 314-55-079	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Allowing a minor to frequent a restricted area. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	
Employee under legal age. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Licensee and/or employee open and/or consuming marijuana on a retail licensed premises. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct.	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized pesticides, soil amendments, fertilizers, other crop production aids. WAC 314-55-020(8) WAC 314-55-083(4) WAC 314-55-087 (1)(f)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Adulterate usable marijuana with organic or nonorganic chemical or other compound WAC 314-55-105(8)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized solvents or gases in processing WAC 314-55-104	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. WAC 314-55-050	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Marijuana purchased from an unauthorized source. Marijuana sold to an unauthorized source. Sales in excess of transaction limitations. WAC 314-55-095(3)	Cancellation of license Cancellation of license Cancellation of license			

NEW SECTION

WAC 314-55-525 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m.	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Advertising: Violations (statements/illustrations). WAC 314-55-155(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Advertising violations – Sign exceeding 1600 square inches; within 1000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. RCW 69.50.357 RCW 69.50.369	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Packaging and/or labeling violations (processor/retailer). WAC 314-55-105	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Licensee/employee failing to display required security badge. WAC 314-55-083(1)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (3), (4), and (5)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to submit monthly tax reports and/or payments. WAC 314-55-089 WAC 314-55-092	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Signs: Failure to post required signs. WAC 314-55-086	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to utilize and/or maintain traceability (processor or retail licensee). WAC 314-55-083(4)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Exceeding maximum serving requirements for marijuana-infused products. WAC 314-55-095(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure for a processor to meet marijuana waste disposal requirements. WAC 314-55-097	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain standardized scale requirements (processor/retailer). WAC 314-55-099	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Marijuana processor extraction requirements. WAC 314-55-104	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Retail outlet selling unauthorized products. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retailer displaying products in a manner visible to the general public from a public right of way. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

NEW SECTION

WAC 314-55-530 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
True party of interest violation. WAC 314-55-035	Cancellation of license			
Failure to furnish required documents. WAC 314-55-050	Cancellation of license			
Misrepresentation of fact. WAC 314-55-050	Cancellation of license			
Operating plan: Violations of a board-approved operating plan. WAC 314-55-020	5-day suspension or \$500 monetary option	10-day suspension or \$1,500 monetary option	30-day suspension	Cancellation of license
Failing to gain board approval for changes in existing ownership. WAC 314-55-120	30-day suspension	Cancellation of license		
Failure to maintain required insurance. WAC 314-55-080	30-day suspension	Cancellation of license		

NEW SECTION

WAC 314-55-535 Group 4 marijuana producer violations. Group 4 violations are violations involving the manufacture, supply, and/or distribution of marijuana by marijuana producer licensees and prohibited practices between a marijuana producer licensee and a marijuana retailer licensee.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Unauthorized sale to a retail licensee. WAC 314-55-075	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to utilize and/or maintain traceability. WAC 314-55-083(4)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Packaging and/or labeling violations (producer). WAC 314-55-105	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Unauthorized product/unapproved storage or delivery.	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure for a producer to meet marijuana waste disposal requirements. WAC 314-55-097	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (2) and (4) WAC 314-55-092	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain standardized scale requirements (producer). WAC 314-55-099	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation.				

NEW SECTION

WAC 314-55-540 Information about marijuana license suspensions.

(1) On the date a marijuana license suspension goes into effect, a liquor control officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a board law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable marijuana laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

(3) During the period of marijuana license suspension:

(a) A marijuana retailer or marijuana processor licensee may not operate his/her business during the dates and times of suspension.

(b) There is no sale, delivery, service, destruction, removal, or receipt of marijuana during a license suspension.

(c) A producer of marijuana may do whatever is necessary as a part of the producing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsalable during a suspension, provided it does not include processing the product. The producer may not receive any agricultural products used in the production of marijuana during the period of suspension.



Washington State Liquor Control Board

Adopted Rules Highlights

October 31, 2013

LCB Rulemaking Objective

- Creating a tightly controlled and regulated marijuana market;
- Including strict controls to prevent diversion, illegal sales, and sales to minors; and
- Providing reasonable access to products to mitigate the illicit market.

LCB Role and Responsibility

- Ensuring public safety is the top priority;
- Creating a three-tier regulatory system for marijuana;
- Creating licenses for producers, processors, and retailers;
- Enforcing laws and rules pertaining to licensees; and
- Collecting and distributing taxes.

Timeline

December 6, 2012	Effective date of new law
September 4, 2013	File Supplemental CR 102 with revised proposed rules
October 9, 2013	Public hearing(s) on proposed rules (time and location TBD)
October 16, 2013	Board adopts or rejects proposed rules
November 18, 2013	BLS begins accepting applications for all three licenses
November 20, 2013	WSLCB begins processing applications (30-day window)
December 1, 2013	Deadline for rules to be complete (as mandated by law)
December 19, 2013	30-day window closes for producer, processor and retailer license applications

Proposed Rules Highlights

License Requirements

- **30-day Window**
 - The LCB will open registration for all license types for a 30-calendar-day window (November 20, 2013)
 - LCB may extend the time or reopen application window at its discretion
- **State Residency Requirement**
 - I-502 requires a three month state residency requirement (all license structure types)
- **Background Checks**
 - Personal criminal history completed by applicant. Risk of license forfeiture if incomplete or incorrect.
 - Fingerprinting of all potential licensees
 - Background checks of license applicants and financiers
- **Point System**
 - The LCB will apply a disqualifying point system similar to liquor
 - All applicants must disclose all arrests and/or convictions
 - Non-disclosure of arrests regardless of conviction will result in point accumulation

October 31, 2013

- **License Limits**
 - Licensed entity or principals limited to three producer licenses
 - Licensed entity or principals limited to three processor licenses
 - Licensed entity or principals limited to three retail licenses. Multiple-location licensees not allowed to hold more than 33 percent of the allowed licenses in any county or city.

- **Production Limits**
 - The maximum amount of space for marijuana production is limited to two million square feet.
 - Applicants must designate on their operating plan the size category of the production premises and the actual square footage in their premises that will be designated as plant canopy. There are three categories:
 - Tier 1: Less than 2,000 square feet;
 - Tier 2: 2,000 square feet to 10,000 square feet;
 - Tier 3: 10,000 square feet to 30,000 square feet.
 - The LCB may reduce a licensee's or applicants' square footage designated to plant canopy for the following reasons:
 - If the total amount of square feet for production of all licensees exceeds the two million square feet maximum, the LCB will reduce the allowed square footage by the same percentage.
 - If 50 percent production space used for plant canopy in the licensee's operating plan is not met in the first year of operation, the board may reduce the tier of licensure.
 - If the total amount of square feet of marijuana production exceeds two million square feet, the LCB may reduce all licensees' production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

- **Maximum Allowable Amount on Licensed Location**
 - Producer license
 - Outdoor or greenhouse: 125 percent of its year's harvest
 - Indoor: six months of its annual harvest
 - Processor license
 - Six months of their average useable marijuana (plant material); and
 - Six months average of their total production (finished product).
 - Retailer license
 - Four months of their average inventory

- **Licensed Location: 1'000 foot Measurement**
 - Important Note Regarding the 1,000 foot Measurement: The LCB will file an emergency rule on November 6, 2013, that will revise the current language regarding the 1,000' buffer. The language in the emergency rule will state: "The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older."

- **Costs and Fees**
 - \$250 application fee
 - \$1,000 annual renewal fee
 - Additional fees for background check and filing for local business license

- **Taxes**
 - License applicants must submit a signed attestation that they are current on taxes owed to the Washington State Department of Revenue

October 31, 2013

- **Insurance**
 - Licensees are required to carry commercial liability insurance.

Public Safety

- **Producer Structures**
 - Rules allow producer operations in secure: indoor and outdoor grows as well as greenhouses
- **Traceability**
 - LCB will employ a robust and comprehensive traceability system (software) that will trace product from seed/clone to sale.
 - LCB enforcement can match records to actual product on hand
- **Background Checks**
 - Personal criminal history form
 - Fingerprinting of all potential licensees
 - Background checks of licensees and financiers
- **Point System**
 - LCB will apply a disqualifying point system similar to liquor (exceptions for possession)
- **Violation Guidelines / Standard Administrative Procedures Act Guidelines**
 - \$1,000 criminal penalty for sales to a minor
 - Sets strict tiered system of violation record over a three year period
 - Group 1 public safety:
 - First violation: 10 day suspension or \$2,500
 - Second violation: 30 day suspension
 - Third violation: license cancellation
- **Local Authority Objections**
 - Substantial weight will be given to a local authority during the renewal process based upon chronic illegal activity associated with the licensee's operation of the premises.
- **Child Resistant Packaging**
 - Specific requirements for marijuana and marijuana-infused products in solid and liquid forms
- **Security and Safeguards**
 - Alarm and surveillance video camera requirements (including minimum pixels and lockbox encasement)
 - Strict transportation and record keeping requirements (no third party transport of product)
 - Hours of operation limited to 8:00 a.m. to 12:00 a.m.
- **Advertising Restrictions**
 - Law restricts advertising within 1,000 feet of schools, public parks, transit centers, arcades, and other areas where children are present.
 - May not contain statements or illustrations that are false or misleading, promotes overconsumption, represents that it has curative or therapeutic effects, depicts a child or may be appealing to children

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- All advertising must contain two statements: a: "This product has intoxicating effects and may be habit forming." And, b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug."

- **Limits on Retail Stores**

- Total number of retail outlets limited to 334 statewide
- LCB to provide advance notice to local authority
- Per I-502, LCB to determine number of retail outlets per county
 - BOTEK Analysis Corporation provided initial county consumption levels
 - Retail stores allocation proportionate to population and consumption

Consumer Safety

- **Behind the Counter Storage**

- No open containers or handling of product
- Sniff jars with sealed, screened-top lids allowed

- **Strict Packaging and Label Requirements**

- Limited servings and concentration per package
- Lot number
- Warning label
- Net weight
- Concentration of THC
- Usage warnings (specific warning for ingestible foods/liquids about effect delays)
- Upon request
 - Third party lab that tested lot and results
 - All pesticides, herbicides, fungicides found in product

- **Defined Serving Size**

- Defined serving sizes on marijuana-infused product label
 - 10 mg of THC per serving
 - 100 mg of THC per product
 - A single unit of marijuana-infused extract for inhalation cannot exceed one gram

- **Transaction Limits on Concentrates (extracts)**

- A single transaction is limited to seven grams of marijuana-infused extract for inhalation

- **Lab Tested and Approved (monograph)**

- All lots will be tested by independent accredited labs
- Established and uniform testing standards
- Quality assurance testing

- **Store Signage and Product Warnings**

- No minors allowed in stores
- Required product and usage signs within stores

For more information regarding Initiative 502, please visit the Liquor Control Board website at www.liq.wa.gov.

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October 31, 2013



Washington State Liquor Control Board

Frequently Asked Questions about the I-502 Proposed Rules

Topic: Initiative 502

Updated: October 31, 2013

*Note: New questions and answers are indicated with an asterisk **

Licensing

When can I get my license?

BLS will begin accepting applications on November 18. The WSLCB will begin processing applications for all three license types (producer, processor and retailer) for 30 days on November 20, 2013. Due to the anticipated turnout and rush to obtain a license it is possible that the process may take longer than the projected 90 days. The best way to stay up to date on the implementation process and when the applications become available is to register for email notifications on the WSLCB website.

Why are you only accepting applications for 30 days?

Opening up the licensing window for 30 days affords anyone who is qualified to apply for a license the opportunity to do so. Whether you are a small grower or larger company you will be given the same opportunity to get a license. Closing the window after 30 days allows the Board the opportunity to assess the market and see what changes, if any, are needed regarding the number of licenses. The Board may also reopen the window at its discretion.

*** When can I get an application?**

Application documents will be available, both online and in hard copy, sometime after the Board accepts the proposed rules, which is scheduled for October 16.

*** What do I have to do to start my application?**

To start the application process, and qualify within the 30 day licensing window, you will need to have a location and file your application with Business Licensing Services.

How many producer and processor licenses will be issued?

Presently the WSLCB does not intend to limit the amount of producer or processor licenses it will issue. The LCB will open a 30 day window in November where anyone can apply, and qualified applicants will receive licenses.

*** Can I have more than one license?**

Any entity and/or principles within an entity are limited to no more than three marijuana licenses. Retail marijuana license holders are limited to no more than three retail licenses with no more than 33% of the allowed licenses in any county or city.

*** Why did you limit the number of licenses per licensee?**

Limiting the number of licenses any one entity can hold reduces the possibility that any one entity can singlehandedly control the market.

*** How many retail licenses will be issued?**

334 retail licenses will be issued. The number of retail locations was determined using a formula that distributes the number of locations proportionate to the most populous cities within each county.

Locations not assigned to a specific city are at large. The specific locations will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county.

How will the lottery work?

WSLCB staff are developing the guidelines for the retail license lottery. As more information becomes available we will notify stakeholders via the [I-502 Listserv](#).

If the local authority objects to my proposed location after filing my application can I move my location without refiling?

Applicants will be able to change the location of a potential license if the local authority objects, as long as the application is still in the processing stage, without filing a new application.

Will a criminal record impact my ability to get a license?

The WSLCB will employ a disqualifying criminal history point system similar to liquor. An exception would be allowed for two misdemeanor convictions of possession within three years. A felony conviction will prohibit you from obtaining a marijuana license if the conviction was in the last 10 years.

How do I prove three months residency?

There are many ways to prove residency. Some examples include:

- Get a Washington State driver's license or ID card, which has an issue date on it
- Present three months worth of utility bills, pay stubs, etc.
- Register to vote

You can find out more about state residency requirements at [Access Washington](#).

How do I show I'm current on my taxes?

Prospective licensees will be required to sign an attestation that they are current on their taxes. Failure to do so or misrepresentation of the status of your taxes is grounds to deny the application.

Can I get my \$250 application fee back?

Marijuana application fees are non-refundable.

Is it true that the WSLCB is just going to license current medical marijuana outlets to retail marijuana?

No. Retail licenses will be issued to qualified applicants who meet the licensing criteria. A medical marijuana outlet that wants to convert to a recreational outlet will have to go through the same application process as any other potential applicant. If they were to obtain a retail license they would only be allowed to sell marijuana purchased from the recreational system, they would not be allowed to commingle medical and recreational marijuana.

Can local jurisdictions prevent me from opening a location?

The LCB has no authority to dictate zoning requirements to local governments. Municipalities could conceivably zone marijuana/related businesses out of their geographical area, check with your local authority to understand their requirements.

Since there are a limited number of retail licenses available can I apply for a retail license and a processor and/or producer license at the same time to ensure that I'm not left out and then withdraw the processor and/or producer license application in the event that I get the retail license?

No. Applicants must decide ahead of time which license type they are pursuing. If an applicant applies for a retail license in addition to one of the other two license types all of the applications will be rejected.

Can I be a processor and a producer?

Yes. Licensees may hold a both a producer and processor license together.

Is there a producer/processor license?

No. Applicants must apply for, and obtain, both licenses separately and must pay the application and renewal fees on both licenses.

Do I have to pay the 25% tax on sales between producer and processor if I hold both licenses?

No. If you hold a producer/processor license you avoid the 25% tax that would be applied to a producer to processor sale.

Do I have to provide proof from my landlord that they are aware of how their property is being used?

No. The provision requiring an applicant to provide a signed affidavit showing their landlord is aware of the marijuana related business using their property has been removed.

There is a bus stop in front of my location; will that disqualify me from getting a license?

The rules define "public transit center" as a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge.

*** Does a walking trail qualify as a park?**

No. The Board has specifically addressed that a walking trail, such as a converted former rail line, does not qualify as a park.

Can I have multiple locations?

Yes. However each location must be licensed separately and the licensee must meet the previously mentioned requirements on license types.

*** How will the WSLCB measure distance from a restricted area to a potential marijuana location?**

Distance will be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of: an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older.

Important Note Regarding the 1,000 foot Measurement: The LCB will file an emergency rule on October 16, 2013, that will revise the current language regarding the 1,000' buffer. The language in the emergency rule will state: "The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older."

*** Why did the Board change the exclusion zone measuring method from "most common legal pathway" to "straight line?"**

The Board, after receiving guidance from the federal government, changed the measuring method to ensure that WLSCB rules match federal enforcement guidelines.

If I'm providing financial backing do I have to be a resident?

Yes. Financiers will be required have three months Washington state residency and to pass the same criminal background checks as a licensee.

Testing**How can I get my laboratory certified to test marijuana?**

The LCB will contract (via the request for proposals process) with a firm who will be responsible for accrediting labs.

How will I get my products tested?

The LCB will furnish a list, via our website, of accredited labs for producers to contract with for testing services.

Traceability/Product**What is the traceability system?**

A robust and comprehensive traceability software system will that will trace product from start to sale. Licensees will have to use tracking software that is compatible with LCB's traceability system and allows the LCB to monitor and track any plant at any time.

When do my plants need to be entered into the traceability system?

Prior to reaching eight inches in height or width each plant must be tagged and tracked individually

How do I obtain startup inventory?

Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises and recorded into the traceability system. No flowering marijuana plants may be brought into the facility during this fifteen day timeframe. After the 15 days pass, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

Growing**Where can I grow?**

- **Indoors/Greenhouse**
Fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.
- **Outdoor**
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. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

Can a current farm just convert its crop to marijuana?

Converting a crop to marijuana would require a producer license and the farm would have to meet all of the guidelines set forth in the rules pertaining to outdoor growing.

Can I grow in my personal residence?

No. The rules state that “the Board will not approve a license for any location where law enforcement access, without notice or cause, is limited. This includes personal residences.” Private residences are afforded a degree of privacy under the 4th amendment of the U.S. Constitution that is incompatible with the regulatory requirements of I-502.

*** How much marijuana can I keep on my licensed premise?**

- Producer: Outdoor/Greenhouse – One and ¼ of a year’s harvest, Indoor – six months harvest
- Processor: six months useable marijuana and total production
- Retailer: four months of average inventory

*** As a producer how long do I have to hold my product before transporting it to a processor?**

There is a mandatory 24 hour quarantine period. Previously this period was 72 hours.

How can I get my marijuana certified as organic?

Marijuana may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

Processing

Why can’t I advertize marijuana’s medical benefits?

The WSLCB is regulating the recreational marijuana market and does not evaluate the medical claims of a recreational product. Prospective licensees who want to produce/market marijuana for medical purposes should research Washington’s medical marijuana laws.

How will you prevent children from accidentally ingesting marijuana products?

Marijuana infused products must be packaged in child resistant packaging in accordance with Title 16 CFR 1700 of the Poison Prevention Packaging Act.

*** Can I sell marijuana blends?**

Yes, provided the marijuana lots that are being blended have been tested and that the labeling requirements for each lot used in the blend are met.

What happened to the “Produced in Washington” icon?

During the public comment period the WSLCB heard a variety of comments on the icon and ultimately decided to remove it from the rules. The intent of the icon was to provide parents, teachers, etc with a visual aid that helped them readily identify a product as marijuana. Many of the comments were positive and appreciated the WSLCB’s work on this issue, while others were concerned that the icon may be seen as promotional. The Board does reserve the ability to require an icon be included on packaging in the future for public safety purposes if they deem it necessary.

*** If my marijuana fails quality testing can I turn it into an extract?**

Yes. With the Board’s approval, marijuana that fails testing can be converted into an extract and sold provided that the resulting extract passes quality/safety testing.

Why does the Board want to ban concentrates?

The Board's analysis believes that the definition of usable marijuana or infused product in I-502 does not cover concentrates. While the Board was willing to allow concentrates they are not inclined to break the law to do so.

Does hash qualify as usable marijuana?

No. Under the definitions of I-502 hash does not qualify as usable marijuana.

Can I infuse concentrates with an inert oil, or similar substance, and sell it?

Yes. This would qualify as a marijuana infused product.

What is the minimum level of added marijuana for a product to be considered a marijuana infused product?

The Board has not set minimum thresholds for what constitutes an "infused" product.

*** What is the serving size for infused extracts for inhalation? What is the transaction limit?**

The serving size for infused extracts for inhalation is a unit, which may not exceed one gram. Customers may purchase up to seven grams of marijuana infused extract for inhalation.

Retail*** Why can't I sell over the internet? Or have a delivery service?**

The initiative states that all retail sales must take place in a licensed retail establishment. Neither internet nor delivery sales qualify as retail establishments.

Can a medical marijuana outlet and a retail outlet share the same space?

No. The two operations would have to be separate. Retail outlets are only allowed to sell marijuana that comes from a licensed processor and licensed processors are not allowed to sell to unlicensed entities, such as a medical marijuana outlet.

Are there any restrictions on retail hours of operation?

Retail marijuana operations may take place between the hours of 8:00AM and 12:00AM.

Why can't I hold the marijuana before purchase?

I-502 is very clear that there can be no open containers of marijuana, or consumption of marijuana at licensed locations. The WSLCB cannot write rules that contradict the law.

Why can't I smell the marijuana before purchase?

Retail licensees are allowed to provide a sample jar with a plastic or metal mesh screen to allow customers the ability to smell the product before purchasing. Opened marijuana products are not allowed inside a licensed retail outlet.

*** Can I produce/sell THC infused alcohol (i.e. THC infused vodka)?**

No. The initiative is clear that retail outlets may only sell marijuana, marijuana infused products and marijuana paraphernalia. To sell alcohol in Washington you would need a liquor license which would violate the above provisions.

Miscellaneous

Will the WSLCB be setting prices?

No. The WSLCB will not set prices but licensees are not allowed to sell marijuana products below their acquisition cost.

*** As a licensee can I test my product for quality?**

Licensees are allowed to test for quality under the specific requirements set forth in WAC 314-55-083(6). Those requirements limit the amount of product that can be tested, how often testing can take place, and the reporting requirements by license and product type.

Can I provide samples?

Producers are allowed to provide samples to a processor and processors are allowed to provide samples to a retailer. Retailers are not allowed to supply samples to the public.

Retail Store Locations

Jurisdiction	2010 Population Census	Number of Retail Outlets	County Total
Adams County	18,728		2
At Large	8,818	2	
Asotin County	21,623		2
At Large	13,143	2	
Benton County	175,177		10
At Large	32,639	2	
Kennewick	73,917	4	
Richland	48,058	3	
West Richland	11,811	1	
Chelan County *	72,453		6
At Large	30,498	3	
Wenatchee	31,925	3	
Clallam County	71,404		6
At Large	42,228	3	
Port Angeles	19,038	2	
Sequim	6,606	1	
Clark County	425,363		15
At Large	203,339	6	
Battle Ground	17,571	1	
Camas	19,355	1	
Vancouver	161,791	6	
Washougal	14,095	1	
Columbia County	4,078		1
At Large	1,423	1	
Cowlitz County *	102,410		7
At Large	44,085	3	
Kelso	11,925	1	
Longview	36,648	3	
Woodland (part)	5,426		
Douglas County	38,431		3
At Large	20,399	2	
East Wenatchee	13,190	1	
Ferry County	7,551		1
At Large	6,478	1	
Franklin County *	78,163		5
At Large	13,491	1	
Pasco	59,781	4	
Garfield County	2,266		1
At Large	841	1	
Grant County *	89,120		7
At Large	40,134	3	
Ephrata	7,664	1	
Moses Lake	20,366	2	

Retail Store Locations

Jurisdiction	2010 Population Census	Number of Retail Outlets	County Total
Quincy	6,750	1	
Grays Harbor County	72,797		6
At Large	28,438	3	
Aberdeen	16,896	1	
Hoquiam	8,726	1	
Ocean Shores	5,569	1	
Island County	78,506		4
At Large	53,565	3	
Oak Harbor	22,075	1	
Jefferson County *	29,872		4
At Large	20,759	3	
Port Townsend	9,113	1	
King County *	1,931,249		61
At Large	325,000	11	
Auburn (part)	62,761	2	
Bellevue	122,363	4	
Burien	33,313	1	
Des Moines	29,673	1	
Federal Way	89,306	3	
Issaquah	30,434	1	
Kent	92,411	3	
Kirkland	48,787	2	
Maple Valley	22,684	1	
Mercer Island	22,699	1	
Redmond	54,144	2	
Renton	90,927	3	
Sammamish	45,780	1	
SeaTac	26,909	1	
Seattle	608,660	21	
Shoreline	53,007	2	
Tukwila	19,107	1	
Kitsap County *	251,133		10
At Large	170,022	7	
Bainbridge Island	23,025	1	
Bremerton	37,729	2	
Kittitas County *	40,915		4
At Large	18,063	2	
Ellensburg	18,174	2	
Klickitat County *	20,318		4
At Large	13,975	3	
Goldendale	3,407	1	
Lewis County *	75,455		7
At Large	44,892	4	
Centralia	16,336	2	
Chehalis	7,259	1	
Lincoln County	10,570		2
At Large	5,081	2	

Retail Store Locations

Jurisdiction	2010 Population Census	Number of Retail Outlets	County Total
Mason County	60,699		5
At Large	50,865	4	
Shelton	9,834	1	
Okanogan County *	41,120		5
At Large	24,780	4	
Omak	4,845	1	
Pacific County	20,920		2
At Large	14,073	2	
Pend Oreille County	13,001		2
At Large	9,810	2	
Pierce County *	795,225		31
At Large	366,738	17	
Bonney Lake	17,374	1	
Lakewood	58,163	2	
Puyallup	37,022	2	
Tacoma	198,397	8	
University Place	31,144	1	
San Juan County *	15,769		3
At Large	13,607	0	
San Juan Island		1	
Lopez Island		1	
Orcas Island		1	
Skagit County	116,901		10
At Large	48,112	4	
Anacortes	15,778	1	
Burlington	8,388	1	
Mount Vernon	31,743	3	
Sedro-Woolley	10,540	1	
Skamania County	11,066		2
At Large	8,645	2	
Snohomish County *	713,335		35
At Large	302,292	16	
Arlington	17,926	1	
Bothell (part)	16,415	1	
Edmonds	39,709	2	
Everett	103,019	5	
Lake Stevens	28,069	1	
Lynnwood	35,836	2	
Marysville	60,020	3	
Mill Creek	18,244	1	
Monroe	17,304	1	
Mountlake Terrace	19,909	1	
Mukilteo	20,254	1	
Spokane County *	471,221		18
At Large	136,097	7	
Spokane	208,916	8	

Retail Store Locations

Jurisdiction	2010 Population Census	Number of Retail Outlets	County Total
Spokane Valley	89,755	3	
Stevens County *	43,531		4
At Large	33,893	4	
Thurston County *	252,264		11
At Large	135,123	6	
Lacey	42,393	2	
Olympia	46,478	2	
Tumwater	17,371	1	
Wahkiakum County	3,978		1
At Large	3,446	1	
Walla Walla County *	58,781		4
At Large	16,750	2	
Walla Walla	31,731	2	
Whatcom County *	201,140		15
At Large	87,065	7	
Bellingham	80,885	6	
Ferndale	11,415	1	
Lynden	11,951	1	
Whitman County *	44,776		4
At Large	5,961	1	
Pullman	29,799	3	
Yakima County *	243,231		14
At Large	83,755	6	
Grandview	10,862	1	
Selah	7,147	1	
Sunnyside	15,858	1	
Yakima	91,196	5	
State Total	6,724,540	334	334

Jurisdiction	Allow Under Existing Laws	Moratorium	Interim Zoning	Permanent Zoning	Prohibition
Arlington		X			
Bellingham			X		
Bonney Lake		X			
Burien			X		
Douglas County				X	
Edgewood			X		
Everett			X		
Fife		X			
Kennewick		X			
Kent ¹					X
Kirkland	X				
Lacey				X	
Lake Stevens ²		X			
Marysville		X			
Millwood		X			
Milton				X	
Monroe			X		
Mossyrock					X
Mukilteo				X	
Normandy Park				X	
Oak Harbor		X			
Olympia		X			
Pasco		X			
Puyallup		X			
Redmond		X			
Richland					X
Seattle				X	
Snohomish		X			
Spokane			X		
Stanwood		X			
Tukwila				X	
Wenatchee					X
Yakima				X	

¹The Kent zoning code prohibits all business activities that are not specifically allowed in designated zones. The Kent city council has not amended their zoning code to allow recreational marijuana businesses, so that lack of amendment acts as a prohibition of marijuana businesses.

²Lake Stevens presented DRAFT permanent regulations to the Lake Stevens Council on October 28, 2013

I-502 Interim Regulations

Burien:

Producers and Processors

- . Only locate in Industrial and Airport Industrial zones
- . Shall not locate on a site or building with non-conforming status
- . Cannot be an accessory use to a primary use or home occupation
- . Producers and Processors can locate in the same building, but the building shall be enclosed
- . 1000' Rule

Retailers

- . Only locate in Commercial zones, including Neighborhood Commercial zones
- . Shall not be located R-zones or Office zones
- . Shall not be located in a building where nonconforming retail uses have been established in any R or O-zones.
- . Shall not operate as an accessory to a primary use or as a home occupation
- . 1000' rule

Everett:

Producers and Processors

- . Only locate in Agricultural and Manufacturing zones
- . In the AG zone you are only allowed to process marijuana grown on-site
- . Production shall be limited to Tier 1 only (maximum 2,000 SF plant canopy)
- . Tier 2 (2,000 – 10,000 SF) and Tier 3 (10,000 – 30,000 SF) shall be prohibited
- . Cannot locate within 1,000' of an R-zone, in addition to the 1,000' rule

Retailers

- . Retailers may locate within Business and Commercial zones
- . Shall not be located within a Neighborhood Business zone
- . Shall not be located in a building where nonconforming retail uses have been established in any R-zones.
- . 1,000' rule
- . Cannot be located within 2,500' or any other legally permitted marijuana retailer, measured "as the crow flies"

Monroe:

Producers and Processors

- . Producers can only locate in the General Industrial zone
- . Processors may locate in the Light and General Industrial zones

Retailers

- . Retailers may locate within Commercial zones

Bellingham:

Producers and Processors

- . Producers can only located in certain mapped Industrial zones
- . Prohibited in R-zones
- . 1,000' rule
- . Only allowed in a fully-enclosed and secure structure
- . If legally permitted under interim zoning, the use shall not automatically become a nonconforming use, if in the future permanent regulations prohibit producers and processors

Retailers

- . Retailers can only locate in certain mapped Industrial and Commercial zones
- . Prohibited in R-zones
- . 1,000' rule
- . Only allowed in a fully-enclosed and secure structure

I-502 Permanent Regulations

Mukilteo: Ordinance 1342 also addresses Medical Marijuana and Collective Gardens Producers and Processors

- . Allowed in the Light Industrial zone
- . Not allowed as a home occupation
- . No more than one facility shall be allowed on a single parcel
- . Processing facilities must be located within a permanent structure
- . Production facilities must be located within a permanent structure, or in non-rigid greenhouses, other structures, or an expanse of open or clear ground full enclosed by a physical barrier enclosed by a sight obscuring wall or fence 8' high
- . Shall not be located in a mobile structure
- . 1,000' rule
- . Shall not be located within 1,000' of a state licensed recreational marijuana retail facility or medical collective garden
- . Production, processing or delivery shall not be visible to the public nor may it be visible through windows.
- . All fertilizers, chemicals, gases and hazardous material shall be handled in compliance with all applicable local, state and federal regulations and shall not be allowed to enter a sanitary sewer or stormwater system nor be released into the atmosphere outside of the structure where the facility is located
- . Odors shall not be able to migrate beyond the interior portion of the structure

Retailers

- . Allowed in the Commercial Business zone
- . Not allowed as a home occupation
- . No more than one facility shall be allowed on a single parcel
- . Must be located within a permanent structure
- . Shall not be located in a mobile structure
- . 1,000' rule
- . Shall not be located within 1,000' of a state licensed recreational marijuana production or processing facility or medical collective garden
- . Odors shall not be able to migrate beyond the interior portion of the structure

Lake Stevens (DRAFT Regulations):

Producers & Processors

- . Processing permitted in the Business District, Light and General Industrial zones if identified on the "Marijuana overlay map," distributed at the permit center

Retailers

- . Permitted in the Business and Commercial Districts and in the Neighborhood Business, Light and General Industrial zones if identified on the "Marijuana overlay map," distributed at the permit center

Additional DRAFT Requirements

- . No more than one facility shall be located on a single parcel
- . Outside producers not allowed
- . Shall not be located in an a mobile or temporary structure
- . Shall not be visible to the public nor may it be visible through windows
- . Fertilizers, chemicals, gases and hazardous materials handled in compliance with all applicable federal, state and local codes
- . No odors beyond the interior portion of facility

Seattle:Producers, Processors and Retailers

- Limits are placed on where larger-scale marijuana activities can occur in Seattle. Specifically, the activities are the "processing, selling, or delivery of marijuana, marijuana-infused products, or useable marijuana." (5,000 SF max IG1 zone, 10,000 SF max in IB and IC zones and 20,000 SF max in IG2 zones)
- The limits are consistent with the level of activity allowed for what the state defines as a single "collective garden."
- The limits do *not* require a land use permit specifically to conduct marijuana-related activities. Although a property owner might need to obtain a permit to establish, for example, an agricultural or retail use, the City will not require the applicant to identify that the use is marijuana-related.
- Generally, limits will **not** apply in Neighborhood Commercial 2 & 3, Commercial 1 & 2, Industrial Zones, and certain Downtown zones
- The ordinance defines certain terminology related to marijuana in the land use code.
- The ordinance clarifies the intent of, and impose a size limit on, indoor agricultural operations in industrial areas. This change applies to any agricultural use in industrial areas, including marijuana production.

Tukwila:Producers, Processors and Retailers

- Permitted outright in the Heavy Industrial and Tukwila Valley South District
- Prohibited in any dwelling unit, or home occupation in all R, Office, Commercial, Industrial and Manufacturing zones
- No use that constitutes or purports to be a marijuana producer, processor or retailer engaged in activity prior to the enactment of the ordinance shall be deemed to have been a legally established use and cannot claim legal nonconformance

Snohomish County: Public Hearing scheduled November 13, 2013Producers and Processors

- Processors permitted in Industrial Park, Business Park, Light Industrial, Heavy Industrial and Urban Center zones, and as a CUP in the AG-10 zones
- Producers permitted in Industrial Park, Business Park, Light Industrial and Heavy Industrial zones, and as a CUP in the AG-10 zones. Permitted indoor only in the IP, BP, LI and HI zones. Outdoor production is prohibited in those zones. Permitted outdoor only in the A-10 zones and cannot be located within 200' of any property line.
- Prohibited as a home occupation

Retailers

- Permitted in Neighborhood Business, Community Business, General Commercial, Business Park, Light Industrial, Heavy Industrial Urban Center, Rural Business and Commercial Rural Center zones
- Prohibited as a home occupation

Douglas County:Producers and Processors

- Allowed in AG zones
- Outdoor production allowed if the area is enclosed with a sight obscuring wall or fence at least 8' high. These size of fences are only allowed in the industrial zoning districts, so a variance would likely be required.

Retailers

- Allowed in commercial zones that allow retail sales, and possibly in conjunction with other activities (e.g. fruit stands)

INFORMATION FROM COMMITTEE MEMBER MIGHELL

What are the security requirements for a marijuana licensee? The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and holdup alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a complete video surveillance with minimum camera resolution of 640x470 pixel and must be internet protocol (IP) compatible and recording system for controlled areas within the licensed premises and entire perimeter fencing and gates enclosing an outdoor grow operation, to ensure control of the area. The requirements include image acquisition, video recording, management and monitoring hardware and support systems. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) All controlled access areas, security rooms/areas and all points of ingress/egress to limited access areas, all points of ingress/egress to the exterior of the licensed premises, and all point-of-sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of all entry and exit points.

(b) Camera placement shall allow for the clear and certain identification of any individual on the licensed premises.

(c) All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions. The surveillance system storage device must be secured on-site in a lock box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(d) All perimeter fencing and gates enclosing an outdoor grow operation must have full video surveillance capable of clearly identifying any activities occurring within twenty feet of the exterior of the perimeter. Any gate or other entry point that is part of the enclosure for an outdoor growing operation must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of the exterior, twenty-four hours a day. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.

INFORMATION FROM COMMITTEE MEMBER MIGHELL

(e) Areas where marijuana is grown, cured or manufactured including destroying waste, shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities at all times.

(f) All marijuana or marijuana-infused products that are intended to be removed or transported from marijuana producer to marijuana processor and/or marijuana processor to marijuana retailer shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the liquor control board or designees.

(g) All camera recordings must be continuously recorded twentyfour hours a day. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the board or law enforcement officer upon request.

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the board. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts and marijuana-infused products must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the board:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana-infused product is to be destroyed;

(d) When usable marijuana or marijuana-infused products are transported;

INFORMATION FROM COMMITTEE MEMBER MIGHELL

- (e) Any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, or other item containing marijuana;
- (f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed or a lot or batch of marijuana or marijuana-infused product may be destroyed;
- (g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before a lot of marijuana is transported from a producer to a processor;
- (h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before useable marijuana, or marijuana-infused products are transported from a processor to a retailer.
- (i) Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happened when a plant is moved from the seed germination or clone area to the vegetation production area;
- (j) A complete inventory of all marijuana seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract and marijuana-infused products;
- (k) All point of sale records;
- (l) Marijuana excise tax records;
- (m) All samples sent to an independent testing lab and the quality assurance test results;
- (n) All free samples provided to another licensee for purposes of negotiating a sale;
- (o) All samples used for testing for quality by the producer or processor;
- (p) Samples containing usable marijuana provided to retailers;
- (q) Samples provided to the board or their designee for quality assurance compliance checks; and
- (r) Other information specified by the board.

INFORMATION FROM COMMITTEE MEMBER MIGHELL

Part 1: Marijuana and Crime

There is a concern that the criminal element surrounding marijuana will not simply walk away from a lucrative business is well founded.

Prohibition is used to cite how a "single act of legislation is credited with being . . . the galvanizing event for groups of people that would later become known as the American Mafia." This statement continues with arguments that making marijuana illegal created a similar crime environment consisting of Hells Angels, Mexican drug cartels, gangs, etc.

Both of the above statements are historically verifiable. The MPD states that, with the repeal of prohibition, "the American Mafia did not disappear We cannot believe that today's organized crime element will simply disappear with the passage of I-502."

No one believes the black market/criminal element surrounding marijuana will "simply disappear" overnight. However, legalizing and regulating this popular product will gradually erode the criminal opportunities that currently exist around it, similar to what happened with alcohol. According to Wikipedia, "When Prohibition was repealed in 1933, organized crime lost nearly all of its black market profits from alcohol" Will criminals find other ways to get money? Sure. But that is no reason to let them continue unchallenged in their monopoly of a huge and lucrative industry. Let's take their income stream away. Let them move to another city or state - one that has a moratorium on marijuana, where there are still black market profits to be had.

Following this document are two documents that report on crime around medical marijuana businesses:

Part 2: A report from the Denver Police Department

Part 3: A summary from the Marijuana Policy Project out of Wash DC that cites 6 different studies on the link between marijuana businesses and crime.



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"We change laws."

Medical Marijuana Dispensaries and Their Effect on Crime

Opponents of medical marijuana sometimes speculate that medical marijuana dispensaries will lead to increased crime rates in surrounding areas.¹ These dispensaries, they claim, will attract thieves and robbers to the facilities and breed secondary crimes in surrounding areas. Such claims have prompted empirical and statistical analyses by researchers and law enforcement agencies. In what should not come as a surprise, given the robust security at most medical marijuana facilities, these studies have routinely shown that, contrary to popular opinion, dispensaries are not magnets for crime. Instead, these studies suggest that dispensaries are no more likely to attract crime than any other business, and in many cases, by bringing new business and economic activity to previously abandoned or run-down retail spaces, dispensaries actually contribute to a reduction in crime.

What follows is a brief summary of anecdotal and scientific evidence, including law enforcement data analyses and academic research on medical marijuana dispensaries and their effect on crime. For more information on dispensaries, medical use of marijuana, state laws, and other issues related to medical marijuana, please visit mpp.org/issues/medical-marijuana/.

2009 Los Angeles Police Department survey – In response to debate over medical marijuana regulations by the Los Angeles City Council, and outcry from medical marijuana opponents that dispensaries were magnets for crime, Los Angeles Police Chief Charlie Beck asked his department to produce a report comparing the robbery rates of L.A. banks and medical marijuana dispensaries. The report indicated that there were 71 robbery reports filed with the LAPD at the city's 350 banks. Despite there being far more medical marijuana dispensaries — more than 800 at the time according to Beck — there were fewer robbery reports filed at dispensaries; just 47.

When asked about the report, and claims that dispensaries are crime magnets, Beck said, "I have tried to verify that because, of course, that is the mantra. It really doesn't bear out. ... Banks are more likely to get robbed than medical marijuana dispensaries."²

2009 Denver Police Department survey – An analysis of robbery and burglary rates at medical marijuana dispensaries conducted by the Denver, Colorado Police Department at the request of the Denver City Council found that the robbery and burglary rates at dispensaries were lower than area banks and liquor stores and on par with those of pharmacies. Specifically, the report found a 16.8 percent burglary and robbery rate for

¹ "Across the state, we're seeing an increase in crime related to dispensaries," said Ernie Martinez, a Denver police detective who is president of the Colorado Drug Investigators Association. "Medical marijuana dispensaries' effect on crime unclear," *The Denver Post*, January 24, 2011.

http://www.denverpost.com/news/marijuana/ci_17178820#ixzz1ngbvMOH.

² "LAPD Chief: Pot clinics not plagued by crime," *Los Angeles Daily News*, January 17, 2010.

http://www.dailynews.com/news/ci_14206441.

INFORMATION FROM COMMITTEE MEMBER MIGHELL

dispensaries, equal to that of pharmacies. That's lower than the 19.7 percent rate for liquor stores and the 33.7 percent rate for banks, the analysis found.³

2010 Denver Police Department analysis – In late 2010, the Denver Police Department looked at crime rates in areas in and around dispensaries. The analysis showed that through the first nine months of 2010, crime was down 8.2% relative to the same period in 2009. The decrease was comparable to the city's overall drop in crime of 8.8%.⁴ *The Denver Post* completed a similar analysis and found that crime rates in some areas with the highest concentration of dispensaries saw bigger decreases in crime than neighborhoods with no dispensaries.⁵

2010 Colorado Springs Police Department analysis – An analysis by the Colorado Springs Police Department found that robbery and burglary rates at area dispensaries were on par with those of other businesses. Specifically, the department's data indicated that there were 41 criminal incidents reported at the city's 175 medical marijuana businesses in the 18-month period ending August 31, 2010. Meanwhile, over that same period, there were 797 robberies and 4,825 burglaries at other city businesses. These findings led the department's spokesman, Sgt. Darrin Abbink, to comment, "I don't think the data really supports [dispensaries] are more likely to be targeted at this point."⁶

UCLA study, "Exploring the Ecological Link Between Crime and Medical Marijuana Dispensaries," October 2011 – In what is likely the most comprehensive analysis of the relationship, or lack thereof, between dispensaries and crime, researchers from UCLA, funded by the National Institute on Drug Abuse, used data from 95 census tracts in Sacramento to analyze two types of crime (violent and property) in areas with varying concentrations of dispensaries. What they found is that while factors traditionally understood to lead to increased crime — for example, large percentages of land zoned for commercial rather than residential use, a high percentage of one-person households, the presence of highway ramps, and a higher percentage of the population being ages 15-24 — were positively associated with crime in those areas, "the density of medical marijuana dispensaries was not associated with violent or property crime rates." In their conclusion, the researchers said, "[t]hese results suggest that the density of [medical marijuana dispensaries] may not be associated with increased crime rates or that measures dispensaries take to reduce crime (i.e., doormen, video cameras) may increase guardianship, such that it deters possible motivated offenders."⁷

Specifically, the study applied the "routine activity theory" of crime, which suggests that crime is more likely when three criteria are met: (1) a motivated offender, (2) a suitable target, as defined by factors like value, visibility, and access, and (3) a lack of guardianship such as low residency or poor security. The authors hypothesized that the

³ "Analysis: Denver pot shops' robbery rate lower than banks," *The Denver Post*, January 27, 2010. http://www.denverpost.com/ci_14275637.

⁴ See note 1, *supra*.

⁵ *Id.*

⁶ "Marijuana shops not magnets for crime, police say," *Fort Collins Gazette*, September 14, 2010. <http://www.gazette.com/articles/wall-104598-marijuana-brassfield.html>.

⁷ <http://www.uclamedicalmarijuanaresearch.com/node/10>.

INFORMATION FROM COMMITTEE MEMBER MIGHELL

lack of a relationship between dispensaries and crime could be attributable to either of two possible conclusions: either medical marijuana dispensaries were no more valuable a target than other businesses in the area — a possibility supported by the law enforcement surveys in L.A. and Denver discussed above — or heightened security at dispensaries was sufficient to deter criminal activity in the area.

Regent University study, June 2011 – Researcher Maura Scherrer of Regent University looked at the perception of crime, and medical marijuana dispensaries' impact on crime, among residents of Denver neighborhoods with varying socio-economic profiles. In so doing, she found that most crimes, including robbery, vandalism, and disorderly conduct increased in Denver from 2008 to 2009. However, in areas within 1,000 feet of a dispensary, rates were down for most types of crime, including burglary, larceny, and a 37.5% reduction in disorderly conduct citations. In her conclusion the author notes, "it appears that crime around the medical marijuana centers is considerably lower than citywide crime rates; a much different depiction than originally perceived."⁸

⁸ Study available at <http://adr.coalition.org/codr/fez/view/codr:983>.

INFORMATION FROM COMMITTEE MEMBER MIGHELL

**CITY AND COUNTY OF DENVER****DEPARTMENT OF SAFETY****DENVER POLICE DEPARTMENT
ADMINISTRATION BUILDING
1331 CHEROKEE STREET
DENVER, COLORADO 80204-2787
PHONE: (720) 913-2000****MEMORANDUM**

DATE: January 22, 2010
TO: Councilwoman Jeanne Robb, Council District 10
FROM: Chief Tracie Keesee, Division Chief of Research, Training and Technology Services
SUBJECT: Robberies / Burglaries at Dispensaries, Banks, Liquor Stores and Pharmacies

As requested, the attached report summarizes the robberies and burglaries at medical marijuana dispensaries, banks, liquor stores and pharmacies in Denver that occurred in 2009.

The City & County of Denver Treasury provided a list of medical marijuana dispensaries with an effective / commences date on or before 12/31/2009. Bank locations were determined through phone directories and the liquor stores were compiled from the City & County of Denver Excise and Licenses. The list of pharmacies was extracted from the Department of Regulatory Agencies (DORA). Projected calculations for 2009 were based on the number of months dispensaries were open and the total number of robberies or burglaries at these locations.

There was a greater chance of robberies at banks than at dispensaries during 2009.

If you have any questions, please do not hesitate to call.

Cc: Gerald R. Whitman, Chief of Police

INFORMATION FROM COMMITTEE MEMBER MIGHELL

**ROBBERY OR BURGLARY COMMITTED DURING 2009
AT LOCATIONS IN DENVER OF
MEDICAL MARIJUANA DISPENSARIES, BANKS, LIQUOR STORES OR PHARMACIES**

	Dispensaries	Banks	Liquor Stores	Pharmacies
Number in Operation in 2009*	346	199	193	119
Robberies or Burglaries at these locations ¹	8	67	38	20
Projected 2009 robbery/burglary	58	-	-	-
Rate of robbery/burglary	16.8%	33.7%	19.7%	16.8%

*Includes Dispensaries listed with the City and County of Denver Treasury with effective or commence date on or before 12/31/2009. Bank list was compiled from phone directories. Liquor Stores list is from City and County of Denver Excise & License SDE layer. Pharmacy list is from the Department of Regulatory Agencies (DORA).

¹Does not include robberies or burglaries that occurred in 2009 at a dispensary address if the effective/commence date was after the occurred crime date.

Marijuana as a Gateway Drug: The Myth That Will Not Die

By [Maia Szalavitz @maiasz](#)
Oct. 29, 2010

Of all the arguments that have been used to demonize marijuana, few have been more powerful than that of the “gateway effect”: the notion that while marijuana itself may not be especially dangerous, it ineluctably leads to harder drugs like heroin and cocaine. Even Nick Kristof — in a [column](#) favoring marijuana legalization — alluded to it this week in the *New York Times*. In what is known as the “to be sure” paragraph, where op-ed writers cite the arguments of opponents, he wrote:

I have no illusions about drugs. One of my childhood friends in Yamhill, Ore., pretty much squandered his life by dabbling with marijuana in ninth grade and then moving on to stronger stuff. And yes, there’s some risk that legalization would make such dabbling more common.

The idea that marijuana may be the first step in a longer career of drug use seems plausible at first: when addicts tell their histories, many begin with a story about marijuana. And there’s a strong correlation between marijuana use and other drug use: a person who smokes marijuana is more than 104 times more likely to use cocaine than a person who never tries pot, [according](#) to the National Institute on Drug Abuse. ([More on Time.com: 7 Tips for California: How to Make Legalizing Marijuana Smart](#))

The problem here is that correlation isn’t cause. Hell’s Angels motorcycle gang members are probably more 104 times more likely to have ridden a bicycle as a kid than those who don’t become Hell’s Angels, but that doesn’t mean that riding a two-wheeler is a “gateway” to joining a motorcycle gang. It simply means that most people ride bikes and the kind of people who don’t are highly unlikely to ever ride a motorcycle.

Scientists long ago abandoned the idea that marijuana causes users to try other drugs: as far back as 1999, in a [report](#) commissioned by Congress to look at the possible dangers of medical marijuana, the Institute of Medicine of the National Academy of Sciences wrote:

Patterns in progression of drug use from adolescence to adulthood are strikingly regular. Because it is the most widely used illicit drug, marijuana is predictably the first illicit drug most people encounter. Not surprisingly, most users of other illicit drugs have used marijuana first. In fact, most drug users begin with alcohol and nicotine before marijuana — usually before they are of legal age.

In the sense that marijuana use typically precedes rather than follows initiation of other illicit drug use, it is indeed a “gateway” drug. But because underage smoking and alcohol use typically precede marijuana use, marijuana is not the most common, and is rarely the first, “gateway” to

*DRAFT*PLANNING
COMMISSIONMINUTES

November 26, 2013

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the November 26, 2013 meeting to order at 7:00 p.m. noting the excused absences of Marvetta Toler and Kelly Richards.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo

Staff: CAO/CD Director Gloria Hirashima, Planning Manager Chris Holland, Lt. Thomas, Commander Goldman

Absent: Kelly Richards, Marvetta Toler

APPROVAL OF MINUTESOctober 22, 2013

Motion made by Commissioner Smith, seconded by Commissioner Andes, to approve the October 22 Meeting Minutes

Commissioner Andes commented that the minutes state that Commissioner Richards was absent but also that he voted to approve the minutes. Staff indicated that this information would be confirmed and clarified.

Motion passed unanimously (5-0) to approve the minutes with the understanding that the minutes would be clarified regarding Commissioner Richards' attendance.

AUDIENCE PARTICIPATION

None

NEW BUSINESS

I-502 Recreational Marijuana

Planning Manager Holland reviewed new items in the Planning Commission's packet. He explained that the Council enacted a 12-month moratorium on September 9. Ordinance 2936 contained a work plan in it for reviewing potential regulations. It also established the creation of an I-502 committee. The Mayor appointed four members of the community: Councilmember Steve Muller, Planning Commissioner Kelly Richards, business owner Kate Mighell, and citizen Bruce Paquette. Two meetings were held, one on November 5 and one on November 19 to discuss I-502 and potential regulations. There was good discussion, but it was clear that the committee was not going to come to any consensus.

Planning Manager Holland stated that staff compiled a set of alternatives for the Planning Commission to review as follows:

- Alternative 1 – Prohibition
- Alternative 2 – Continue with the moratorium and monitor how other cities have implemented I-502 regulations before taking further action
- Alternative 3 – Prohibit retailers and allow for producers and processors (Tier 1 only – maximum 2,000 SF plant canopy)
- Alternative 4 – Prohibit retailers and allow for producers and processors (limited to Tier 1 and Tier 2 producers)
- Alternative 5 – Prohibit retailers and allow for producers and processors. (Tiers 1, 2, and 3)
- Alternative 6 – Allow retailers in certain areas; if they want to allow producers they could add alternatives 3, 4, or 5.

Lt. Thomas gave an overview of the Marysville Police Department's position paper. He stated that the Police Department is recommending continued prohibition based on the documented, reported criminal activity associated with marijuana production, processing, and sales; the negative impact of marijuana as seen as a gateway drug; and the unanswered questions by the State Liquor Control Board on how they are going to regulate, fund, and provide adequate staffing necessary for such a large, emerging industry. He further elaborated on the reasons for this recommendation as contained in the Memorandum from Chief Smith. He also discussed the current status of this issue as a violation of federal law. He commented on his experience as an undercover narcotics detective where violent, organized crime was tied to a lot of marijuana cases. Regarding the status of marijuana as a gateway drug, the police feel that making marijuana more accessible to our youths isn't in the best interest of the public safety and health of the citizens in Marysville. Another issue is that financial institutions are not getting involved in the proceeds, which is forcing marijuana establishments to work on a cash-only basis. This would increase the risk of robbery and violent takeovers for the money or drugs. However, recently the Bank of America has said they would take the cash proceeds, but they would not get involved in financing, credit card usage, or loans needed to establish these businesses. Finally, Lt. Thomas discussed the hazards

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associated with marijuana grows including mold and pesticides. He expressed concern about the health of the workers in these establishments taking care of the plants. Lt. Thomas summarized that the public health and safety would be better served by a prohibition on I-502.

Commissioner Leifer referred to a comment by I-502 Committee Member Mighell at the November 5 meeting stating that marijuana producers and retailers are currently operating illegally in Marysville and I-502 would make these operations legal and more predictable. He asked for a response from police. Lt. Thomas commented that due to the taxation on marijuana, the prices will go up in the retail establishments. People who currently grow and sell it illegally would probably continue to do that because it would be more profitable. He briefly reviewed the history of grows in this region. Lt. Thomas said he thinks I-502 would allow illegal activity to continue and to even be better disguised as it is diverted and sold illegally in other states. He related this to prohibition and also his experience with oxycodone manufacturers.

Chair Leifer then referred to the Police Department's concern regarding the fact that the state doesn't have any rules in place yet, and commented that the rules would be coming out on December 1. Lt. Thomas said he has seen the draft version of the rules, and he wrote the Police Position Paper knowing what the draft rules are. The Liquor Control Board currently has 56 liquor control agents. With I-502 they will be hiring 22 more agents plus 5 additional positions. This is a total of only 83 officers to deal with this issue statewide. He doesn't think there are enough controls in place to close the loopholes for diversion and other illegal activities. He is not comfortable with the level of regulation that the rules would provide due to the limited resources available to the Liquor Control Board.

Commissioner Hoen wondered about the relationship between legal and illegal sales. Lt. Thomas stated that in the minutes one of the committee members asserted that the legalization of the sale of marijuana would significantly reduce the illegal sales. Lt. Thomas said he thinks there will be a reduction, but it will not be as dramatic as some are saying and it will not be significant enough to stop the black market trade.

Commissioner Hoen referred to one of the committee members who stated that crime had not increased as a result of marijuana outlets. Lt. Thomas noted that the charts and graphs from the study quoted by that committee member are in the packet. He stated that he spoke with Mukilteo who had a few incidents right at the beginning of legalization of medical marijuana dispensaries, but since then they have not had issues. However, police have identified studies out of California and Colorado which show that there has been increased crime related to these operations. Questions and answers about the level of crimes related to marijuana establishments were reviewed.

Commissioner Hoen commented that based on election the majority of the public wants this to be added to their communities. Lt. Thomas acknowledged that the voters voted for I-502, but he pointed out that the perception of most voters was that this would be taxed and controlled through the liquor stores. Since the Liquor Control Board has done away with their retail markets, some voters have indicated they would change their vote

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if they could. Lt. Thomas pointed out that the perception of voters was that taxing marijuana would solve a lot of economic woes the state is facing. He thinks this was an overly simplistic approach.

CAO Hirashima pointed out that most of the contacts the City is receiving are from prospective business owners. She stated that the Planning Commission's task is to make a recommendation to the Council on what would be best for the Marysville community. The committee was put together in order to get the views of stakeholders including the police department, concerned citizens, and prospective business owners.

Commissioner Hoen then referred to the license requests and noted that locations on 108th Street and 119th Street could open anyway with a county license. Planning Manager Holland commented that those people could request a producer/processor license, but he wasn't sure if they would qualify. Commissioner Hoen asked if a retail operation could be opened in the county very close to the city limits. Planning Manager Holland said they couldn't because of the rural zoning designations in those adjacent areas.

CAO Hirashima added that the Tulalip reservation is not allowing marijuana operations in their boundary because they are a federal reservation. She noted that throughout the state there will be a myriad of zoning regulations, and there will be inconsistencies with adjacent cities. Marysville is trying to coordinate with Lake Stevens, Arlington, and Snohomish to provide some level of consistency.

Commissioner Hoen pointed out that the Liquor Control Board didn't do anything to control medical marijuana, but it seems like there will be a lot more regulation with recreational marijuana. Planning Manager Holland agreed. He stated that the DOR has released some draft rules on medical marijuana which will align directly with the rules for retail operations. Commissioner Hoen thanked Lt. Thomas for answering his questions.

Commissioner Lebo asked about the legal requirements to purchase recreational marijuana. Lt. Thomas stated that you have to be 21 or older, you can only buy an ounce, and you must show photo ID. The retail establishments won't have any product available to the consumer that they can get to directly. The draft rules also talk a lot about security and cameras. Commissioner Lebo asked about the requirements to purchase medical marijuana. Lt. Thomas said that you have to possess a green card which you get through a doctor and possess photo ID showing that you are above the age of 21. At this point it's illegal to sell medical marijuana so it's done through a donation process.

Commissioner Andes commented that he concurred with the police recommendations. He expressed concern about the crime associated with the drugs in general and expressed support for a prohibition. Commissioner Smith concurred.

The Planning Commission thanked Lt. Thomas for his time and information.

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Planning Manager Holland referred to Committee Mighell's information she provided about crime statistics, gateway myths, and excerpts from other municipalities in adopting ordinances related to I-502 and allowing producers, processors, and retailers in their community. This was information provided to the commission.

Chair Leifer stated that he personally was in support of prohibition, but acknowledged that the majority of the voters which he represents voted for this so a sincere examination of all the facts related to it is important. As a result, he indicated support of Alternative 2 in order to see what happens with other cities.

Planning Manager Holland stated that a hearing could be scheduled for January 14.

Commissioner Lebo spoke in support of a hearing and getting input, but commented on the importance of equal input for both sides. There was general discussion on the Commission's role of representing the City versus being true to their personal principles.

Motion made by Commissioner Lebo, seconded by Commissioner Smith, to set a hearing date for January 14. Motion passed unanimously (5-0).

Commissioner Andes asked if it was known how the citizens of Marysville voted on the initiative. CAO Hirashima was not sure, but she thought that it was a majority in Marysville.

Commissioner Hoen asked about the pros and cons of requiring a 2500 foot separation between retail locations. He wondered if it might be better to have it in a district sort of situation. Planning Manager Holland explained that the 2500 foot separation rule was in an interim regulation that was adopted by the City of Everett. Upon discussion with the Police Department and the committee there didn't seem to be any issues with that. The police actually prefer that the separation would occur if regulations were ultimately adopted so retailers, producers, and processors are not congregated in one single area.

CAO Hirashima pointed out that there has been some discussion about whether or not a city can prohibit retail marijuana establishments. Some cities have requested an Attorney General Opinion about the matter, but ultimately the decision will be made by the courts. However, the City is moving forward with the belief that cities have zoning authority and have the full range of options available to them.

Commissioner Hoen commented that the City of Wenatchee's charter says you have to follow all federal rules, and that is what they are basing their prohibition on. Planning Manager Holland pointed out that Wenatchee's business licenses say that you have to meet all city, state, and federal laws, but they changed their business licensing categories to have marijuana producers, processors, and retailers exempted from obtaining a business license from the City of Wenatchee.

Chair Leifer commented on the potential for liability with the confusion surrounding this issue with regard to federal and state law. Planning Manager Holland commented that it still is a controlled substance and if the federal government wants to come in and seize

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the product, supplies and property they can. Chair Leifer asked if the City is getting explicit legal advice from the City Attorney on this. CAO Hirashima stated that the City Attorney has been following this process very closely and that he would be available at the public hearing to answer questions.

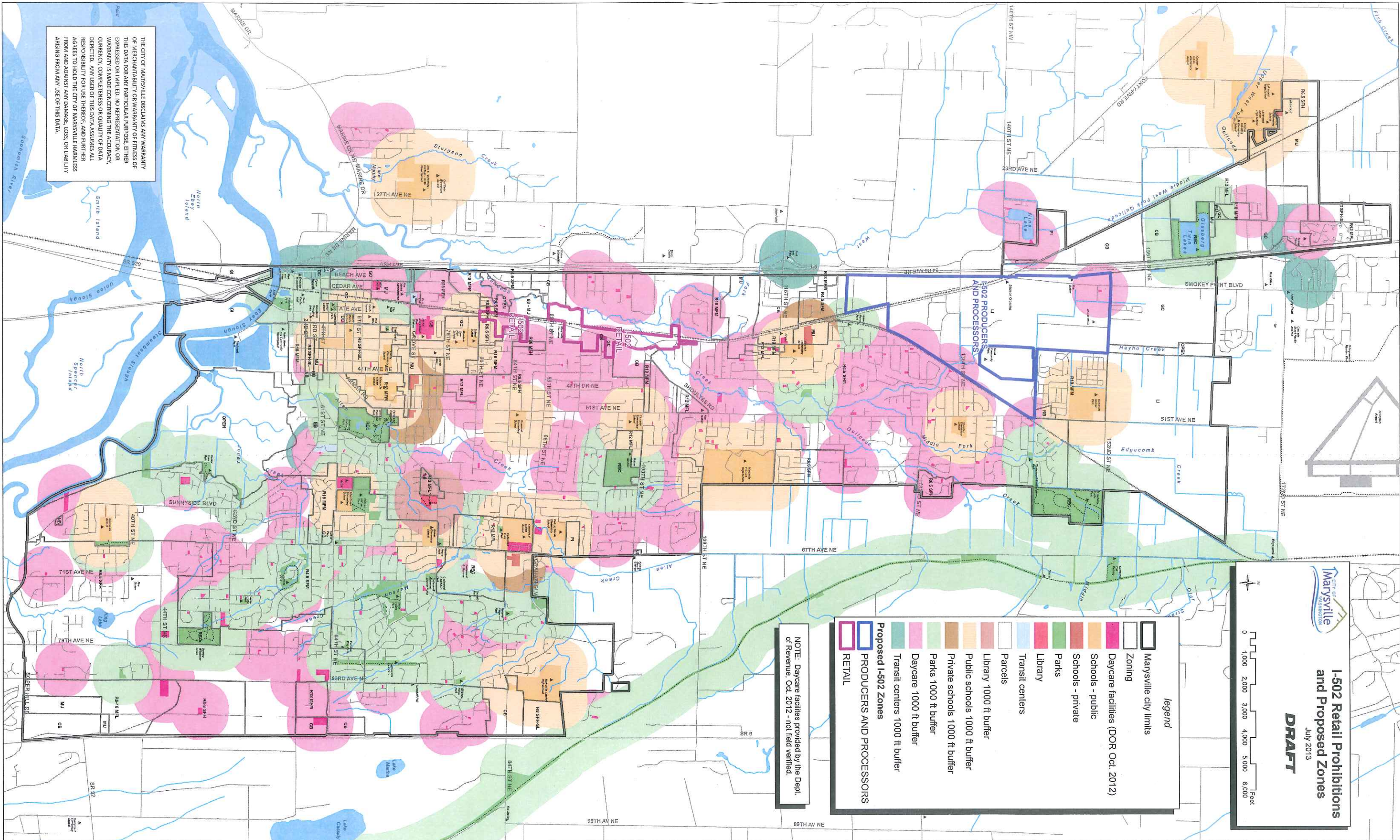
ADJOURNMENT

Motion made by Commissioner Lebo, seconded by Commissioner Smith, to adjourn at 8:21 p.m. Motion passed unanimously.

NEXT MEETING:

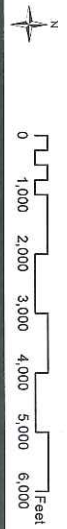
December 10, 2013

Laurie Hugdahl, Recording Secretary



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City of Marysville
1-502 Retail Prohibitions and Proposed Zones
 July 2013
DRAFT



- Legend**
- Marysville city limits
 - Zoning
 - Daycare facilities (DOR Oct. 2012)
 - Schools - public
 - Schools - private
 - Parks
 - Library
 - Transit centers
 - Parcels
 - Library 1000 ft buffer
 - Public schools 1000 ft buffer
 - Private schools 1000 ft buffer
 - Parks 1000 ft buffer
 - Daycare 1000 ft buffer
 - Transit centers 1000 ft buffer
- Proposed I-502 Zones**
- PRODUCERS AND PROCESSORS
 - RETAIL

NOTE: Daycare facilities provided by the Dept. of Revenue, Oct. 2012 - not field verified.

Index #9

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

AGENDA ITEM: Remedial Action Grant between the Washington State Department of Ecology and the City of Marysville	AGENDA SECTION:	
PREPARED BY: Shawn Smith, P.E., Engineering Services Manager	DIRE	
ATTACHMENTS: Remedial Action Grant Agreement G1400515		
	MAYOR	CAO
BUDGET CODE:	AMOUNT: \$200,000	

DESCRIPTION:

The City was successful in acquiring a Remedial Action Grant for the Geddes Marina site from the Washington State Department of Ecology for \$200,000.00. This grant will be used in conjunction with the Cleanup Grant that the City acquired from the Environmental Protection Agency in 2013, also for \$200,000.00. This grant will be used for preliminary studies, additional environmental assessment and cleanup planning activities required prior to physically cleaning up the site.

RECOMMENDED ACTION:

AUTHORIZE THE MAYOR TO SIGN THE Remedial Action Grant Agreement G1400515 between the Washington State Department of Ecology and the City of Marysville.

COUNCIL ACTION:



REMEDIAL ACTION GRANT AGREEMENT G1400515
BETWEEN THE
STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY
AND THE
CITY OF MARYSVILLE

This is a binding agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and the City of Marysville, hereinafter referred to as the "RECIPIENT," to carry out the activities described herein.

RECIPIENT ADDRESS	80 Columbia Avenue Marysville, WA 98270-5130
RECIPIENT REPRESENTATIVE	Jon Nehring, Mayor
RECIPIENT PROJECT MANAGER	Shawn Smith, P.E., 360-363-8224
RECIPIENT FINANCIAL MANAGER	Tonya Miranda, 360-363-8122
ECOLOGY FINANCIAL MANAGER	Lydia Lindwall, 360-407-6210
ECOLOGY PROJECT MANAGER	John Means, 360-407-7188
FUNDING SOURCE	Local Toxics Control Account (LTCA)
MAXIMUM ELIGIBLE COST	\$200,000
STATE GRANT SHARE	\$200,000
RECIPIENT GRANT SHARE	\$0
MAXIMUM STATE SHARE PERCENT	100%
FEDERAL TAX IDENTIFICATION NUMBER	91-6001459
EFFECTIVE DATE OF THE AGREEMENT	November 1, 2013
EXPIRATION DATE OF THE AGREEMENT	June 30, 2015

Grant No. G1400515
Waterfront IPG
City of Marysville

PART 1: SITE HISTORY AND BACKGROUND

The RECIPIENT is currently evaluating redevelopment opportunities for the blighted Waterfront Property, located at 1326 First Street, also known as Geddes Marina. The five-acre site is located just south of downtown along Ebey Slough in Marysville Washington. Since the 1800s, the site has been the location of timber industry and marine-related operations. In the early 1990s, the Waterfront Property was converted for use as a marina and boat launch. These uses have resulted in on-site contamination with hazardous substances, including arsenic, cadmium, and polycyclic aromatic hydrocarbons, likely resulting from fuel and oil storage and handling, as well as boat sanding and painting. In addition, the site has been impacted by stormwater discharge from adjacent properties, including a former, nearby lumber mill (former Welco Property, now Ebey Waterfront Park, FSID 43566392), which is to the east of the Waterfront Property.

The RECIPIENT purchased the Waterfront Property in 2010 after conducting a Phase I and Phase II Environmental Site Assessment (ESA). The Phase II ESA, conducted in June 2010, identified soil, sediment, and groundwater contamination. Soil samples collected in 21 locations revealed contamination of arsenic, cadmium, and lead above Model Toxics Control Act (MTCA) cleanup levels in approximately half of those locations. Groundwater sampling results revealed arsenic in all seven samples and diesel, motor oil, chromium, copper, lead, and barium above cleanup levels in at least one groundwater sample. Sediment samples collected from eight locations showed zinc, mercury, diesel, and motor oil in excess of marine water quality standards. Additional assessment is needed to fully characterize the nature and extent of these impacts.

The property's waterfront location also creates concern about off-site impacts. The marina is located along Ebey Slough, a habitat for salmon and other fish populations along the Snohomish River. Sediment contamination in the marina has the potential to impact the ecological health of the slough. This threat is heightened by the presence of the municipal stormwater runoff that currently runs through the site and into Ebey Slough. The project proposes to integrate Low Impact Development (LID) stormwater management solutions with site remediation in order to protect the fish and wildlife that depend on the health and habitat of the river.

The Waterfront Property is a keystone site in the RECIPIENT'S ongoing efforts to reclaim its formerly industrial waterfront and revitalize its downtown. Through previous public planning efforts, the RECIPIENT has crafted a broad vision for re-use of the property for multi-family housing, public open space, and a waterfront trail.

The RECIPIENT will use this Integrated Planning Grant (IPG) to re-engage the public's vision for a mixed-use retail center with recreation and open space. Redevelopment plans will address potential impacts on Ebey Slough by remediating current contamination and addressing on-going stormwater and source control issues.

The cleanup and redevelopment of the Waterfront Property will provide the community economic benefits by increasing public access to Ebey Slough, leveraging the adjacent newly developed Ebey Waterfront Park and Boat Launch Facility, creating new housing opportunities, and supporting existing businesses, including the Town Center Mall. This IPG will also leverage a \$200,000 U.S.

Grant No. G1400515
 Waterfront IPG
 City of Marysville

Environmental Protection Agency (US EPA) Brownfield Cleanup Grant the RECIPIENT has received to implement remedial actions on the Waterfront Property.

The outcomes of this IPG project will include:

- A refined understanding of the nature and extent of contamination.
- An analysis of appropriate cleanup options that address economic, environmental, and community impacts and align with future use plans.
- An approach for the integration of low impact development and stormwater management techniques for the purpose of remedy protection.
- A strategy for cleanup and redevelopment based on community support, risk management, and financial viability.

PART 2: SCOPE OF WORK

The tasks set forth below summarize the RECIPIENT's activities to be performed under this agreement. Costs are limited to those approved by ECOLOGY in the current budget.

Copies of all reports and deliverables must be provided to the ECOLOGY project manager.

TASK 1: J003 REMEDIAL INVESTIGATIONS

This task funds the RECIPIENT's eligible costs ECOLOGY deems reasonable and necessary to plan and perform Remedial Investigations at the site to fill data gaps from previous site investigations and inform future remedial actions. Eligible work will comply with the requirements of the Model Toxics Cleanup Act. This includes work plan development, sampling and analysis costs, identification and testing of sources of contamination, surveying/mapping, data management, reports, and project management. Grant funds may not be used to challenge ECOLOGY decisions about appropriate actions for the site.

TASK 2: J004 FEASIBILITY STUDY AND REMEDY SELECTION

This task funds the RECIPIENT's eligible costs ECOLOGY deems reasonable and necessary to plan and perform Feasibility Study type activities at the site. This includes evaluating potential cleanup options for the site and cost estimates for implementing the cleanup options.

TASK 3: J008 INTEGRATED PLANNING ACTIVITIES

This task funds the RECIPIENT's eligible costs ECOLOGY deems reasonable and necessary to plan and perform integrated planning activities at the site needed for developing a redevelopment and cleanup plan for the site. This includes three categories of activities:

1. Community Involvement
2. Redevelopment Analysis, including the following:
 - a. Developer Engagement Options
 - b. Physical Site Assessment
 - c. Regulatory Analysis
 - d. Market Analysis

Grant No. G1400515
 Waterfront IPG
 City of Marysville

- e. Conceptual Site Planning
3. Implementation Strategy

Community Involvement:

The RECIPIENT shall conduct an open public process to engage the local community and elicit public feedback on redevelopment options for the site. This includes hosting a community open house to update residents, business, and other interested persons on the status of the project and opportunities to be involved.

Redevelopment Analysis:

- a. Developer Engagement Options: Technical memorandum on developer RFP: The RECIPIENT shall conduct an analysis of opportunities to engage developers in the redevelopment of the site and the feasibility of using an RFP process. Additional analysis will be performed as part of the Implementation strategy.
- b. Physical Site Assessment: The RECIPIENT will contract with technical experts to conduct an analysis of the physical characteristics of the site. This includes the following assessments: geotechnical, cultural resources, stormwater analysis, and hydrogeologic.
- c. Regulatory Analysis: Integrated summary of regulatory requirements and critical path analysis for completing environmental review and permitting redevelopment activities. A primary focus of this analysis will be to understand the regulatory implications of conducting cleanup and redevelopment actions in the basin of the former marina.
- d. Market Analysis: The RECIPIENT will conduct a focused study of the local and regional real estate market with the objective of confirming potential market opportunities for implementing the existing conceptual plans envisioned through previous planning efforts. The study will provide a preliminary pro-forma, including cost estimates, absorptions rates, and vacancy rates for competing development sites.
- e. Conceptual Site Planning: The RECIPIENT will develop a conceptual site plan that integrates redevelopment and remedial actions. Site plan alternatives will include solutions for stormwater and source control, and demonstrate opportunities for Low Impact Development (LID) infrastructure.

Implementation Strategy: The RECIPIENT will develop an integrated cleanup and redevelopment strategy report. This will address an implementation strategy for the site that includes the key steps needed to provide a pathway for regulatory compliance and examine future funding opportunities for cleanup and redevelopment. This will include a risk management strategy and approaches for phased development.

Grant No. G1400515
 Waterfront IPG
 City of Marysville

PART 3: FUND SOURCE AND BUDGET

A. FUND SOURCE

Total Eligible Project Cost		\$200,000
Fund	Fund Share (%)	Maximum Fund Amount
Local Toxics Control Account (LTCA)	100%	\$200,000
Match Requirement	Match Share (%)	Match Amount
Cash Match	0%	\$0

B. BUDGET

<u>Grant Tasks</u>	<u>Estimated Eligible Cost</u>	<u>Estimated Maximum Fund Amount</u>	<u>Estimated Start Date</u>	<u>Estimated End Date</u>
1. J003 REMEDIAL INVESTIGATIONS	\$95,000	\$95,000	4/1/2014	1/31/2015
2. J004 FEASIBILITY STUDY	\$20,000	\$20,000	4/1/2014	1/31/2015
3. J008 INTEGRATED PLANNING ACTIVITIES	\$85,000	\$85,000	4/1/2014	1/31/2015
TOTAL:	\$200,000	\$200,000		

C. BUDGET CONDITIONS

1. Any work performed or costs incurred prior to the effective date or after the expiration date of this agreement is at the sole expense of the RECIPIENT.
2. Overhead is eligible at a rate of up to 25 percent of RECIPIENT staff salaries and benefits for time devoted to tasks outlined in this agreement.
3. The RECIPIENT shall provide ECOLOGY a list of staff that will be working on the project, their title and role, the percentage of time they will devote to grant projects, their salary rate, and their benefit rate.
4. To increase or decrease state funding or change the scope of work, ECOLOGY requires a formal amendment. Reallocating funds among grant tasks may be performed through a letter amendment.

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PART 4: SPECIAL TERMS AND CONDITIONS

A. ARCHEOLOGICAL AND CULTURAL RESOURCES

The RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. RECIPIENT shall immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this agreement. In the event that historical or cultural artifacts are discovered at the project site, the RECIPIENT shall also notify the state historic preservation officer at the Department of Archaeology and Historic Preservation at (360) 586-3065. Applicability of the National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact historic properties (such as invasive sampling, dredging, or cleanup actions).

B. BILLING

1. Unless otherwise approved in writing by the ECOLOGY Financial Manager, the RECIPIENT shall submit a payment request to ECOLOGY quarterly.
2. The RECIPIENT shall submit payment requests on ECOLOGY provided forms that include an A-19, B2, C2, E, and a progress report, unless alternative forms are approved by the ECOLOGY Financial Manager.
3. Except for the A-19, ECOLOGY prefers the electronic submittal of payment requests and backup documentation. The RECIPIENT must submit two copies of the payment request, one copy to the ECOLOGY Financial manager, and one copy sent directly to the ECOLOGY Project Manager.
4. The final payment request shall include a Final Project Report on ECOLOGY provided forms unless otherwise approved by the ECOLOGY Financial Manager.
5. In-kind services are not eligible for match.
6. Legal costs are not grant eligible.
7. Some costs require the ECOLOGY Financial Manager's approval. It is the RECIPIENT's responsibility to understand the eligibility of costs and their responsibility to obtain approvals prior to incurring costs. Costs incurred without required prior approvals may be at the sole expense of the RECIPIENT.

C. DOCUMENTATION

1. RECIPIENT shall include the supporting documentation for all expenses, including RECIPIENT salary and benefits. Supporting documentation includes contractor and subcontractor invoices and receipts, accounting records, or any other form of record that establishes the appropriateness of an expense.
2. ECOLOGY may request additional documentation if needed to determine if a cost will be allowed.
3. RECIPIENT shall provide clear and legible supporting documentation and present it organized by task as entered on the C2.

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4. RECIPIENT accounting procedures shall include maintaining supporting documentation in a common grant file. This includes cancelled checks, invoices, purchase receipts, payroll records, time and attendance records, contract award documents, and vouchers sent to ECOLOGY. The RECIPIENT shall keep all supporting documentation for audit purposes for at least three years after the expiration date of the agreement.

D. EQUIPMENT ACQUISITION, USE MANAGEMENT, AND DISPOSITION

Equipment Acquisition: The RECIPIENT may purchase equipment needed to accomplish the scope of work in the grant agreement, with written approval by ECOLOGY's Financial Manager. The RECIPIENT is responsible for any costs the Financial Manager does not approve.

Generally, the ECOLOGY Financial Manager will need the following information to evaluate requests to purchase equipment:

1. Description of the equipment, including identification of operation and maintenance items that are to be grant funded (such as insurance, repairs, fuel, etc.).
2. Justification for the purchase, including analysis of rent vs. purchase.
3. Total Cost, including estimate of operation and maintenance costs.
4. Useful life-expectancy of the equipment.

Equipment Use: During the effective dates of the agreement and any amendments thereto, equipment purchased with grant funds must be used to accomplish activities funded by the agreement. It may be used for activities not funded by the agreement as long as that use does not interfere with work on the originally authorized projects.

The RECIPIENT may not use the equipment to provide services for a fee to compete unfairly with private companies providing equivalent services, unless specifically permitted by statute.

The RECIPIENT agrees to make equipment purchased with grant funds available for use by ECOLOGY as long as that use does not interfere with work on the originally authorized projects.

Equipment Management: The RECIPIENT agrees to maintain and manage the equipment properly to optimize its life span. The RECIPIENT must have in place some form of inventory control system that includes a physical inventory to document where the equipment is being used, and a maintenance record that insures the equipment is being kept in good working condition.

Equipment Disposition: When the equipment is no longer needed for the originally authorized purpose, the RECIPIENT shall dispose of purchased equipment by sale for fair market value, ensuring the highest possible return. Proceeds shall be used for RECIPIENT's monitoring or other cleanup related activities.

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E. FAILURE TO COMMENCE AND SUSTAIN WORK

In the event the RECIPIENT fails to commence work under this agreement within three months, or sustain work in accordance with the work schedule established in the scope of work, order, or decree for the site, ECOLOGY reserves the right to terminate this agreement.

F. MINORITY AND WOMEN'S BUSINESS PARTICIPATION

The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.
6. The RECIPIENT should report payments made to qualified firms to ECOLOGY at the time of submitting each invoice. Please include the following information on the ECOLOGY provided Form D:
 - i. Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.
 - ii. The total dollar amount paid to qualified firms under this invoice.

G. PROCUREMENT AND CONTRACTS

- a) The RECIPIENT certifies that it will follow its standard procurement procedures and/or applicable state law in awarding contracts; RECIPIENTS with no formal procurement procedures must certify that they have complied with the "Standards for Competitive Solicitation," found in the *Administrative Requirements for Recipients of Ecology Grants and Loans*, Ecology Publication #91-18 (Revised September 2005).
- b) Upon issuance, the RECIPIENT shall submit a copy of all requests for qualifications (RFQs), requests for proposals (RFPs), and bid documents relating to this grant agreement to ECOLOGY'S Project Manager.

Prior to contract execution, the RECIPIENT shall submit all draft documents and a copy of the draft proposed contract to the ECOLOGY Project Manager for review and approval. Following

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the contract execution, the RECIPIENT shall submit a copy of the final contract to ECOLOGY's Project and Financial Managers.

H. REPORTING

1. **Progress Reports:** The RECIPIENT shall submit progress reports with each payment request. The RECIPIENT shall submit a progress report no less frequently than quarterly, even if a payment request is not submitted. These reports shall be in accordance with the ECOLOGY-approved reporting format as indicated in the Remedial Action Grant Guidelines, or as otherwise approved by the ECOLOGY Financial Manager. ECOLOGY shall not approve payments without the required progress reports.
2. **Spending Plans:** The RECIPIENT shall submit a spending plan to ECOLOGY. The spending plan identifies the RECIPIENT'S quarterly billing projections. The RECIPIENT shall update the spending plan as needed throughout the term of the agreement upon request.
3. **Final Project Report:** In addition to the progress report that identifies the work performed during the latest billing period, the final payment request shall include a copy of the final project report. This report summarizes the project goals, purpose of the actions conducted, and outcomes of the project. ECOLOGY may withhold final payment pending RECIPIENT's submittal of the final project report.
4. **Sampling data:** The RECIPIENT shall submit all sampling data to ECOLOGY in both printed and electronic formats in accordance with WAC 173-340-840(5) and the Toxics Cleanup Program Policy 840: Data Submittal Requirements. ECOLOGY may withhold payment if the RECIPIENT does not submit sampling data.

I. STATE-WIDE VENDOR REGISTRATION

RECIPIENT will receive payment for approved and completed work through Washington State's Department of Enterprise Services Statewide Payee Desk. To receive payment you must register as a state-wide vendor by submitting a state-wide vendor registration form and an IRS W-9 form at website,

<http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>.

Contact DES at the Payee Help Desk at (360) 407-8180 or email payeehelpdesk@des.wa.gov for any questions about the vendor registration process.

J. TRAINING

The RECIPIENT agrees to participate in any ECOLOGY recommended or required trainings related to fulfilling the terms of the agreement.

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K. USE OF EXISTING CONTRACTS

The RECIPIENT may use existing contracts that conform to adopted procurement procedures and applicable state laws. The RECIPIENT shall submit a copy of the contract to ECOLOGY upon request. The grant eligibility of products or services secured by the RECIPIENT under existing contracts used to perform the scope of work in this agreement must be deemed allowable and reasonable by ECOLOGY prior to cost reimbursement.

L. ALL WRITINGS CONTAINED HEREIN

This agreement, including the appended "General Terms and Conditions," the latest approved budget, Remedial Action Program Guidelines, and ECOLOGY'S *Administrative Requirements for Recipients of Ecology Grants and Loans*, Ecology Publication #91-18 (Revised September 2005), contains the entire understanding between the parties, and there are no other understandings or representations except as those set forth or incorporated by reference herein. No subsequent modification(s) or amendment(s) of this grant agreement shall be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made part of this agreement.

IN WITNESS WHEREOF, the parties hereby sign this Grant Agreement:

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CITY OF MARYSVILLE

James J. Pendowski, Manager Date
Toxics Cleanup Program

Jon Nehring Date
Mayor

Approved as to form only Assistant Attorney General

General Terms And Conditions
Pertaining To Grant And Loan Agreements Of The Department Of Ecology

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.
3. Wages and Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Recipients of Ecology Grants and Loans", Part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.
3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.5. herein.
5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds there under and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become DEPARTMENT property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.
2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.
3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:
 - a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance

which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g., recycled paper). For more information, see <http://www.ecy.wa.gov/sustainability/>.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in

which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (e) the General Terms and Conditions.

W. FUNDING AVAILABILITY

The DEPARTMENT's ability to make payments is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this agreement, the DEPARTMENT, at its sole discretion, may elect to terminate the agreement, in whole or part, or to renegotiate the agreement subject to new funding limitations and conditions. The DEPARTMENT may also elect to suspend performance of the agreement until the DEPARTMENT determines the funding insufficiency is resolved. The DEPARTMENT may exercise any of these options with no notification restrictions.

SS-010 Rev. 04/04

Modified 12/13