

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

AGENDA ITEM: I-502 Recreational Marijuana - PC Recommendation and Regulations Alternatives	AGENDA SECTION: New Business	
PREPARED BY: Chris Holland, Planning Manager	APPROVED BY:	
ATTACHMENTS: 1. Exhibit A – I-502 Alternatives and Committee Recommendations 2. Attorney General Foster Opinion 3. I-502 Committee Meeting Minutes (11.05.13, 11.19.13) 4. PC Public Meeting Minutes (11.26.13) 5. PC Public Hearing Minutes (01.14.14) 6. PC I-502 Materials	MAYOR	CAO
	BUDGET CODE:	

DESCRIPTION:

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 held public meetings on November 5, 2013 and November 19, 2013.

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 of 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 members regarding what, if any, of the six (6) alternatives presented they would recommend for PC consideration. These alternatives and I-502 Committee recommendations are attached hereto, as **Exhibit A**.

On November 26, 2013 the PC held a public workshop to discuss potential regulations and the alternatives considered by the committee. The PC then held a public hearing on January 14, 2014 to discuss the alternatives and to consider public testimony. The PC unanimously agreed to recommend prohibiting marijuana retail, producers and processors (Alternative 1) to City Council for consideration.

RECOMMENDED ACTION: Staff recommends Council discuss the recommendation by the Planning Commission and provide direction to staff, prior to developing an ordinance for Council consideration.
COUNCIL ACTION:

EXHIBIT A

I-502 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

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.

- . 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) 4, 5 & 6

I-502 Committee Recommendations

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.



I-502 Retail Prohibitions and Proposed Zones

July 2013

DRAFT



0 1,000 2,000 3,000 4,000 5,000 6,000 Feet

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.

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**STATUTES—INITIATIVE AND REFERENDUM—ORDINANCES—COUNTIES—
CITIES AND TOWNS—PREEMPTION—POLICE POWERS—Whether Statewide
Initiative Establishing System For Licensing Marijuana Producers, Processors, And
Retailers Preempts Local Ordinances**

- 1. Initiative 502, which establishes a licensing and regulatory system for marijuana producers, processors, and retailers, does not preempt counties, cities, and towns from banning such businesses within their jurisdictions.**
- 2. Local ordinances that do not expressly ban state-licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction’s police power.**

January 16, 2014

The Honorable Sharon Foster
Chair, Washington State Liquor Control Board
3000 Pacific Avenue SE
Olympia, WA 98504-3076

Cite As:
AGO 2014 No. 2

Dear Chair Foster:

By letter previously acknowledged, you have requested our opinion on the following paraphrased questions:

- 1. Are local governments preempted by state law from banning the location of a Washington State Liquor Control Board licensed marijuana producer, processor, or retailer within their jurisdiction?**
- 2. May a local government establish land use regulations (in excess of the Initiative 502 buffer and other Liquor Control Board requirements) or business license requirements in a fashion that makes it impractical for a licensed marijuana business to locate within their jurisdiction?**

BRIEF ANSWERS

1. No. Under Washington law, there is a strong presumption against finding that state law preempts local ordinances. Although Initiative 502 (I-502) establishes a licensing and regulatory system for marijuana producers, processors, and retailers in Washington State, it includes no clear indication that it was intended to preempt local authority to regulate such

businesses. We therefore conclude that I-502 left in place the normal powers of local governments to regulate within their jurisdictions.

2. Yes. Local governments have broad authority to regulate within their jurisdictions, and nothing in I-502 limits that authority with respect to licensed marijuana businesses.

BACKGROUND

I-502 was approved by Washington voters on November 6, 2012, became effective 30 days thereafter, and is codified in RCW 69.50. It decriminalized under state law the possession of limited amounts of useable marijuana¹ and marijuana-infused products by persons twenty-one years or older. It also decriminalized under state law the production, delivery, distribution, and sale of marijuana, so long as such activities are conducted in accordance with the initiative's provisions and implementing regulations. It amended the implied consent laws to specify that anyone operating a motor vehicle is deemed to have consented to testing for the active chemical in marijuana, and amended the driving under the influence laws to make it a criminal offense to operate a motor vehicle under the influence of certain levels of marijuana.

I-502 also established a detailed licensing program for three categories of marijuana businesses: production, processing, and retail sales. The marijuana producer's license governs the production of marijuana for sale at wholesale to marijuana processors and other marijuana producers. RCW 69.50.325(1). The marijuana processor's license governs the processing, packaging, and labeling of useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. RCW 69.50.325(2). The marijuana retailer's license governs the sale of useable marijuana and marijuana-infused products in retail stores. RCW 69.50.325(3).

Applicants for producer, processor, and retail sales licenses must identify the location of the proposed business. RCW 69.50.325(1), (2), (3). This helps ensure compliance with the requirement that "no license may be issued authorizing a marijuana business within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older." RCW 69.50.331(8).

Upon receipt of an application for a producer, processor, or retail sales license, the Liquor Control Board must give notice of the application to the appropriate local jurisdiction. RCW 69.50.331(7)(a) (requiring notice to the chief executive officer of the incorporated city or town if the application is for a license within an incorporated city or town, or the county legislative authority if the application is for a license outside the boundaries of incorporated

¹ Useable marijuana means "dried marijuana flowers" and does not include marijuana-infused products. RCW 69.50.101(II).

cities or towns). The local jurisdiction may file written objections with respect to the applicant or the premises for which the new or renewed license is sought. RCW 69.50.331(7)(b).

The local jurisdictions' written objections must include a statement of all facts upon which the objections are based, and may include a request for a hearing, which the Liquor Control Board may grant at its discretion. RCW 69.50.331(7)(c). The Board must give "substantial weight" to a local jurisdiction's objections based upon chronic illegal activity associated with the applicant's operation of the premises proposed to be licensed, the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. RCW 69.50.331(9). Chronic illegal activity is defined as a pervasive pattern of activity that threatens the public health, safety, and welfare, or an unreasonably high number of citations for driving under the influence associated with the applicant's or licensee's operation of any licensed premises. RCW 69.50.331(9).²

In addition to the licensing provisions in statute, I-502 directed the Board to adopt rules establishing the procedures and criteria necessary to supplement the licensing and regulatory system. This includes determining the maximum number of retail outlets that may be licensed in each county, taking into consideration population distribution, security and safety issues, and the provision of adequate access to licensed sources of useable marijuana and marijuana-infused products to discourage purchases from the illegal market. RCW 69.50.345(2). The Board has done so, capping the number of retail licenses in the least populated counties of Columbia County, Ferry County, and Wahkiakum County at one and the number in the most populated county of King County at 61, with a broad range in between. *See* WAC 314-55-081.

The Board also adopted rules establishing various requirements mandated or authorized by I-502 for locating and operating marijuana businesses on licensed premises, including minimum residency requirements, age restrictions, and background checks for licensees and employees; signage and advertising limitations; requirements for insurance, recordkeeping, reporting, and taxes; and detailed operating plans for security, traceability, employee qualifications and training, and destruction of waste. *See generally* WAC 314-55.

Additional requirements apply for each license category. Producers must describe plans for transporting products, growing operations, and testing procedures and protocols. WAC 314-55-020(9). Processors must describe plans for transporting products, processing operations, testing procedures and protocols, and packaging and labeling. WAC 314-55-020(9). Finally, retailers must also describe which products will be sold and how they will be displayed, and may only operate between 8 a.m. and 12 midnight. WAC 314-55-020(9), -147.

The rules also make clear that receipt of a license from the Liquor Control Board does not entitle the licensee to locate or operate a marijuana processing, producing, or retail business in violation of local rules or without any necessary approval from local jurisdictions. WAC 314-

² The provision for objections based upon chronic illegal activity is identical to one of the provisions for local jurisdictions to object to the granting or renewal of liquor licenses. RCW 66.24.010(12).

-55-020(11) provides as follows: “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.”

ANALYSIS

Your question acknowledges that local governments have jurisdiction over land use issues like zoning and may exercise the option to issue business licenses. This authority comes from article XI, section 11 of the Washington Constitution, which provides that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.” The limitation on this broad local authority requiring that such regulations not be “in conflict with general laws” means that state law can preempt local regulations and render them unconstitutional either by occupying the field of regulation, leaving no room for concurrent local jurisdiction, or by creating a conflict such that state and local laws cannot be harmonized. *Lawson v. City of Pasco*, 168 Wn.2d 675, 679, 230 P.3d 1038 (2010).

Local ordinances are entitled to a presumption of constitutionality. *State v. Kirwin*, 165 Wn.2d 818, 825, 203 P.3d 1044 (2009). Challengers to a local ordinance bear a heavy burden of proving it unconstitutional. *Id.* “Every presumption will be in favor of constitutionality.” *HJS Dev., Inc. v. Pierce County ex rel. Dep’t of Planning & Land Servs.*, 148 Wn.2d 451, 477, 61 P.3d 1141 (2003) (internal quotation marks omitted).

A. Field Preemption

Field preemption arises when a state regulatory system occupies the entire field of regulation on a particular issue, leaving no room for local regulation. *Lawson*, 168 Wn.2d at 679. Field preemption may be expressly stated or may be implicit in the purposes or facts and circumstances of the state regulatory system. *Id.*

I-502 does not express any indication that the state licensing and operating system preempts the field of marijuana regulation. Although I-502 was structured as a series of amendments to the controlled substances act, which does contain a preemption section, that section makes clear that state law “fully occupies and preempts the entire field of *setting penalties* for violations of the controlled substances act.” RCW 69.50.608 (emphasis added).³ It also allows “[c]ities, towns, and counties or other municipalities [to] enact only those laws and

³ RCW 69.50.608 provides: “The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality.” The Washington Supreme Court has interpreted this provision as giving local jurisdictions concurrent authority to criminalize drug-related activity. *City of Tacoma v. Luvene*, 118 Wn.2d 826, 835, 827 P.2d 1374 (1992).

ordinances relating to controlled substances that are consistent with this chapter.” RCW 69.50.608. Nothing in this language expresses an intent to preempt the entire field of regulating businesses licensed under I-502.

With respect to implied field preemption, the “legislative intent” of an initiative is derived from the collective intent of the people and can be ascertained by material in the official voter’s pamphlet. *Dep’t of Revenue v. Hoppe*, 82 Wn.2d 549, 552, 512 P.2d 1094 (1973); *see also Roe v. TeleTech Customer Care Mgmt., LLC*, 171 Wn.2d 736, 752-53, 257 P.3d 586 (2011). Nothing in the official voter’s pamphlet evidences a collective intent for the state regulatory system to preempt the entire field of marijuana business licensing or operation. Voters’ Pamphlet 23-30 (2012). Moreover, both your letter and the Liquor Control Board’s rules recognize the authority of local jurisdictions to impose regulations on state licensees. These facts, in addition to the absence of express intent suggesting otherwise, make clear that I-502 and its implementing regulations do not occupy the entire field of marijuana business regulation.

B. Conflict Preemption

Conflict preemption arises “when an ordinance permits what state law forbids or forbids what state law permits.” *Lawson*, 168 Wn.2d at 682. An ordinance is constitutionally invalid if it directly and irreconcilably conflicts with the statute such that the two cannot be harmonized. *Id.*; *Weden v. San Juan County*, 135 Wn.2d 678, 693, 958 P.2d 273 (1998). Because “[e]very presumption will be in favor of constitutionality,” courts make every effort to reconcile state and local law if possible. *HJS Dev.*, 148 Wn.2d at 477 (internal quotation marks omitted). We adopt this same deference to local jurisdictions.

An ordinance banning a particular activity directly and irreconcilably conflicts with state law when state law specifically entitles one to engage in that same activity in circumstances outlawed by the local ordinance. For example, in *Entertainment Industry Coalition v. Tacoma-Pierce County Health Department*, 153 Wn.2d 657, 661-63, 105 P.3d 985 (2005), the state law in effect at the time banned smoking in public places except in designated smoking areas, and specifically authorized owners of certain businesses to designate smoking areas. The state law provided, in relevant part: “A smoking area may be designated in a public place by the owner” Former RCW 70.160.040(1) (2004), *repealed by* Laws of 2006, ch. 2, § 7(2) (Initiative Measure 901). The Tacoma-Pierce County Health Department ordinance at issue banned smoking in all public places. The Washington Supreme Court struck down the ordinance as directly and irreconcilably conflicting with state law because it prohibited what the state law authorized: the business owner’s choice whether to authorize a smoking area.

Similarly, in *Parkland Light & Water Co. v. Tacoma-Pierce County Board of Health*, 151 Wn.2d 428, 90 P.3d 37 (2004), the Washington Supreme Court invalidated a Tacoma-Pierce County Health Department ordinance requiring fluoridated water. The state law at issue authorized the water districts to decide whether to fluoridate, saying: “A water district by a

majority vote of its board of commissioners may fluoridate the water supply system of the water district.” RCW 57.08.012. The Court interpreted this provision as giving water districts the ability to regulate the content and supply of their water systems. *Parkland Light & Water Co.*, 151 Wn.2d at 433. The local health department’s attempt to require fluoridation conflicted with the state law expressly giving that choice to the water districts. As they could not be reconciled, the Court struck down the ordinance as unconstitutional under conflict preemption analysis.

By contrast, Washington courts have consistently upheld local ordinances banning an activity when state law regulates the activity but does not grant an unfettered right or entitlement to engage in that activity. In *Weden v. San Juan County*, the Court upheld the constitutionality of the County’s prohibition on motorized personal watercraft in all marine waters and one lake in San Juan County. The state laws at issue created registration and safety requirements for vessels and prohibited operation of unregistered vessels. The Court rejected the argument that state regulation of vessels constituted permission to operate vessels anywhere in the state, saying, “[n]owhere in the language of the statute can it be suggested that the statute creates an unabridged right to operate [personal watercraft] in all waters throughout the state.” *Weden*, 135 Wn.2d at 695. The Court further explained that “[r]egistration of a vessel is nothing more than a precondition to operating a boat.” *Id.* “No unconditional right is granted by obtaining such registration.” *Id.* Recognizing that statutes often impose preconditions without granting unrestricted permission to participate in an activity, the Court also noted the following examples: “[p]urchasing a hunting license is a precondition to hunting, but the license certainly does not allow hunting of endangered species or hunting inside the Seattle city limits,” and “[r]eaching the age of 16 is a precondition to driving a car, but reaching 16 does not create an unrestricted right to drive a car however and wherever one desires.” *Id.* at 695 (internal citation omitted).

Relevant here, the dissent in *Weden* argued: “Where a state statute licenses a particular activity, counties may enact reasonable regulations of the licensed activity within their borders but they may not prohibit same outright[,]” and that an ordinance banning the activity “renders the state permit a license to do nothing at all.” *Weden*, 135 Wn.2d at 720, 722 (Sanders, J., dissenting). The majority rejected this approach, characterizing the state law as creating not an unabridged right to operate personal watercraft in the state, but rather a registration requirement that amounted only to a precondition to operating a boat in the state.

In *State ex rel. Schillberg v. Everett District Justice Court*, 92 Wn.2d 106, 594 P.2d 448 (1979), the Washington Supreme Court similarly upheld a local ban on internal combustion motors on certain lakes. The Court explained: “A statute will not be construed as taking away the power of a municipality to legislate unless this intent is clearly and expressly stated.” *Id.* at 108. The Court found no conflict because nothing in the state laws requiring safe operation of vessels either expressly or impliedly provided that vessels would be allowed on all waters of the state.

The Washington Supreme Court also rejected a conflict preemption challenge to the City of Pasco's ordinance prohibiting placement of recreational vehicles within mobile home parks. *Lawson*, 168 Wn.2d at 683-84. Although state law regulated rights and duties arising from mobile home tenancies and recognized that such tenancies may include recreational vehicles, the Court reasoned "[t]he statute does not forbid recreational vehicles from being placed in the lots, nor does it create a right enabling their placement." *Id.* at 683. The state law simply regulated recreational vehicle tenancies, where such tenancies exist, but did not prevent municipalities from deciding whether or not to allow them. *Id.* at 684.

Accordingly, the question whether "an ordinance . . . forbids what state law permits" is more complex than it initially appears. *Lawson*, 168 Wn.2d at 682. The question is not whether state law permits an activity in some places or in some general sense; even "[t]he fact that an activity may be licensed under state law does not lead to the conclusion that it must be permitted under local law." *Rabon v. City of Seattle*, 135 Wn.2d 278, 292, 957 P.2d 621 (1998) (finding no preemption where state law authorized licensing of "dangerous dogs" while city ordinance forbade ownership of "vicious animals"). Rather, a challenger must meet the heavy burden of proving that state law creates an entitlement to engage in an activity in circumstances outlawed by the local ordinance. For example, the state laws authorizing business owners to designate smoking areas and water districts to decide whether to fluoridate their water systems amounted to statewide entitlements that local jurisdictions could not take away. But the state laws requiring that vessels be registered and operated safely and regulating recreational vehicles in mobile home tenancies simply contemplated that those activities would occur in some places and established preconditions; they did not, however, override the local jurisdictions' decisions to prohibit such activities.

Here, I-502 authorizes the Liquor Control Board to issue licenses for marijuana producers, processors, and retailers. Whether these licenses amount to an entitlement to engage in such businesses regardless of local law or constitute regulatory preconditions to engaging in such businesses is the key question, and requires a close examination of the statutory language.

RCW 69.50.325 provides, in relevant part:

(1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor control board and subject to annual renewal. . . .

(2) There shall be a marijuana processor's license to process, package, and label useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers, regulated by the state liquor control board and subject to annual renewal. . . .

(3) There shall be a marijuana retailer's license to sell useable marijuana and marijuana-infused products at retail in retail outlets, regulated by the state liquor control board and subject to annual renewal. . . .

RCW 69.50.325(1)-(3). Each of these subsections also includes language providing that activities related to such licenses are not criminal or civil offenses under Washington state law, provided they comply with I-502 and the Board's rules, and that the licenses shall be issued in the name of the applicant and shall specify the location at which the applicant intends to operate. They also establish fees for issuance and renewal and clarify that a separate license is required for each location at which the applicant intends to operate. RCW 69.50.325.

While these provisions clearly authorize the Board to issue licenses for marijuana producers, processors, and retail sales, they lack the definitive sort of language that would be necessary to meet the heavy burden of showing state preemption. They simply state that there "shall be a . . . license" and that engaging in such activities with a license "shall not be a criminal or civil offense under Washington state law." RCW 69.50.325(1). Decriminalizing such activities under state law and imposing restrictions on licensees does not amount to entitling one to engage in such businesses regardless of local law. Given that "every presumption" is in favor of upholding local ordinances (*HJS Dev., Inc.*, 148 Wn.2d at 477), we find no irreconcilable conflict between I-502's licensing system and the ability of local governments to prohibit licensees from operating in their jurisdictions.

We have considered and rejected a number of counterarguments in reaching this conclusion. First, one could argue that the statute, in allowing Board approval of licenses at specific locations (RCW 69.50.325(1), (2), (3)), assumes that the Board can approve a license at any location in any jurisdiction. This argument proves far too much, however, for it suggests that a license from the Board could override any local zoning ordinance, even one unrelated to I-502. For example, I-502 plainly would not authorize a licensed marijuana retailer to locate in an area where a local jurisdiction's zoning allows no retail stores of any kind. The Board's own rules confirm this: "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." WAC 314-55-020(11).

Second, one could argue that a local jurisdiction's prohibition on marijuana licensees conflicts with the provision in I-502 authorizing the Board to establish a maximum number of licensed retail outlets in each county. RCW 69.50.345(2); *see also* RCW 69.50.354. But there is no irreconcilable conflict here, because the Board is allowed to set only a *maximum*, and nothing in I-502 mandates a minimum number of licensees in any jurisdiction. The drafters of I-502 certainly could have provided for a minimum number of licensees per jurisdiction, which would have been a stronger indicator of preemptive intent, but they did not.

Third, one could argue that because local jurisdictions are allowed to object to specific license applications and the Board is allowed to override those objections and grant the license anyway (RCW 69.50.331(7), (9)); local jurisdictions cannot have the power to ban licensees altogether. But such a ban can be harmonized with the objection process; while some jurisdictions might want to ban I-502 licensees altogether, others might want to allow them but still object to specific applicants or locations. Indeed, this is the system established under the state liquor statutes, which I-502 copied in many ways. *Compare* RCW 69.50.331 *with* RCW 66.24.010 (governing the issuance of marijuana licenses and liquor licenses, respectively, in parallel terms and including provisions for local government input regarding licensure). The state laws governing liquor allow local governments to object to specific applications (RCW 66.24.010), while also expressly authorizing local areas to prohibit the sale of liquor altogether. *See generally* RCW 66.40. That the liquor opt out statute coexists with the liquor licensing notice and comment process undermines any argument that a local marijuana ban irreconcilably conflicts with the marijuana licensing notice and comment opportunity.

Fourth, RCW 66.40 expressly allows local governments to ban the sale of liquor. Some may argue that by omitting such a provision, I-502's drafters implied an intent to bar local governments from banning the sale of marijuana. Intent to preempt, however, must be "clearly and expressly stated." *State ex rel. Schillberg*, 92 Wn.2d at 108. Moreover, it is important to remember that cities, towns, and counties derive their police power from article XI, section 11 of the Washington Constitution, not from statute. Thus, the relevant question is not whether the initiative provided local jurisdictions with such authority, but whether it removed local jurisdictions' preexisting authority.

Finally, in reaching this conclusion, we are mindful that if a large number of jurisdictions were to ban licensees, it could interfere with the measure's intent to supplant the illegal marijuana market. But this potential consequence is insufficient to overcome the lack of clear preemptive language or intent in the initiative itself. The drafters of the initiative certainly could have used clear language preempting local bans. They did not. The legislature, or the people by initiative, can address this potential issue if it actually comes to pass.

With respect to your second question, about whether local jurisdictions can impose regulations making it "impractical" for I-502 licensees to locate and operate within their boundaries, the answer depends on whether such regulations constitute a valid exercise of the police power or otherwise conflict with state law. As a general matter, as discussed above, the Washington Constitution provides broad authority for local jurisdictions to regulate within their boundaries and impose land use and business licensing requirements. Ordinances must be a reasonable exercise of a jurisdiction's police power in order to pass muster under article XI, section 11 of the state constitution. *Weden*, 135 Wn.2d at 700. A law is a reasonable regulation if it promotes public safety, health, or welfare and bears a reasonable and substantial relation to accomplishing the purpose pursued. *Id.* (applying this test to the personal watercraft ordinance); *see also Duckworth v. City of Bonney Lake*, 91 Wn.2d 19, 26, 586 P.2d 860 (1978) (applying this

ATTORNEY GENERAL OF WASHINGTON

The Honorable Sharon Foster

10

AGO 2014 No. 2

test to a zoning ordinance). Assuming local ordinances satisfy this test, and that no other constitutional or statutory basis for a challenge is presented on particular facts, we see no impediment to jurisdictions imposing additional regulatory requirements, although whether a particular ordinance satisfies this standard would of course depend on the specific facts in each case.

We trust that the foregoing will be useful to you.



WROS

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COMMUNITY DEVELOPMENT DEPARTMENT
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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 Department's 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 is 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



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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

11/20/13
Date

PLANNING COMMISSION



MINUTES

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 MINUTES

October 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

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

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.

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

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:

January 14, 2014



Chris Holland, Planning Manager, for Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

January 14, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Planning Commission Chair Steve Leifer called the January 14, 2014 meeting to order at 7:00 p.m. noting the absence of Commissioner Marvetta Toler.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo, Kelly Richards

Staff: Planning Manager Chris Holland, CAO Gloria Hirashima, City Attorney Grant Weed, Chief Smith, Lt. Thomas

Absent: Marvetta Toler

APPROVAL OF MINUTES

November 26, 2013

Motion made by Commissioner Smith, seconded by Commissioner Andes, to approve the November 26, 2014 Meeting Minutes. **Motion** passed unanimously (5-0) with Commissioner Richards abstaining as he was not at the November 26 meeting.

PUBLIC HEARING

I-502 Recreational Marijuana

The hearing was opened by Chair Leifer at 7:02 p.m.

Planning Manager Chris Holland reviewed the background on this item as contained in the memo from him to the Planning Commission dated January 9, 2014. He then highlighted the recommendations of the I-502 Committee as stated in the memo on page 2.

Public Testimony:

Greg Kanehen, 6602 56th Dr. NE, Marysville, WA 98270, stated he and his colleagues represent the Marysville Area Pastors Association which has a heart for the community and a desire to create a safe place for individuals and families. They believe in building life-giving principles into families and communities. They find it is essential in creating a healthy environment to work together with organizations such as Marysville Together Coalition, the Marysville School District, and the City of Marysville Parks and Recreation. This has resulted in numerous benefits for the community. Because the Marysville Area Pastors Association has an investment in the community they are concerned about the safety of children and teens with the establishment of a retail outlet for marijuana. Their concerns come out of the fact that they want to see beneficial outcomes for everybody. They recognize that a decision to not allow retail outlets is a difficult one, but feel that not all freedoms are beneficial for the community and for families. He noted that sometimes the pursuit of freedom can lead to enslavement and addiction. The Marysville Area Pastors Association asks that safeguards for children be in place. With the potential for abuse or misinterpretation of the laws, they urge that the Planning Commission recommend that the Council not establish these places. He stressed that their heart is for the community, and their main concern is for the safety of children and teens in the community.

Cathy Schindler, 14120 51st Drive NE, Marysville, WA 98271, spoke as part of Marysville Together, a community coalition. She read and distributed a letter that was previously sent to Mayor Nehring and the City Council from Marysville Together. The letter stated that one of the group's primary focuses is creating awareness and providing resources to help combat substance abuse among our youth and families. In light of this specific focus they urged the City not to allow retail outlets for the sale and distribution of marijuana in Marysville. This recommendation is based on research by agencies and health and human service organizations that indicate marijuana use may lead to other drug use and an increase in violent crime. They also cited federal laws that still make marijuana an illegal substance. She spoke in support of maintaining the safety and wellness of children and their families which is consistent with Marysville Together's 25-year history. They are a community partnership of caring, involved members committed and empowered to promote safety, diversity and awareness and respond to the needs of the community so that everyone who lives in Marysville will take responsibility for working together towards a safe and healthy community. With the potential for abuse or misinterpretation of the laws, the establishment of marijuana retail outlets is of grave concern to the group. She spoke in support of preventing the establishment of retail outlets for marijuana in the community.

Chair Leifer asked how Marysville Together feels about the growing and processing of marijuana. Ms. Schindler replied that they don't want to see any of that in the community because they don't want to send the message that this is a community norm.

Isaac Steimle, 95 Quinn Avenue, Apt. C, Marysville, WA 98270, spoke against having retail marijuana establishments, processing, and grow sites in the community due to the negative impacts on the community, especially if it is seen as accepted by leaders of the community.

Bruce Paquette, 6908 75th Drive NE, Marysville, WA, encouraged the Planning Commission to continue the moratorium on processing, growing, and sales to take time to see how this is affecting other communities that allow it. He is a licensed clinical social worker in Washington and works with homeless people on the street. He stated that 90% of the guys in prison committed their crimes while they were under the influence of some sort of drug. He expressed concern about telling youth that this is accepted. If this becomes normalized through laws passed, he is very concerned about the long-term impact on youth.

Dave Mills, 8202 83rd Avenue NE, Marysville, WA 98270, stated that youth are a big priority for him too. He believes that there are a lot of misconceptions flying around about this issue. He feels that the wait-and-see attitude is something that they can all work with. He believes that there is already a lot of pot being grown, sold, and smoked in the community. He asserted that he has more friends who have died from alcohol than from marijuana. He encouraged everyone to do their own research on the internet to find out what is true. He thinks that allowing this will help to control the situation and enable the City to gain some money from taxation. He urged people to watch what will happen in Colorado. He stated he would like to see the process move forward, but he doesn't think the City is ready for it yet. Over the next six months, maybe they will be able to see what happens with this situation in other places. He recommended that at the very least the Commission's recommendation should be to continue the moratorium in order to watch and see what happens, with the provision that a special ordinance could be passed to lift the moratorium if it appears that this is a good idea. He emphasized that the people applying for these licenses are responsible business owners, not potheads.

Rob Mina, 5615 87th Avenue NE, Marysville, WA 98270, said he thinks a lot of business owners believe this will bring in jobs and provide a lot of taxes. He stated that he was against this in general, and wished it didn't get passed in the state; however, after discussing it with family members who are police officers in Seattle, he says he learned that approximately 60% of the money that the drug cartels make is actually from marijuana. Noting that this issue already exists in the shadows with a criminal element, he feels that legalizing it will bring it out of the shadows and into the light. He commented that the War on Drugs obviously hasn't worked. He thinks that putting this out there with the controls that the State has, including background checks and surveillance, is a good idea. The people who have approached him to lease industrial buildings are well-funded, reputable business owners. He asserted that if kids can't get marijuana here they will drive to Arlington, Everett, or some other city that has allowed it. He doesn't see any downside to this and supports production, processing, and sales, but recommended keeping it out of the downtown area.

Kate Mighell, 15305 West Lake Goodwin Road, stated that she has owned a business in Marysville for the last 12 years. She was on the I-502 Committee and is in support of this. She had high hopes of opening a facility here; however, due to her experience on the I-502 Committee, she has sold her building, and is going to locate elsewhere. She thinks that allowing this would be a positive thing for the public good and something that the City needs to embrace. She thinks legalizing marijuana is going to get rid of a lot of crime, create a lot of tax dollars, and create opportunities for education. She compared attitudes towards marijuana to historical fears and stereotypes about desegregation or allowing women into the workplace. Regarding the concept of marijuana as a gateway drug, the reason this perception exists is because the people that now sell marijuana in the back alleys also sell other things. This wouldn't happen under the proposed retail setup with all the regulations and surveillance. Regarding crime related to marijuana, this has occurred because marijuana has been illegal, and the illegality of marijuana has been a breeding ground for organized crime in the same way the prohibition on alcohol created a breeding ground for the American mafia. The reason the voters passed I-502 is because they want that to go away. She claimed that no one has ever died from marijuana usage, and it is not addictive. On the other hand, many people die from alcohol every year. She encouraged everyone to step back from their assumptions and have an open mind. She stated that she was in support of all three aspects: growing, processing, and retail.

Sue Rumsey, 6907 57th Street NE, Marysville, WA 98270, stated that she doesn't see anything positive about allowing addictive drugs in the community. She also doesn't see how this could be compared to allowing blacks in the community or allowing women to work as they are completely different topics. She does believe it is a gateway drug because it's the lowest level of drug that comes into the society and into families, and youth can get it easily. When you are under the influence you don't making good decisions, can get into accidents, and create havoc. She believes crime efforts should be used at the beginning instead of waiting until people are on heroin or crack. Additionally, marijuana is still against federal law. Regarding tax benefits, she stated that Marysville can get tax dollars elsewhere in ways that support families and the community. She spoke against jumping on the bandwagon just because everybody else is doing it. Instead, she stated, they should stand their ground and hold true to their commitment. She spoke in support of Alternative 1 or 2 in order to do more research before this is allowed in the community.

Ray Ferguson, 5918- 59th Drive NE, Marysville, a resident of Marysville for nearly 20 years, stated he is adamantly opposed to all of these proposals. He stated that laws have been in place in this country for many decades against the use of marijuana for a very good reason; it's harmful. The laws are in place to protect the citizens, and removing those laws would be harmful. He urged against falling into the mindset that because this is accepted somewhere else, it should be accepted here. Regarding the comparison with alcohol, which has been associated an enormous number of deaths throughout the years. He thinks if they start to accept the use of marijuana they will likely see the same thing happen. He suggested that they look to the use of alcohol as an indicator of what would happen if they start to embrace the use of marijuana. He stated that it is a harmful drug, just like alcohol is, and it is addictive. He rejected the

idea that no one has ever been harmed or killed by the use of marijuana. He noted that someone tonight had brought up an example of someone who did die because of marijuana. He reiterated that he is adamantly opposed to this and would be very disappointed in the City if this proposal is accepted.

Aaron Thompson, Pastor, stated that in addition to being a pastor he is a resident of the city with four teenagers. He commented that this issue is really about the kind of city they want to have. He believes that they want to have a healthy community. One thing that needs to be addressed is that there are lots of areas of life that will be off limits to kids if they partake in marijuana, even if it's legal, such as the military and other jobs. He spoke in support of having a healthy community as much as possible. He spoke in opposition to all three aspects of marijuana.

Seeing no further public comments, the hearing was closed at 7:47 p.m.

Staff Comments:

Planning Manager Chris Holland referred to the spreadsheet at the back of the memo in the Planning Commission's packet which goes over all of the producers, processors, and retailers that were applied for in the City. He pointed out that of the 10 proposed producers only 3 of them could potentially comply with state zoning regulations. Similarly, with the processors there were three as well that could meet the requirements. Of the retailers, nine could potentially comply with state law even though the City could only potentially have three retailers.

CAO Hirashima mentioned that City Attorney Grant Weed, Police Chief Smith, and Lt. Thomas were present and available to answer questions.

Police Chief Rick Smith reminded the Planning Commission of the document that Lt. Thomas wrote which involves the discussion Chief Smith had with the Planning Commission last year related to medical marijuana. He stated that things have not changed in terms of where he stands as police chief. There are still crime issues associated with marijuana that need to be looked at as can be seen in Colorado. The DEA has said they are suspecting there are cartel issues that are starting to infiltrate Colorado. One of the reasons for the crime associated with this is because marijuana is a cash business. The Commission's packet contains crime numbers related to people in Washington who were robbed, burglarized, assaulted and even killed surrounding marijuana issues. He noted that the Liquor Control Board to date has only hired five people. They have said that they would hire 36 people with 22 geared towards enforcement of marijuana establishments including producers, processors, and retailers. To think that they will be able to have surveillance of all of these locations is simply not realistic. Additionally, at the local level police will be unable to follow-up on everything that happens. He believes this comes down to the values that they hold as a city. The decisions of Marysville should be based on the evidence and information that they have. The Police Department's recommendation is prohibition within the city.

Commissioner Hoen referred to fatalities he had heard of in Colorado and asked if there was any more information about this. Chief Smith said there was no more information because that turned out to be a hoax.

Commissioner Hoen asked City Attorney Weed if I-502 is different than the state liquor laws in that it doesn't allow opting out. He said that the state liquor laws allow municipalities to opt out of liquor sales, but he didn't think there was opt-out language in I-502. City Attorney Weed said that I-502 is silent on this issue. Commissioner Hoen asked City Attorney Weed about the status of the Liquor Board's request for an opinion by the Attorney General's Office on this. City Attorney said he wasn't aware if any opinion has been issued or what the timing will be, but remarked that there are two parts to the request. The first part of the request for opinion is whether or not the state law pre-empts local entities such as cities and counties from adopting their own regulations concerning I-502 and the sale, production, and processing of marijuana. The second part of the request for the opinion is whether or not local entities can impose an outright ban. He stressed that whatever opinion the Attorney General's Office issues will be given some weight, but it is not the law. Courts may refer to it and take it into consideration, but it is still just an opinion.

Chair Leifer asked City Attorney Grant Weed about the US Department of Justice's opinion regarding this and the local Washington representative of the US Attorney's Office which ends with a comment that "regardless of state law permitting such activities" and also concluded that "local government employees who conducted marijuana regulatory activities under Washington State law are subject to prosecution under a CSA." Chair Leifer acknowledged that this is an opinion, but asked City Attorney Weed how this might affect city employees. City Attorney Grant Weed stated he is not able to publicly disclose legal advice that he is providing to a client, but responded to the issue in general. Since the opinion was rendered, there has also been a memorandum that was issued in August of last year by the US Attorney's Office which outlines the 8 priorities that the federal government has in terms of enforcement of the Controlled Substances Act (CSA). The memo gives some guidance to states like Colorado and Washington that have adopted laws that purport to legalize marijuana. The memo states that if the states that adopt legalization of marijuana statutes have strict and robust rules for enforcement, the federal government would steer away from vigorous enforcement of the CSA, but it doesn't say that they wouldn't enforce the CSA if there aren't robust enforcement and strict rules. One of the issues many cities are concerned about is if they do adopt regulations of their own that allow any one of the three tiers of licensing and the city's own rules aren't strict and robust, would the cities or officials responsible for implementing them be subject to prosecution. He thinks the main focus of the federal government is going to be in reviewing how well the State of Washington does in the regulation and enforcement of I-502. He stressed that the federal government will be watching this closely.

Chair Leifer reiterated that the reality is that marijuana is still a controlled substance under federal laws. City Attorney Weed concurred and stated it is very clear that under the CSA marijuana is classified as a Schedule 1 drug which "has a high potential for abuse and lack of any accepted medical use." The possession, use, sale, and

distribution of marijuana under federal law is a federal crime, and this has not changed even with the adoption of I-502. What the government has done by issuing its memo back in August, is acknowledge that the federal government can't enforce the federal law against any and every person so they will defer to the states to do their thing. However, they listed 8 priorities which, if are not met by the states, the federal government will be more proactive in the enforcement of the federal law. There is also case law at both the US Supreme Court level and the state law level which suggests that the federal law preempts the state law, but it has not been decided with regard to Washington's I-502. The law is still unsettled as to which law trumps which.

Chair Leifer suggested that the federal decision to back away from this is somewhat of a political decision and is subject to change depending on the leadership. Knowing that these facilities could be confiscated under the drug laws, he asked what the likelihood is that these could all become suspect and subject to seizure. City Attorney Weed stated that it is a very good question and a very difficult one to answer. He stated that it would be naïve to think that the policies of the US Attorney's Office couldn't change if there was a change in leadership.

Chair Leifer then asked for clarification about a paragraph on page 6 of 8 in the ordinance previously passed stating which parts of the marijuana plant are legal and which parts aren't. City Attorney Weed said he thought that the definition came straight out of I-502. Lt. Thomas attempted to clarify this.

Commissioner Hoen said he heard that there is quite a large contingent of applicants who are prepared to file lawsuits against municipalities who are not following the rule the way they think they should. He asked if some of these claims might be consolidated or if they would be addressed individually. City Attorney Weed stated that cities and counties throughout the state are addressing this issue in a wide variety of ways. He reviewed some of those various ways. There has been a lot of press about groups that have threatened litigation. He expects that some cases having the same or similar issues will be consolidated as this moves ahead. He stated that the initial step in challenging a municipality's ordinance will be the state court in the county in which the city is located or in federal court in the district of federal court that the city is located. Not every issue that is the same will be consolidated, but he expects that there will be some common themes. He expects that this will take some time for case law to be developed. In the meantime, there will be a number of different questions that will remain unanswered.

Commissioner Lebo asked whether the tax revenue will trickle down to local law enforcement so that they can do the extra work that is needed for these facilities. City Attorney Weed said his understanding is that it will go to the State of Washington and will not trickle down to the localities. This is one of the issues that the Association of Washington Cities raised with the Liquor Control Board and with the legislature. CAO Hirashima added that the only portion that would come to the City would be the regular sales tax. The rest would go to the State.

Commissioner Richards asked if, since it is still illegal federally, there would be an issue with going through federal banks. City Attorney Weed was not sure, but noted that the question has been raised to the Liquor Control Board. There have been concerns raised about this. Chief Smith said that it is still an issue. Because of the fact that this is a cash business, there is a tie to money laundering and organized crime that's associated with it.

Commissioner Andes referred to the earlier statement that more people die from alcohol than they do from marijuana, and stated that is based on the fact that alcoholism and alcohol can kill by itself. However, he asserted that if you add up all the people that have been killed because of a burglary or other crime associated with marijuana it would outweigh those who die from alcohol.

Chair Leifer noted that the Council has asked the Commission to come up with a recommendation for the City Council. He called attention to the six alternatives presented by the I-502 Committee as options, but noted that the Planning Commission was free to come up another alternative as well.

Commissioner Richards said he was on the I-502 Committee and had recommended allowing retail stores with specific hours. However, after hearing the comments tonight, he was in support of Alternative 2 to continue the moratorium for at least a year to see how other cities handle this.

Commissioner Smith concurred that continuing the moratorium would give the City more time to sort it out.

Commissioner Lebo thanked everyone for showing up and for sharing their thoughts. He said he is grateful for our community and wants to keep it safe for our children and youth to live. He doesn't want people to think they can come to Marysville to buy or sell drugs. He stated that he would recommend Alternative 1.

Commissioner Andes spoke in support of Alternative 1.

Commissioner Hoen said there are still way too many unanswered questions for a permanent decision. He doesn't think the illegal marijuana trade will go away. He thinks kids will continue to get it the same way they get it now although they may start thinking it's not as bad a thing with adults saying that it is okay. He spoke in support of continuing the moratorium even though he doesn't personally like moratoriums.

Commissioner Richards asked if a prohibition could be lifted at some point if the City decides to do that. City Attorney Weed stated that any ordinance can be changed if desired by the City Council.

Chair Leifer noted that he has great respect for voters and their wishes, but his personal feeling is that this is a gateway drug. He is not in favor of production, processing or selling of it. The fact that the federal law clearly states that this is not legal is also a big issue at this time. He noted that it is generally accepted that federal law trumps state

law. Based on all of this he stated that he is opposed to all aspects of it. He added that he had considered supporting continuance of a moratorium, but this just appears to delay the inevitable. He spoke in support of Alternative 1 – Prohibition.

Commissioner Richards stated that he had moved his recommendation to Alternative 1.

There was disruption by some audience members who were upset because more than 50% of the voters want this in Marysville. They indicated that the Planning Commission was obligated to honor those wishes above their personal beliefs.

City Attorney Weed commented that the Public Comment portion of the meeting was closed so it wasn't appropriate to have dialog with the public at this time.

Commissioner Andes explained for the benefit of the public that the Planning Commission would be making a recommendation to the City Council, but that the Council would be making its own decision. He invited everyone to come back to speak at the Council meeting when they address this topic.

Motion made by Commissioner Lebo, seconded by Commissioner Richards, to recommend Alternative 1 to the City Council, which is a prohibition on marijuana retail, producers, and processors in Marysville. **Motion** passed unanimously (6-0).

NEXT MEETING:

January 28, 2014

Chris Holland stated that the next meeting would be on potential changes to the floodplain ordinance which were necessary in order to be in compliance. Additionally, the State is continuing to look at amendments to the SEPA Ordinance which would allow for certain exemptions. Staff will update the Planning Commission on that, but the final recommendation from the State will not be coming down until sometime in February.

ADJOURNMENT

Motion made by Commissioner Lebo, seconded by Commissioner Richards, to adjourn the meeting at 8:38 p.m. **Motion** passed unanimously.


Chris Holland for Laurie Hugdahl, Recording Secretary



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
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.

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 #I173	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 #I173	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 GROTT0	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

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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

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- 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 to 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.

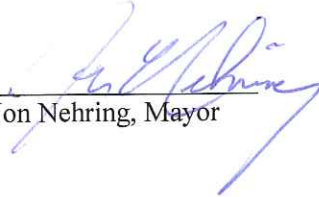
Section 8. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall 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.

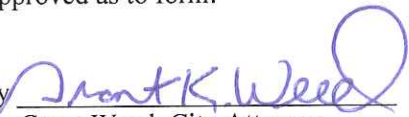
CITY OF MARYSVILLE

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




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;

- 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.

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.

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.



MARYSVILLE POLICE DEPARTMENT



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.



MARYSVILLE POLICE DEPARTMENT



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 propaganda 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.



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;

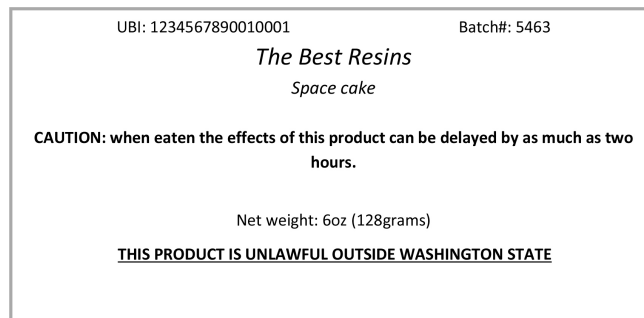
(b) Lot numbers of all base marijuana used to create the extract;

(c) Batch number;

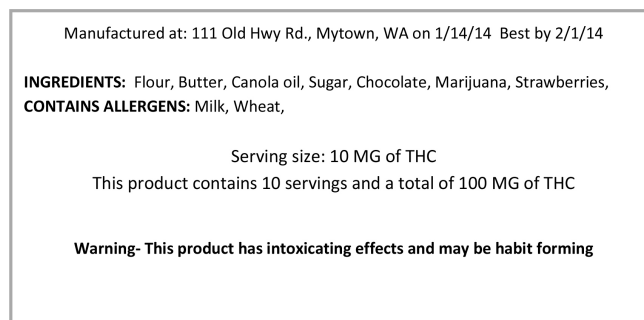
(d) Date manufactured;

- (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)



(Back of label)



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).

(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.



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

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- **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

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- **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 comingle 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.

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	

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	

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	

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, 2013

Producers 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)

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.

(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;

- (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.

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#ixzz1ngbvMOII.

² “LAPD Chief: Pot clinics not plagued by crime,” *Los Angeles Daily News*, January 17, 2010.
http://www.dailynews.com/news/ci_14206441.

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>.

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.coalliance.org/codr/fez/view/codr:983>.



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

**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

illicit drug use. There is no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs.

Since then, numerous other studies have failed to support the gateway idea. Every year, the federal government funds two huge surveys on drug use in the population. Over and over they find that the number of people who try marijuana dwarfs that for cocaine or heroin. For [example](#), in 2009, 2.3 million people reported trying pot — compared with 617,000 who tried cocaine and 180,000 who tried heroin. **(More on Time.com: [See photos of cannabis conventions](#))**

So what accounts for the massive correlation between marijuana use and use of other drugs? One key factor is taste. People who are extremely interested in altering their consciousness are likely to want to try more than one way of doing it. If you are a true music fan, you probably won't stick to listening to just one band or even a single genre — this doesn't make lullabies a gateway to the Grateful Dead, it means that people who really like music probably like many different songs and groups.

Second is marijuana's illegality: you aren't likely to be able to find a heroin dealer if you can't even score weed. Compared with pot dealers, sellers of hard drugs tend to be even less trusting of customers they don't know, in part because they face greater penalties. But if you've proved yourself by regularly purchasing marijuana, dealers will happily introduce you to their harder product lines if you express interest, or help you find a friend of theirs who can.

Holland began liberalizing its marijuana laws in part to close this particular gateway — and indeed now the country has slightly fewer young pot-smokers who move on to harder drugs compared with other nations, including the U.S. A 2010 Rand Institute [report](#) titled “What Can We Learn from the Dutch Cannabis Coffeeshop Experience?” found that there was “some evidence” for a “weakened gateway” in The Netherlands, and concluded that the data “clearly challenge any claim that the Dutch have strengthened the gateway to hard drug use.” **(More on Time.com: [Is Marijuana Addictive? It Depends How You Define Addiction](#))**

Of course, that's not the gateway argument favored by supporters of our current drug policy — but it is the one supported by science.

Read more: [Marijuana as a Gateway Drug: The Myth That Will Not Die | TIME.com](#)
<http://healthland.time.com/2010/10/29/marijuana-as-a-gateway-drug-the-myth-that-will-not-die/#ixzz2ka1AF0qn>

Marijuana as a gateway drug

According to Marysville Police I-502 statement, "a study done by Yale . . . showed that alcohol, cigarettes, and marijuana were associated with an increased likelihood of prescription drug abuse in men 18- 25." Other studies also show a correlation between the usage of alcohol, cigarettes, marijuana, and other drugs such as prescription drugs or cocaine.

But the real question is one of cause and effect. Did the usage of marijuana LEAD to the usage of other mind-altering substances, or are persons who seek mind-altering experiences simply more open to trying every option? Having personally known many, many people who use, or have tried, marijuana and NOT proceeded further into other drug use, I believe it is the mindset of the person that determines whether they will try a variety of drugs and NOT some mysterious quality within the marijuana plant that leads a person down this path.

Many people use marijuana to relax, similar to other relaxation options such as a beer after work or a cigarette break or mindless TV at the end of the day. If there is any correlation to marijuana and other drugs, it is probably based in the necessity of a consumer to purchase his marijuana from drug dealers who also offer other products. Put it this way: if I had to go down a back alley every time I wanted to buy shoes, and my shoe dealer kept pressuring me to buy a hat that he was sure I'd really like, I might eventually buy that hat too. If I could go into a store and buy shoes legally, with no accompanying pressure to buy a hat, I would never be tempted to purchase a hat. It may well be that the legalizing of marijuana will actually decrease the usage of hard drugs.

Cate Mighell

Below are some excerpts from municipalities that have come up with ordinances for implementing I-502 and their reasons for action.

1. From: The Kitsap County Board of Commissioners, November 13 (they identified industrial and commercial zones as appropriate for marijuana businesses)

"Kitsap County wishes to reduce the risk of confusion and code enforcement issues by adopting zoning regulations that provide clarity on where marijuana businesses may locate in unincorporated Kitsap County before businesses apply for state licenses in locations where such businesses might not be permitted."

2. From: Snohomish County, September 5

"The County Council may consider adopting interim zoning regulations for facilities that produce, process, or sell recreational marijuana on September 25, 2013. The Council has expressed a desire to have permanent regulations adopted prior to November 18, 2013, when the LCB will begin to accept applications for recreational marijuana licenses." (Council memo)

3. From Spokane, July 16

"We don't want marijuana businesses in Spokane to be operated like the Wild West. We need to create some logic and predictability and balance that with the needs of public safety, public health - especially for children - and the will of the voters to dismantle the black market. If the City does nothing it is likely that irresponsible businesses could exploit gaps in regulation." (Ordinance Q and A)

4. From Moses Lake, October 24

"There are going to be licenses that are issued come Dec 1 and it might be a good thing to be prepared.... You can attempt to prohibit retail sales in the city of Moses Lake, but in my opinion...you'll fail in that lawsuit." (Joe Gavinski, City Manager)

5. From Port Orchard, September 18

"If the council wants to have maximum control over which marijuana businesses go where, it should authorize staff to draft rules related to zoning and land use, with an eye to specific areas. Other options...to do nothing and let businesses locate wherever permitted by state law, an outright ban (the option most likely to get you sued)...or a moratorium, also subject to legal challenge." (Greg Jacoby, City Attorney)