



SAN JUAN COUNTY  
DEPARTMENT OF COMMUNITY DEVELOPMENT

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**MEMO**

**REPORT DATE:** November 20, 2019  
**TO:** San Juan County Council  
**FROM:** Linda Kuller, AICP, Planning Manager   
**BRIEFING:** December 3, 2019  
**SUBJECT:** Policy Options: Marijuana production and processing regulations

**ATTACHMENTS:**

- A. Project work program
- B. Related RCWs and WACs
- C. SJC Comprehensive Plan Excerpts
- D. March 20, 2019 Ag Resource Committee memo
- E. 2015 Marijuana Workgroup
- F. 2015 Greenhouse Workgroup
- G. Skagit County Permit Guidance for Recreational and Medical Marijuana
- H. 2015 Comparison of Other Counties' Marijuana Regulations
- I. November 2019 Marijuana Licenses for San Juan County

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**Purpose:** To provide background information and obtain policy direction on regulatory options for development of a draft ordinance to regulate marijuana production and processing.

**Link to the project webpage:** <https://www.sanjuanco.com/1585/Marijuana>

**Public Notices:** The public may subscribe to receive Community Development newsflashes for notices about this project at: <https://www.sanjuanco.com/list.aspx>.

### A. Background

The voters of the State of Washington passed Initiative 502 (I-502) amending Chapter 69.50 RCW and legalizing recreational marijuana in Washington State in November 2012. This authorized the licensing and regulation of marijuana production, processing, retailing distribution, and possession for persons over 21. Marijuana licensing rules are codified in Chapter 314-55 WAC. Attachment B contains excerpts from the WACs and RCWs related to marijuana production, processing and retailing.

Marijuana licenses are regulated by the Washington State Liquor and Cannabis Board (WSLCB). Licenses issued or pending in San Juan County are listed in Attachment I. State law provides 3 types of licenses for marijuana as a regulated enterprise: production (growing), processing and retail sales. WAC 314-55-075(1)(b) regulates grow areas:

- Production – Indoor or outdoor growing

- Outdoor production may take place in nonrigid 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. An outdoor grow areas must be physically separated at least twenty feet from another licensed outdoor grow. In addition, outdoor grows cannot share common walls or fences.
- Indoor marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.
- Processing – Indoors only.
- Retail sales – No entry for minors.

WAC 314-55-083 establishes the security and traceability requirements for all marijuana licenses. Production, processing and retail operations must have alarm systems, and video surveillance systems.

**Current Interpretation of San Juan County Code:** San Juan County Code does not specifically regulate marijuana production, processing or retailing facilities. Marijuana production has been interpreted to be most similar to agriculture and treated as such in the interpretation of the County’s land use tables. Retail sales have been allowed where retail establishments are allowed in the land use tables. Marijuana production and processing has been allowed in industrial land use designations.

Unlike agricultural plants grown and processed with agricultural practices, marijuana is subject to state licensing, security measures, product tracking, and accounting under State law. Further:

- The resulting product is a controlled substance. Security measures and age restrictions apply.
- Marijuana may not be sold or traded at farm stands, farmers markets, on site at agricultural farms, nor legally transported out of state like agricultural products.
- Preferred production conditions frequently result in use of a growth medium other than native soils and an indoor controlled climate, often including reliance on high intensity grow-lights used 18 to 24 hours a day. The heat generated with production often necessitates exhaust systems.
- Licensing and security regulations require a 20-foot buffer zone around marijuana production and processing facilities, along with security cameras and lights. For outdoor production, security requirements include a sight-obscuring fence or wall eight feet high.
- Most often, marijuana producers do marijuana processing on site although it can be limited to stripping the leaves and off of stems. Processing ranges from simple drying and trimming to more complex activities using volatile solvents and gasses for extracts. Fire safety and building code requirements for processing and handling and storage of solvents and gasses apply.
- WAC 314-55-015(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. Per WAC 314-55-010(24) “Residence” means a person’s address where he or she physically resides and maintains his or her abode. Thus, marijuana production and processing may not take place in a single family residence or dwelling unit, or be authorized as a home occupation or cottage industry.

- WAC 69.50.331(9): Allows a county to adopt an ordinance prohibiting marijuana producers or processors from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.
- Three marijuana production tiers dictate the maximum amount of space licensed for marijuana production:
  - Tier 1 – Less than two thousand square feet;
  - Tier 2 – Two thousand square feet up to ten thousand square feet; and
  - Tier 3 – Ten thousand square feet up to thirty thousand square feet.

The ordinance could include an additional section to state that these operations/facilities would not be subject to new regulations adopted in X ordinance.

**2015 Workgroups Considered Marijuana and Greenhouse Regulations:** In 2015, the County began a code amendment process to address the regulation of marijuana production and processing. The project was stopped due to higher staffing priorities; however, the community input is worth revisiting. Attachments E and F provide summaries of some of the workgroup concerns and information gathered. At that time the public expressed concern about land use compatibility issues, adverse impacts to rural character, natural resources and the public welfare.

Many members were concerned that without specific land use regulations and performance standards community impacts related to marijuana production and processing would not be addressed. They identified the following issues: environmental, land use, traffic and access, lighting, noise, odor, energy use, aesthetics, potential for cross pollination with agricultural crops in outdoor production, and public safety impacts. Many also expressed concern over the potential for large industrial sized greenhouse operations, indicating that greenhouses without hard sides have more security and lighting issues and would be more impactful than outdoor production.

**2019 Moratorium:** In 2019, San Juan County adopted moratoria pertaining to the siting of new marijuana production and processing operations. They apply to new or pending applications for a building or occupancy permit, variance, conditional use permit, or other development permit or approval with respect to licensed marijuana production and processing. Resolution No. 15-2019 placed a six-month moratorium on such operations. This moratorium was renewed for six months beginning on October 2, 2019 in Resolution No. 34-2019. It exempts building permits for the alteration of marijuana production and processing operations legally established prior to the adoption of Resolution No. 15-2019, provided that there is no enlargement or intensification of the permitted processing or production. It will expire in April 2020 unless renewed for an additional six months.

**Project Timeline:** A work plan outlining the marijuana code development project deadlines was adopted in Resolution No. 34-2019 (Attachment A).

**2019 Public Comments:** The following summarizes recent public comments about regulating marijuana production and processing:

- Common comments were related to concerns that outdoor growing of marijuana creates substantial impacts on neighboring properties such as untraditional security fences, surveillance cameras, lighting for security and in grow houses, odors, waste disposal, noises, traffic, loss of property values, exceptional water usage, and significant impacts to rural character.

- Many folks recommended a prohibition on outdoor marijuana production.
- Some people asserted that marijuana production and processing facilities are most similar to industrial uses because of their community impacts, and should primarily be allowed in zones where industrial uses are allowed.
- The Agricultural Resources Committee (ARC) indicated in Attachment D that marijuana production and processing should be treated as a separate use from agricultural activities. Their letter also indicated that the State allows growing of marijuana in the Voluntary Stewardship Program. As in 2015, the agricultural community had there was no consensus from regarding the use of greenhouses for marijuana production.
- Most people seem comfortable allowing marijuana retail stores where other retail uses are allowed.

**Issued and Pending Marijuana Licenses in San Juan County:** Attachment I shows the November 12, 2019, WSLCB marijuana licenses applications status for San Juan County. Four marijuana retailers are licensed and active, two in Friday Harbor and two in Eastsound. There are three Tier 2 marijuana producers/processors licensed and active in the County:

- Green Island Growers (AG Resources, San Juan Island, 6.39 acres);
- NW Connoisseurs (Service Light Industrial, Orcas Island 1.53 acres); and
- Sweetbriar Farms (Rural Farm Forest, Orcas Island 20.24 acres).

No applications are pending in the County as of November 12, 2019.

**Consistency with San Juan County Code (SJCC) and Comprehensive Plan (*Plan*) Land Use Element:** Attachment C provides an excerpt of land use goals and policies from the *Plan* Land Use Element for each land use designation. These goals and polices should be reviewed prior to making a decision on whether to allow marijuana production and processing in a land use designation to ensure that those decisions are aligned with the intent of the *Plan*.

**Other Counties' Regulations:** Attachment H from 2015 depicts five other counties' marijuana land use regulations for:

- indoor-only use and requirements for setback and related permit conditions;
- outdoor use and related setbacks;
- performance standards;
- conditions added to special permits; and
- locations or activities specifically prohibited.

It shows some of the varied land use designations deemed appropriate for marijuana production and processing in a sample of western Washington counties. It also indicates that production levels above a minimum area (often aligned with the State Tier 1 of 2000 square feet) and related processing often require conditional use permits. Increased setbacks from residential districts or uses are also common.

## B. Proposed Regulations and Policy Options

Staff requests Council's input on two possible policy strategies related to the regulations of marijuana production and processing. The preliminary draft definitions and performance standards shown in this report would need to be tailored to the policy choice selected by Council. No code amendments are needed to address marijuana retail stores which is allowed in land use designations that allow retail establishments.

Staff used the performance standards originally drafted by Councilman Watson as a starting point. This draft was reformatted, revised, and reorganized for potential inclusion in the draft ordinance and development code. Duplication was eliminated. They were further amended to incorporate any significant suggestions from the community's 2015 workgroups that were not addressed.

**Proposed Definitions:** The proposed definitions would reiterate RCW 69.50.101, although San Juan County may make a distinction between "outdoor" and "indoor" production use in the definitions section. Also, see the addition to the definition of marijuana in red underline below based on the County's moved to distinguish marijuana production from agricultural crops.

These draft definitions can be modified if Council's direction does not include distinguishing between indoor and outdoor production.

**"Marijuana" or "marihuana"** 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. Marijuana is not an agricultural product. The term does not include:

(1) 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; or

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

**"Marijuana processor"** means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

**"Marijuana production, indoors"** means an operation licensed by the Washington State Liquor and Cannabis Board to produce marijuana in hard sided, opaque structures and sell marijuana at wholesale.

**"Marijuana production, outdoors"** means an operation licensed by the Washington State Liquor and Cannabis Board to produce marijuana outdoors or in translucent greenhouses or structures and sells marijuana at wholesale.

**Note:** Translucent means allowing light, but not detailed shapes, to pass through; semitransparent.

**"Marijuana retail sales"** means a retail outlet where a person licensed by the Washington State Liquor and Cannabis Board sell marijuana concentrates, useable marijuana, and marijuana-infused products.

**"Marijuana production tiers"** means the maximum amount marijuana production cannot exceed the amount licensed. There are three tiers of licensed plant canopy are:

1. Tier 1 – Less than two thousand square feet;
2. Tier 2 – Two thousand square feet up to ten thousand square feet; and
3. Tier 3 – Ten thousand square feet up to thirty thousand square feet.

### **Policy Choice: Where should marijuana production and processing be allowed?**

Staff reviewed recent public comments, the SJC Comprehensive Plan, land use tables in the development regulations, past marijuana and greenhouse workgroup efforts and the permitting scenarios of several other jurisdictions before developing two policy options for Council to consider. Each of these options could be modified, particularly on the allowance for marijuana tiers.

Staff recommends Option 1, although both options could be developed for public comment. Option 1 seems to address many community concerns and would be simple to implement.

Before the options are considered, please review the background notes and symbols used in the land use tables provided below.

#### **Background Notes:**

- Waldron and Shaw subarea plans refer to Title 18 (Waldron has RFF, C and N, Shaw has RR, RFF, FOR, C and N designations)
- Olga Hamlet – Ag processing is not permitted. There are scale concerns.
- Deer Harbor – Ag processing, uses, activities are permitted. There are groundwater concerns.
- Orcas Village Activity Center – Ag processing is allowed as a conditional use. Building size is limited to 3000 square feet.
- Lopez Village Urban Growth Area – There are water concerns.

#### **The following symbols relate to the land use tables:**

- Y = Uses allowed outright (without a project permit), subject to applicable development standards.
- P = Provisional use permit subject to Development Standards, and Performance and Use-Specific Standards.
- C = Conditional use permit, subject to public notice and permit hearing procedures.
- N = Prohibited use.

**Policy Question: In what land use designations should marijuana production and processing be allowed?**

Options 1 and 2 are first explained and then are followed by specific details in the land use tables.

**Option 1.**

This option is similar to the Skagit County regulatory strategy that prohibits outdoor production and processing in greenhouses or translucent structures. It would restrict indoor marijuana production and processing in Activity Centers to commercial and industrial land use designations. It would allow indoor marijuana production in some rural land use designations including Rural General Use, Rural Industrial, Rural Commercial, and Island Center. In Eastsound, indoor production and production and processing would be allowed in Service Light Industrial, Service Park, and Country Corner Commercial.

Staff recommends Option 1 because it would prevent most rural neighborhood issues with odor, security systems, lights, fencing aesthetics, noise, rural character, rural water use, access and use of private roads, reduction in property value, and interference with agriculture and soils. It seems like a suitable response to community concerns including protection of rural character.

**Prohibit:**

- Outdoor marijuana production and processing, and
- Marijuana production and processing in greenhouses and translucent structures.

**Allow:**

- Indoor marijuana production and processing in most commercial and industrial land use designations.

WAC 314-55-075(1)(b) requires indoor marijuana production and processing to take place within a fully enclosed, secure indoor facility or with rigid walls, a roof, and doors.

**Option 2.**

This option requires more analysis. It would allow some production and processing in various land use designations, but would still restrict it from primarily residential areas. The tiers of production are limited. It allows it production and processing indoors or outdoors in the Ag Resource and Rural farm Forest designations with a minimum lot size per Tiers 1 and 2. Also, if this is allowed in AG Resource, should it be limited to permanent structures?

Option 2 is the same as Option 1 for Activity Center designations. In Eastsound a conditional use permit is proposed for outdoor production in the Service Light Industrial and Country Corner Commercial designations because they are compact areas of development with residential uses nearby.

**Allow:**

- Outdoor and indoor marijuana production and processing in some commercial and industrial land use designations with specific lot size requirements and permit requirements.
- Outdoor production in AG Resource for marijuana production Tier 1 and Tier 2 thresholds.
- Marijuana production in greenhouses for Tier 1 and Tier 2 production to limit the impacts on Ag Resource lands.

**Prohibit outdoor marijuana production and associated processing in:**

- Activity Centers because the densities in activity centers increase potential impacts on neighboring properties. Staff recommends indoors use only in industrial designations. Commercial uses almost entirely include exchange of funds for goods or services, and, shopping appears to be a primary characteristic of areas with commercial designations.
- All primarily residential designations (Rural Residential, Rural Farm Forest, Village Residential, Hamlet Residential, ES Residential, etc.), and Conservancy, Natural and Forestry designations.

**Option 1 Land Use Tables:**

**Option 1: Activity Centers**

Table 18.30.030. Allowable and Prohibited Uses in Activity Center Land Use Designations <sup>(1, 2, 3, 4)</sup>								
Land Uses	Classification of Uses by Land Use Designation							
	Village			Hamlet			Island Center	Master Planned Resort
	VC	VI	VR	HC	HI	HR	IC	MPR <sup>(5,6)</sup>
<b>Commercial Uses</b>								
Marijuana production and processing, indoors	N	Y	N	N	Y	N	Y	N
Marijuana production and processing, outdoors	N	N	N	N	N	N	N	N
Marijuana production and processing in greenhouses and translucent structures	N	N	N	N	N	N	N	N

**Option 1: Rural, Resource and Special Designations**

Table 18.30.040. Allowable and Prohibited Uses in Rural, Resource, and Special Land Use Designations (1, 2, 3)									
Land Uses	Classification of Uses by Land Use Designation								
	Rural Designations					Resource Lands		Special Lands <sup>(4)</sup>	
	RGU	RR	RFF	RI	RC	AG	FOR	C	N
<b>Commercial Uses</b>									
Marijuana production and processing, indoors	Y	N	N	Y	Y	N	N	N	N
Marijuana production and processing, outdoors	N	N	N	N	N	N	N	N	N
Marijuana production and processing in a greenhouse and translucent structures	N	N	N	N	N	N	N	N	N

**Option 1: Other Subarea Plan Designations**

Land Use Designation	Indoor Production and Processing	Outdoor Production and Processing	Marijuana Production and Processing in Greenhouse and Translucent Structures
Olga Community Center	N	N	N
Orcas Village Transportation	N	N	N
Lopez Village Institutional	N	N	N
<b>Eastsound</b>			
ES Village Commercial	N	N	N
ES Service Light Industrial	Y	N	N
ES Residential	N	N	N
Service Park	Y	N	N
ES Marina	N	N	N
ES Airport	N	N	N
ES Country Corner Commercial	Y	N	N
ES Rural Residential	N	N	N
ES Rural	N	N	N
ES Natural	N	N	N

**Option 2 Land Use Tables**

**Option 2: Activity Centers**

Table 18.30.030. Allowable and Prohibited Uses in Activity Center Land Use Designations <sup>(1, 2, 3, 4)</sup>								
Land Uses	Classification of Uses by Land Use Designation							
	Village			Hamlet			Island Center	Master Planned Resort
	VC	VI	VR	HC	HI	HR	IC	MPR <sup>(5,6)</sup>
<b>Commercial Uses</b>								
Marijuana production and or processing, indoors	N	Y	N	N	Y	N	Y	N
Marijuana production and or processing, outdoors	N	N	N	N	N	N	N	N
Marijuana production and processing in a greenhouse and translucent structures	N	N	N	N	N	N	N	N

**Option 2: Rural, Resource and Special Designations**

Table 18.30.040. Allowable and Prohibited Uses in Rural, Resource, and Special Land Use Designations <sup>(1, 2, 3)</sup>									
Land Uses	Classification of Uses by Land Use Designation								
	Rural Designations					Resource Lands		Special Lands <sup>(4)</sup>	
	RGU	RR	RFF	RI	RC	AG	FOR	C	N
<b>Commercial Uses</b>									
Marijuana production and or processing, indoors	Y	N	Y <sup>X,XX</sup>	Y	Y	Y <sup>X,XX</sup>	N	N	N
Marijuana production and or processing, outdoors	N	N	Y <sup>X,XX</sup>	N	N	Y <sup>X,XX</sup>	N	N	N
Marijuana production and processing in a greenhouse and translucent structures	N	N	Y <sup>X,XX</sup>	N	N	Y <sup>X,XX</sup>	N	N	N

Possible Footnotes: **X: Tier 1, minimum 5 acres and XX: Tier 2, Minimum 10 acres, or Council could give direction to allow XXX: Tier 3: Minimum 20 acres**

**Policy Question: Does Council want to limit indoor production to permanent structures existing as of the effective date of the ordinance in the Ag Resources designation?** Doing this would limit the conversion of agricultural land to marijuana production and reduce development of new structures for production.

**Option 2: Other land use designations**

Land Use Designation	Indoor Production and Processing	Outdoor Production and Processing	Marijuana Production and Processing in Greenhouse and Translucent Structures
Olga Community Center	N	N	N
Orcas Village Transportation	N	N	N
Lopez Village Institutional	N	N	N
<b>Eastsound</b>			
ES Village Commercial	N	N	N
ES Service Light Industrial	Y	C	C
ES Residential	N	N	N
Service Park	Y	C	C
ES Marina	N	N	N
ES Airport	N	N	N
ES Country Corner Commercial	Y	C	C
ES Rural Residential	N	N	N
ES Rural	N	N	N
ES Natural	N	N	N

**Other Possible Footnotes for any Option:** From 2015 workgroup and Councilman Watson:

- Marijuana processing using hazardous or flammable solvents or gases is allowed only in industrial designations, in a building, not in a greenhouse, and only in a professional-grade closed-loop extraction system that is designed to recover the chemicals in accordance with WAC 314-55-104. (2015)
- The minimum parcel size for marijuana production shall not be modified or reduced pursuant to Chapter 18.80 SJCC (Variances), SJCC 18.40.310 (Nonconforming structures and uses), or Chapter 18.35 SJCC (Reasonable Use) regulations, or other administrative modification. (BW)
- New buildings proposed for marijuana production and processing must be located and designed to minimize use of prime agricultural soils. (2015)

**Performance Standards and Procedures**

**Proposed New Subsections for SJCC Chapter 18.40 Performance and Use Specific Standards**

The following suggested performance standards can be tailored to be consistent with and not duplicate and footnotes to the land use tables. Highlights of items that need clarification.

**Marijuana production, processing or retail sales – general standards.**

Local performance standards are established to further address public health, safety and welfare for state licensed and approved marijuana activities and land uses. Such uses must operate consistent with state law under RCW Title 69 and the requirements of Chapter 314-55 WAC.

- A. No part of this subsection is intended to or shall be deemed to conflict with federal law, **Note: staff does not think we should list the following:** including but not limited to, the Controlled Substances

~~Act, 21 U.S.C. Section 800 et seq., or state law, including, but not limited to, the Uniform Controlled Substances Act (chapter 69.50 RCW) and the Cannabis Patient Protection Act (Chapter 69.51A RCW), nor to otherwise permit any activity that is prohibited under either Act, or any other local, state, or federal law, statute, rule, or regulation.~~

B. Prior to commencing operations, a marijuana operator shall obtain approval as a state-licensed marijuana producer, processor, or retailer under Chapter 69.50 RCW and Chapter 314-55 WAC. Only one state-issued marijuana license (e.g. combined producer/processor, producer only, processor only, or retail) shall be allowed per legal parcel.

C. Final occupancy of any building used for marijuana production, processing or retailing will not be granted until a Washington State Liquor and Cannabis Control Board license has been approved.

D. Consistent with WAC 314-55-015, marijuana production may not take place in a single family residence or dwelling unit, or be authorized as a home occupation, cottage industry, or neighborhood enterprise.

E. With respect to San Juan County Land Use Code Title 18, marijuana is not an agricultural product, and any provisions of this code or any other adopted regulations with regard to agriculture including the county's voluntary stewardship program do not apply to marijuana unless otherwise provided.

F. The use of chemicals, industrial solvents, or other noxious or hazardous substances shall comply with all federal, state, and county safety, fire, structural, storage, and disposal standards.

G. Water supplies, wastewater, and sewage disposal facilities adequate to serve the proposed use shall be provided with any applicable permit application.

H. ~~No use shall be made of equipment or material which produces unreasonable vibration, noise, dust, smoke, odor, electrical interference to the detriment of adjoining property.~~ All exhaust air from enclosures shall be **filtered**.

I. Use of a County access road or private road for access shall be permitted only if the applicant demonstrates **that public health, safety and welfare** will be protected. **Note: How is this related to the road/permission of other private users?** Traffic and maintenance impacts to the ~~private road~~ are may be minimized by conditions on the permit.

J. For all allowable and conditionally permitted uses located in rural land use designations, as listed in Table 18.30.040, or Rural Activity Centers if estimated traffic volume generated would exceed the volume that would be generated by rural residential use of the site **(five trips per day per unit of maximum density) Where did this number come from???)**, any easements or road improvements required by the County engineer to accommodate the increase must be provided prior to occupancy.

K. Structures shall comply with the lighting, signage, site coverage, and landscape and screening guidelines set forth in SJCC Title 18 unless a proposal is subject to stricter site development standards of WAC 314-55.

L. Parking shall be contained on-site and provided in conformance with Titles 16 or 18 SJCC as applicable.

M. All waste disposal must be in accordance with WAC 314-55-097 and Chapter 8.14 SJCC.

N. All security requirements of WAC 314-55-083 applicable to marijuana processors shall be required prior to final occupancy. *2015: Security cameras shall not intrude on the privacy of neighboring properties. (The state security requirements include security cameras at all entry points and for 20 feet beyond the perimeter of any building or fence, but do not include language about keeping the coverage to the property where the facility is located).*

O. Lights used to illuminate the facility shall be arranged so as to direct light away from adjoining properties, critical areas and public roads consistent with SJCC 18.60.170 and chapter 18.35 SJCC.

#### **18.40.710 Marijuana production.**

Marijuana producers and their operations shall meet the following standards:

A. New structures for production shall not be located within 1,000 feet of any existing dwelling unit on another parcel. Existing dwelling units shall be those with vested building permit applications. *2015: 450 feet.*

B. Indoor or outdoor production, including all loading areas, shall be screened from the view of adjacent residential uses and set back from property lines no less than thirty (30) feet.

#### **18.40.720 Marijuana processing.**

Marijuana processing, and those making marijuana-infused products as defined in WAC 314-55 shall meet the land use standards of this section and be subject to the following application

A. All marijuana processing shall occur within a structure. The structure and loading areas shall be screened from the view of adjacent parcels and set back from property lines by no less than thirty (30) feet.

B. The minimum lot dimension on any property(s) to be used for processing shall be an average of 275 feet in distance between any parallel or opposite lot lines???? Not sure of the intent of this. BW?

C. Any marijuana processing that utilizes an extraction process is classified as a moderate-hazard factory industrial (Group F-1) occupancy, under the International Building Code.

D. Noise from fans shall be muffled by the use of the best available technology and comply with SJCC Chapter 9.06. *2015: Noise from production and processing minimized by best available technology. Sound tests at property line when functioning at capacity must show noise does not exceed decibel standards (WAC 173-60-040).*

E. New structures for processing shall not be located within 1000 feet of any existing residential unit on another parcel. *(Production or processing facility and any security fencing must be setback at least 400 feet from a residence not owned by the facility operator – Skagit Co) SJC: 2015: New buildings or structures not located within 250 feet of existing residence, unless on the same parcel or owned by the facility operator.*

F. *2015 Water supplies and water quality protected by compliance with SJCC 18.60.020.*

G. *2015 Odor minimized by best management practices and technology for heating, ventilation, and air systems.* Buildings where marijuana is processed or stored must be equipped with ventilation/air filtration systems meeting the following provisions:

1. No odor shall be emitted that is detectable at or beyond the property line of any marijuana processor in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring properties and uses.
2. All odor control systems must be approved by a mechanical engineer licensed in the state of Washington demonstrating that the odor control system will eliminate odors as required by this section.

**LK move to application requirements:** Processors shall indicate in the site plan application and building permit application if proposing to use methods, equipment, solvents, gases, and mediums as identified in WAC 314-55-104. **Application requirement**

### **Marijuana retailers.**

Marijuana retailers and their operations as defined in WAC 314-55 shall meet the following standards:

- A. Prior to occupancy of an existing or proposed building, all retailers shall submit a site plan to the department for administrative review that contains the requirements of SJCC 18.XXX.
- B. No outdoor sales are permitted. Marijuana retail stores shall not be greater than 2,500 square feet.

### **Applications for marijuana production, processing and retail facilities – additional requirements and permit review.**

- A. A pre-application meeting is required prior to the submittal of a conditional use application for marijuana production and/or processing facilities.
- B. In addition to the requirements of **SJCC 18.80.020(C)** all applications for conditional use permits for marijuana production or processing facilities must contain the following information:
  1. A detailed site plan including:
    - a. Property boundaries, tax parcel numbers, property owners and land use designations of the subject parcel and all adjoining parcels;
    - b. Location of all existing residences within 1000 feet of the subject parcel property lines measured XXXXXXX;
    - c. Setbacks from each property line ~~State setbacks or locational restrictions;~~
    - d. Location of pedestrian access points, driveways, and all other points of ingress/egress points for general and emergency ingress and egress;
    - e. Location of all existing and proposed buildings and structures such as greenhouses, walls and fences and their dimensions and a ~~description construction details, and interior layout on the properties~~ description of the proposed construction materials. Location and construction details of greenhouses, including ~~without limitation~~ dimensions and construction details, interior layout, and plans for watering, ventilation, lighting, wastewater disposal and solid waste disposal systems;

- f. Detailed lighting plans including the location, type, height and brightness and the location, type, height and brightness for all exterior lighting and interior lighting of greenhouses and;
  - g. Required and supplemental landscaping and buffer areas including the requirements for the landscape plan from XXXX.
  - h. A plan for the treatment of dust and weeds.
  - i. The size category of the production premises and the location and amount square footage that will be designated as plant canopy.
2. A storm water drainage plan.
  3. A traffic plan and/or traffic impact analysis. Use of a County access road or private road or easement will only be permitted if the applicant demonstrates that the public health, safety and welfare will be protected and if traffic and maintenance impacts to the road or easement are minimized by conditions on the permit.
  4. Provision for on-site restrooms and other sanitary facilities.
  5. Provisions for elimination of or mitigation of noise, odors, lighting, security and other impacts.
  6. A description of how the performance standard in SJCC 18.60.020 (Water supplies) will be met.
  7. All marijuana production and processing facilities located on parcels that are within watersheds for ground water collection or adjacent to shorelines shall develop a water quality conservation plan with the local USDA representative consistent with “best management practices” and with the goal of protecting water quality.
  8. A description of how surrounding ground water will be monitored for water quality and quarterly reporting on monitoring data.
  9. A description of how their use will not result in more than a minimal and manageable increase on services and utilities available in rural areas or other areas including community water supplies, sewage disposal systems or roads.
  10. A waste disposal plan shall be provided that includes a description of how compostable and non-compostable mixed waste will be managed.
  11. If utilizing well water, a plan for proximity well monitoring including but not limited to: installation of monitoring equipment, periodic monitoring of consumption and static well levels, and quarterly reporting of monitoring data.

C. For any marijuana processing use, the County shall impose such reasonable conditions as are found necessary to ensure the use is compliant with WAC 314-55 and does not disrupt the character of any surrounding permitted uses.

**18.80.030 Notice of project permit applications, public comment, and notice of hearing.**

A. Notice of Project Permit Applications.

1. Applicability.
  - a. Notice of application is required for all project permit applications.
  - b. Public notice of the issuance of a threshold determination for projects subject to SEPA review may be combined with the notice of application or given separately, as provided in SJCC [18.80.050\(l\)](#).

2. Mailing, Publication, and Posting Requirements. Notice of application shall be prepared in accordance with this section and provided within 14 days after the application is determined to be complete; and, if an open-record predecision hearing is required, at least 15 days prior to the open-record hearing, as follows:

a. The administrator shall publish notice of application in the official County newspaper at least one time;

b. The applicant shall mail a notice of application, as provided by the administrator, to all owners of property within 300 feet of the boundaries of the subject property, using the names and addresses of those individuals as shown on the tax assessment rolls on the date the project permit application is submitted to the permit center. **For conditional use permits for marijuana production and processing facilities, the applicant shall mail a notice of application, as provided by the administrator, to all owners of property within 1,000 feet of the boundaries of the subject property using the names and addresses identified above.** Notices of application shall be deemed to have been provided on the date the notices are deposited in the mail. The applicant shall provide the administrator with a declaration of mailing and list of those individuals to whom the notice of application was mailed. (See SJCC [18.80.020\(C\)\(9\)](#)). All notices ~~which are~~ returned to the applicant must be submitted to the administrator for inclusion in the file. Failure to mail such notice as provided in this section shall not invalidate such proceedings as to a property owner who appears at a hearing or receives actual notice.

c. Posting. The applicant shall post a notice of application on the property on a board purchased from the permit center. Posted notice shall be:

i. At the midpoint of the site road frontage or as otherwise directed by the administrator for maximum visibility;

ii. Five feet inside the street property line, except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the margin line of the road or right-of-way without approval of the administrator;

iii. Between five and eight feet above grade at the top of the notice board;

iv. Completely visible to pedestrians;

v. Maintained in good condition by the applicant during the notice period;

vi. In place at least 30 days prior to the date of hearing; and

vii. Removed within 15 days after the notice of decision is received by the applicant. If the property is served by a private road, an additional notice board shall be located at the nearest intersection of the private road with a public road. Where a notice board cannot be placed as indicated or would not provide effective notice, the administrator shall determine a suitable location for posting.

d. The applicant shall submit an affidavit of posting and a photograph showing the location(s) of posting to the administrator prior to the publication of the notice of application.

3. Contents. The notice of application shall include the following information:

a. The date the project permit application was complete, and the date of the notice of application;

b. The name of the applicant or the applicant's authorized agent or representative;

c. A description of the subject property reasonably sufficient to inform the public of its location, which may include a vicinity location (map) or written description (rural route box or subdivision lot and block alone are not sufficient);

d. The date, time, place, and type of public hearing, if applicable and scheduled as of the date of notice of application. If notice of public hearing is not so combined with the notice of application the requirements of subsection (C) of this section shall also be met;

e. A description of the proposal, a list of the project permits included in the application and, if applicable, a list of any studies requested;

- f. The identification of state, federal, or other required permits not included in the application, to the extent known;
- g. The identification of existing environmental documents that evaluate the proposal, and the location where the application and any studies can be reviewed;
- h. The public comment period, together with statements of the right of any person to:
  - i. Comment on the application;
  - ii. Comment on the County's SEPA threshold determination;
  - iii. Receive notice of and provide testimony in any hearings;
  - iv. Request a copy of the decision once made; and
  - v. Appeal;
- i. A statement of the preliminary determination (if one has been made at the time of notice of application) of those development regulations that will be used for project mitigation (SJCC [18.80.050](#)(G)(1)) and consistency with the Comprehensive Plan and this code;
- j. The threshold determination under SEPA, if applicable and if a determination has been made at the date of notice of the application;
- k. When and how written comments may be submitted;
- l. Where and when a copy of the application, and supporting documents submitted by the applicant are available for inspection;
- m. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and that copies will be available; and
- n. Any other information determined appropriate by the administrator.

**B. Public Comment on the Notice of Application.**

1. The comment period shall be 21 days following the date of notice of application. Comments may be mailed, personally delivered, or sent by facsimile to the permit center.
2. The public comment period shall be 30 days for shoreline substantial development permit applications, except that the public comment period shall be 20 days for limited utility extensions or construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion. (RCW [90.58.140](#)(4) and (11)(a).)
3. Public comments will be received during regular business hours by the administrator at any time prior to the closing of the record of an open-record predecision hearing, or, if there is no open-record predecision hearing, prior to the decision on the project permit application.

**C. Notice of Public Hearing.** If the notice of application does not specify a hearing date, a separate notice of public hearing shall be prepared by the administrator.

1. The administrator shall publish such notice of public hearing in the official County newspaper at least one time, not less than 10 days prior to the hearing. This notice shall include the date of public hearing and the information described in this section.
2. The applicant shall mail the notice of public hearing to all of the persons entitled to notice, as described in this section, and to any person who has submitted written comments on the application to the administrator. The applicant shall provide the administrator with a declaration of mailing and a list of the names and addresses of those individuals to whom the notice of public hearing was mailed. All notices which are returned to the applicant must be submitted to the administrator for inclusion in the file.
3. Notice of public hearing shall be deemed to have been provided on the date the notice is deposited in the mail.
4. All costs associated with meeting the requirements of this subsection shall be borne by the applicant. (Ord. 15-2002 § 3; Ord. 2-1998 Exh. B § 8.3)

<b>DRAFT 2019 – 2020 DEPARTMENT OF COMMUNITY DEVELOPMENT WORK PLAN SAN JUAN COUNTY CODE AMENDMENTS REGULATING MARIJUANA PRODUCTION, PROCESSING AND RETAILING</b>	
<b>DATE</b>	<b>ACTIONS</b>
September 24, 2019	County Council holds public hearing on a resolution to extend Resolution No. 15-2019 for one year and adopt a code development work plan
October 2019 - January 2020	Research ways to implement Council's intended outcomes Touch base with Council on specific questions/strategies Draft ordinance to regulate marijuana production and processing
February 2020	Preliminary legal review Brief County Council and the public on the preliminary draft ordinance Incorporate preliminary feedback into the draft ordinance Develop presentation for Planning Commission
March 2020	Brief Planning Commission
April - June 2020	Incorporate the Planning Commission's recommendations into the draft ordinance Address any legal issues Issue a SEPA determination Submit a 60-day Notice of intent to adopt regulations to WA Dept. of Commerce Staff the Planning Commission public hearing and deliberations
July 2020	Brief Council on the Planning Commission's recommendation
August 2020	Council holds a public hearing
September 2020	Council Considers public input and deliberates on the draft ordinance DCD incorporates Council's comments into the draft ordinance Final legal review
October 2020	Council adopts a code amendment ordinance Publish a notice of adoption

## Marijuana Related RCW and WAC

### **RCW 69.50.331 (8) [siting of production facilities]**

(8)(a) Except as provided in (b) through (d) of this subsection, the board may not issue a license for any premises 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.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within one thousand feet but not less than one hundred feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to marijuana producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a marijuana research facility.

(e) The board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

### **RCW 69.50.331 (9) [zoning prohibiting producer/processor]**

(9) A city, town, or county may adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

### **RCW 69.50.328 Marijuana producers, processors – No direct or indirect financial interest in licensed marijuana retailers.**

Neither a licensed marijuana producer nor a licensed marijuana processor shall have a direct or indirect financial interest in a licensed marijuana retailer.

## Marijuana Related RCW and WAC

### **WAC 314-55-050 (10) and (11) [siting production/processing]**

(10) Except as provided in subsection (11) of this section, the WSLCB 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 as the shortest straight line distance from the property line of the proposed building/business location to the property line 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)(a) A city or county may by local ordinance permit the licensing of marijuana businesses within one thousand feet but not less than one hundred feet of the facilities listed in subsection (10) of this section except elementary and secondary schools, and playgrounds.

(b) If a licensee applies for a marijuana license at a location less than one thousand feet of a recreation center or facility, child care center, public park, public transit center, library, or game arcade, the licensee must provide the WSLCB with a copy of the local ordinance that describes the distance required by the city or county the facility will be located.

### **WAC 314-55-010 [definitions of entities production/processing must be 1,000 feet away from]**

(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.

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

(12) "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.

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

(31) "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, federal government, or metropolitan park district.

### Marijuana Related RCW and WAC

(33) "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.

(34) "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.

(35) "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, federal government, or metropolitan park district.

#### **WAC 314-55-075 (1)(b) [regulation of grow areas]**

(b) 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 nonrigid 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 de-scribed in WAC 314-55-083. An outdoor grow must be physically separated at least twenty feet from another licensed outdoor grow. In addition, outdoor grows cannot share common walls or fences.

#### **WAC 314-55-075 (6) [tiers and grow areas]**

(6) The maximum amount of space for marijuana production cannot exceed the amount licensed. 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 up to ten thousand square feet; and
- (c) Tier 3 – Ten thousand square feet up to thirty thousand square feet.

#### **WAC 314-55-075 (10) [regulation on marijuana treatment]**

(10) A producer may not treat or otherwise adulterate useable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable marijuana.

#### **WAC 314-55-083 Security and traceability requirements for marijuana licensees**

The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All licensees and 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 and engaged in the transportation of marijuana. The identification badge must list the licensee's trade name and include the person's full and legal name and photograph. All licensees and

**Marijuana Related RCW and WAC**

employees must have their state issued identification available to verify the information on their badge is correct.

(a) All nonemployee visitors to the licensed premises, other than retail store customers, shall be required to hold and properly display an identification badge issued by the licensee at all times while on the licensed premises.

(b) A log must be kept and maintained showing the full name of each visitor entering the licensed premises, badge number issued, the time of arrival, time of departure, and the purpose of the visit.

(c) All log records must be maintained on the licensed premises for a period of three years and are subject to inspection by any WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request.

(d) Employees, visitors, and other persons at a marijuana licensed premises, including persons engaged in the transportation of marijuana, must provide identification to a WSLCB enforcement officer upon request.

(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 used.

(3) **Surveillance system.** At a minimum, a licensed premises must have a complete video surveillance system with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog. The surveillance system storage device and/or the cameras must be internet protocol (IP) compatible. All cameras must be fixed and placement must allow for the clear and certain identification of any person and activities in controlled areas of the licensed premises. All entrances and exits to an indoor facility must be recorded from both indoor and outdoor, or ingress and egress vantage points. All cameras must record continuously twenty-four hours per day and at a minimum of ten frames per second. The surveillance system storage device must be secured on the licensed premises in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft. 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 WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request. 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. Controlled areas include:

(a) Any area within an indoor, greenhouse or outdoor room or area where marijuana is grown, or marijuana or marijuana waste is being moved within, processed, stored, or destroyed. Rooms or areas where marijuana or marijuana waste is never present are not considered control areas and do not require camera coverage.

(b) All point-of-sale (POS) areas.

(c) Twenty feet of the exterior of the perimeter of all required fencing and gates enclosing an outdoor grow operation. Any gate or other entry point that is part of the required enclosure for an outdoor growing operation must be lighted in low-light conditions. A motion detection lighting system may be employed to light the gate area in low-light conditions.

**Marijuana Related RCW and WAC**

- (d) Any room or area storing a surveillance system storage device.
- (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 WSLCB. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of useable marijuana or trim, leaves, and other plant matter, batches of extracts, marijuana-infused products, samples, and marijuana waste 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 WSLCB:
- (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, marijuana extract, marijuana concentrates, marijuana-infused product, or marijuana waste is to be destroyed;
  - (d) When useable marijuana, marijuana concentrates, or marijuana-infused products are transported;
  - (e) Any theft of useable marijuana, marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, seed, plant tissue or other item containing marijuana;
  - (f) All marijuana plants eight or more inches in height or width must be physically tagged and tracked individually;
  - (g) A complete inventory of all marijuana, seeds, plant tissue, seedlings, clones, all plants, lots of useable marijuana or trim, leaves, and other plant matter, batches of extract, marijuana concentrates, marijuana-infused products, and marijuana waste;
  - (h) All marijuana, useable marijuana, marijuana-infused products, marijuana concentrates, seeds, plant tissue, clone lots, and marijuana waste must be physically tagged with the unique identifier generated by the traceability system and tracked;
  - (i) All point-of-sale records;
  - (j) Marijuana excise tax records;
  - (k) All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;
  - (l) All vendor samples provided to another licensee for purposes of education or negotiating a sale;
  - (m) All samples used for testing for quality by the producer or processor;
  - (n) Samples containing useable marijuana provided to retailers;
  - (o) Samples provided to the WSLCB or their designee for quality assurance compliance checks; and
  - (p) Other information specified by the board. **WAC 314-55-075 (3) [required surveillance system]**

### Marijuana Related RCW and WAC

(3) Surveillance system. At a minimum, a licensed premises must have a complete video surveillance system with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog. The surveillance system storage device and/or the cameras must be internet protocol (IP) compatible. All cameras must be fixed and placement must allow for the clear and certain identification of any person and activities in controlled areas of the licensed premises. All entrances and exits to an indoor facility must be recorded from both indoor and out-door, or ingress and egress vantage points. All cameras must record continuously twenty-four hours per day and at a minimum of ten frames per second. The surveillance system storage device must be secured on the licensed premises in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft. 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 WSLCB employee or law enforcement officer, and must be copied and provided to the WSLCB or law enforcement officer upon request. 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. Controlled areas include:

(a) Any area within an indoor, greenhouse or outdoor room or area where marijuana is grown, or marijuana or marijuana waste is being moved within, processed, stored, or destroyed. Rooms or areas where marijuana or marijuana waste is never present are not considered control areas and do not require camera coverage.

(b) All point-of-sale (POS) areas.

(c) Twenty feet of the exterior of the perimeter of all required fencing and gates enclosing an outdoor grow operation. Any gate or other entry point that is part of the required enclosure for an outdoor growing operation must be lighted in low-light conditions. A motion detection lighting system may be employed to light the gate area in low-light conditions.

(d) Any room or area storing a surveillance system storage device.

#### **WAC 314-55-104 Marijuana processor license extraction requirements.**

(1) Processors are limited to the methods, equipment, solvents, gases, and mediums detailed in this section when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane. 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 an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO<sub>2</sub> gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch. The CO<sub>2</sub> must be of at least ninety-nine percent purity.

(4) Closed loop systems for hydrocarbon or CO<sub>2</sub> extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

(5) Certification from a licensed engineer must be provided to the WSLCB for professional grade closed loop systems used by processors to certify that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:

(a) The American Society of Mechanical Engineers (ASME);

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- (b) American National Standards Institute (ANSI);
  - (c) Underwriters Laboratories (UL); or
  - (d) The American Society for Testing and Materials (ASTM).
- (6) The certification document must contain the signature and stamp of a professional engineer and the serial number of the ex-traction unit being certified.
- (7) Professional grade closed loop systems, and other equipment used must be approved for specific use or the technical report must be approved by the state building code officials prior to use per WAC [51-54A-3800](#).
- (8) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the local fire code official and meet any required fire, safety, and building code requirements specified in:
- (a) Title 296 WAC;
  - (b) Chapters [51-51](#) and [51-54A](#) WAC;
  - (c) National Fire Protection Association (NFPA) standards;
  - (d) International Building Code (IBC);
  - (e) International Fire Code (IFC); and
  - (f) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.
- (9) 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.
- (10) Under WAC [314-55-077](#), infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale.
- (11) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- (12) 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.
- (13) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in WAC 314-55-102.
- [Statutory Authority: RCW [69.50.325](#), [69.50.342](#), [69.50.345](#), and [69.50.369](#). WSR 18-22-055, § 314-55-104, filed 10/31/18, effective 12/1/18. Statutory Authority: RCW [69.50.342](#) and [69.50.345](#). WSR 16-11-110, § 314-55-104, filed 5/18/16, effective 6/18/16; WSR 15-11-107, § 314-55-104, filed 5/20/15, effective 6/20/15; WSR 14-10-044, § 314-55-104, filed 4/30/14, effective 5/31/14. Statutory Authority: RCW [69.50.325](#), [69.50.331](#), [69.50.342](#), [69.50.345](#). WSR 13-21-104, § 314-55-104, filed 10/21/13, effective 11/21/13.]

## San Juan County Code (SJCC) and Comprehensive Plan Land Use Excerpts

**Consistency with San Juan County Code (SJCC) and Comprehensive Plan Land Use Sections:** Excerpts from the Plan and development regulations are provided below for reference.

A. SJCC 18.60.050, Table 6.1. Density, Dimension, and Open Space Standards for Activity Center Land Use Districts. Excerpts from footnotes:

7. The minimum side and rear setbacks shall be 10 feet if the site containing the proposed use is adjacent to any property in a village residential, hamlet residential, rural, or resource designation, or a residential activity center. (Staff note: otherwise, side and rear yard setbacks are zero.)

10. Maximum lot coverage is measured by the percentage of total surface area of a lot or lots within a single development occupied by all structures, excluding roof overhangs and covered porches not used for sales, storage, or service.

11. Maximum lot coverage only applies to:

- a. Buildings larger than 5,000 square feet in gross floor area in the affected village designation.
- b. Buildings larger than 3,500 square feet in gross floor area in the affected hamlet designation or residential activity center designation.
- c. Buildings larger than 4,000 square feet in gross floor area in island center designations.

12. Maximum building size (three-dimensional building envelope) is measured as a percentage of the largest existing structure at the date of adoption of this code that is located within a particular activity center. Structures larger than the maximum allowed may be authorized by a conditional use permit. The purpose is to avoid new structures that are larger in visual appearance than the largest building existing within a particular activity center.

### **B. Comprehensive Plan Land Use sections 2.3.B Activity Centers (including Limited Areas of More Intensive Rural Development) Excerpts**

**Goal:** To recognize existing centers of activity, which offer diverse employment opportunities, a variety of residential densities and housing types, *general commercial*, *general industrial*, institutional, recreational, and community uses in a concentrated, development pattern.

#### **Policies:**

1. Establish different types of activity centers, each of which has a mix of land uses with housing, businesses, and services appropriate to its character, size, and location, as described in a.–d., *below*.

Identify and delineate activity centers that are limited areas of more intensive rural development (LAMIRDs) according to the criteria in RCW 36.70A.070(5)(d). LAMIRDs consist of *existing* (as of 1990, commercial, industrial, or residential areas in which the kinds, intensities, or densities of use, or the capital facilities and services exceed the levels normally associated with rural development. Such areas allow for the continuance of the existing areas and uses, and for infill in the areas to the level of existing patterns; however, the areas must be minimized and contained, with logical outer boundaries defined predominantly by the built environment, and may not extend beyond the existing area or use.

#### **Types of Activity Centers**

a. **Village Activity Centers** have only *rural governmental services* and are not incorporated. They provide a limited variety of residential densities, and are pedestrian-oriented with a compact village core. They provide some intensive uses and services (including *community sewage treatment facilities* and *community water systems*), but are not considered capable of or appropriate for urban-level development or expansion at this time, only for infill.

b. **Hamlet Activity Centers** are residential areas that have some non-rural densities, and have small commercial centers which provide goods and services to surrounding rural and resource land uses. Hamlets are served by community water systems and may have community sewage treatment facilities, but have only rural governmental services.

c. **Island Centers** are generally characterized by existing general commercial and general industrial uses and may also include some *rural commercial* and *rural industrial* uses. These centers may be served by community water systems, but have only rural governmental services. Island Centers differ from other Activity Centers in that they generally do not have a high density residential component included within the center boundaries, and new residential development (except where accessory to commercial or industrial use) should be prohibited. The commercial and industrial uses located in these centers provide goods and services island-wide.

d. **Residential Activity Centers** are residential areas that have existing development patterns more dense than one unit per five acres, some portion of which is served by non-rural levels of capital facilities or services.

e. **Master Planned Resorts** are self-contained and fully integrated *planned unit developments*, in a setting of significant natural amenities, with a primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities. They may contain other residential uses and commercial activities within their boundaries, but only if these uses are integrated into and support the on-site recreation nature of the resort. Master Planned Resorts may be within other activity centers.

### C. Excerpts from SJC Comprehensive Plan Land Use Element, Section 2.3.C Rural Lands

**Goal:** To maintain and enhance the rural character of the County. Rural lands are intended to retain the agricultural, pastoral, forested, and natural landscape qualities of the islands while providing people with choices of living environments at lower densities or use intensities than those in Activity Centers.

#### a. Rural General Use

**Goal:** To provide flexibility for a variety of *small-scale*, low-impact uses to locate on rural lands.

#### Policies:

- Soils are marginal or unsuitable for intensive commercial agriculture or forestry uses Allow resource-based industrial and commercial activities
- Establish performance standards to minimize adverse environmental and visual impacts.

#### b. Rural farm-forest

**Goal:** To provide rural living opportunities that are compatible with small-scale farming and forestry activities

**c. Rural Residential**

**Goal:** To protect the predominantly residential character of some rural areas and provide a variety of residential living opportunities at *rural densities*. Guide site design of new residential land divisions to retain rural character and minimize the demand for and cost of public facilities and services. Prohibit cottage enterprises and commercial and industrial uses.

**d. Rural Industrial**

**Policies:**

**Goal:** To provide areas for rural-oriented industrial which are not generally compatible with activity center land uses, which compliment rural character and development.

- Have an existing or historical commitment to rural industrial uses
- Lands where on-site physical features can be used to protect surrounding lands from negative impacts.
- Rural industrial uses should be limited to those which are most appropriately located in the rural environment because of incompatibility with intensive, mixed use development patterns characters of activity centers. Include uses such as storage yards, lumber mills, wood craft manufacturing, gas storage facilities and cement batch plants.

**e. Rural Commercial**

**Goal:** To provide areas for rural commercial use that compliment rural character and development.

**Policies:**

- Lands with existing or historical commitment to rural commercial use.
- Limit to those which are most appropriately located in and are compatible with the rural environment. Examples: veterinary clinics, nurseries, animal boarding facilities, feed stores and some small-scale hospitality uses such as country inns and restaurants.

**D. Excerpts from SJC Comprehensive Plan Land Use Element, Section 2.3.D Resource Lands**

**Goal:** To recognize and protect the physical conditions and characteristics of agricultural and forest resource lands which are conducive to the use of such lands for long-term commercial production.

**Policies:**

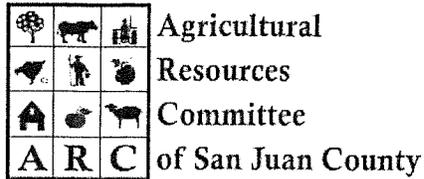
- Strengthen Right-to-Farm and Right-to-Forestry provisions that establish the high priority and favored use for farming and forestry operations and assure that such uses will not be considered a nuisance or inconvenience to adjacent non-farm uses.
- Establish clearly defined ResourceLands designations which protect and conserve long-term commercially significant agricultural and forest lands and associated uses.

**a. Agricultural Resource Lands**

**Goal:** To ensure the conservation of agricultural resource lands of long-term commercial significance for existing and future generations, and protect these lands from interference by adjacent uses which may affect the continued use of these lands for production of food and agricultural products.

**b. Forest Resource Lands**

**Goal:** Protect and conserve forest lands of long-term commercial significance for sustainable forest productivity and provide for uses which are compatible with forestry activities while maintaining water quality, water quantity, and fish and wildlife habitat.



**Memorandum**

To: Bill Watson, County Council  
Jamie Stephens, County Council  
Rick Hughes, County Council

CC: Mike Thomas, County Manager and Erika Shook, AICP, Director, DCD

From: San Juan County Agricultural Resource Committee (ARC)

Date: March 20, 2019

Subject: ARC Recommendation on Cannabis Regulation

**Purpose**

To provide County Council with the ARC's comments and recommendations on Cannabis.

**Background**

Comments are the result of work done by the Agricultural Resource Committee (ARC) that occurred at ARC meetings on February 19, 2019 and March 19, 2019. A vote was taken on March 19, 2019 and the ARC approved this memo.

**Recommendation**

The ARC recommends that:  
San Juan County treat Marijuana Grow operations as a unique activity in our land use tables.

Thank you for your consideration,

On Behalf of the Agricultural Resource Committee



Learner Limbach, ARC Chair



Faith Van De Putte, ARC Coordinator

ARC Memo on Marijuana.txt

Subject: FW: ARC Memo on Marijuana

Dear Council Members,

At the ARC meeting yesterday a motion was passed recommending that San Juan County treat marijuana grow operations as a unique activity in the land use tables. Enclosed please find the memo.

The ARC understands that if this goes into a public process that there will be the need for additional input and are prepared to tackle additional aspects of this issue.

In researching for the meeting I found out some information that I thought may be of interest:

\* CUFA- Current Use Farm & Agriculture- John Kulseth the county assessor confirmed that if a property is enrolled in CUFA they would not be able to use income from a marijuana operation to stay current with that tax status.

\* There is a bill currently pending in the state legislature, Substitute Senate Bill 5276 that adds hemp as an agricultural product that may be legally grown, produced and processed in our state consistent with the Federal 2018 Farm Bill passed into law in December 2018. If Senate Bill 5276 passes it will do away with the four mile restriction between hemp and marijuana production that currently exists.

\* According to Kelly McClain, Policy Advisor to the Director at WSDA marijuana production is considered agriculture in regards to the VSP. If growers are using best management practices and stewarding their land they should get credit for it. VSP enrollment is not linked to land use designation but to activity. She says that Spokane county has done the best job of enrolling cannabis production in VSP. They had cannabis growers on the VSP committee.

Thank you for all of your work on this.  
Faith

Faith Van De Putte  
Agriculture Resource Committee of San Juan County  
Co-ordinator  
360-370-7666

faithv@sanjuanico.com

ARC Memo on Marijuana.txt

**Attachment E**  
**2015 Code Development Process – Marijuana Workgroup**

In 2015, the County began developing new regulations to address marijuana production and processing. The project was stopped due to higher staffing priorities. At this time the public expressed concern about land use compatibility issues, adverse impacts to rural character, natural resources and the public welfare. Many community members were concerned that without specific land use regulations and performance standards associated environmental, land use, traffic and access, lighting, noise, odor, energy use, aesthetics, potential for cross pollination with agricultural crops in outdoor production, and public safety impacts would not be addressed. Many folks expressed concern over the potential for large industrial sized greenhouse operations indicating that greenhouses without hard sides have more security and lighting issues and would be more impactful than outdoor production.

**A summary of the June 29, 2015 Marijuana Production and Processing Regulations Workgroup**

A working group was established in 2015 to address the potential development of code amendments to address this subject. It included members of the AG resource Committee, Health and Community Services, marijuana producer and processor and general community members advised staff on the development of marijuana regulations. A greenhouse working group was also established. Opinions varied widely on most topics. Discussions returned repeatedly to several group members’ opinion that marijuana cultivation should be treated the same as any agricultural crop. Others, however, maintained that the scale of marijuana growing and the imposition of State security requirements cause unique and increased impacts that require new regulations. The work group discussed draft regulations that would minimize impacts on soils, utilities, rural character, and neighboring properties resulting from lighting, noise, odor, and traffic generated by the scale and intensity of marijuana growing and processing facilities. Below is a summary of their comments from June 2015:

<b>Marijuana Regulations Work Group Summary of Comments</b>
<p><b>Issues</b></p> <ul style="list-style-type: none"><li>• Scale - Use the SJCC land use tables and levels of permitting (No, Yes, Provisional, and Conditional) with Tiers I, II, III (production scale in square feet), which the State Liquor Control Board developed for licensing purposes, to address scale of regulation in the county.</li><li>• Indoor/Outdoor production – Recognize different impacts on light, soil, noise, odor, possibly energy and water consumption. Address impacts from use of greenhouses and temporary growing structures, especially for light impacts.</li><li>• Traffic and access – private roads and easements.</li><li>• Lighting – Recognize that size of greenhouses and intensity and duration of light for long hours (18 hours of grow lights) will impact rural character/night sky. Mitigate by covering during dark hours outside.</li><li>• Don’t duplicate what is already covered in the code and in state regulations.<ul style="list-style-type: none"><li>○ Parking: applicable parking requirements established in SJCC 18.60.120, Table 6.4 for agricultural uses and activities: none, and for agricultural processing: 1 per employee.</li><li>○ Landscaping is not an issue.</li></ul></li></ul>

<ul style="list-style-type: none"> <li>○ Noise –Use the decibel range at the property boundary as found in WAC 173-60-040 Maximum permissible environmental noise levels.</li> <li>● Cottage industry – Inclusion of recreational marijuana production and processing as a cottage industry was strongly recommended by at least one group member.</li> <li>● Setbacks from adjacent properties – Recommendations range from 50 to 250 to 1000 feet.</li> </ul>
<p><b>Definitions</b></p> <ul style="list-style-type: none"> <li>● Refer to greenhouse draft definitions for greenhouse and temporary growing structures.</li> <li>● Use same as State for marijuana production and processing.</li> </ul>
<p><b>Performance Standards</b></p> <ul style="list-style-type: none"> <li>● Use quantifiable standards for odor, light, and noise.</li> <li>● Odor is dependent on personal preferences and is hard to quantify.</li> <li>● Odor reduction will increase noise; hard to mitigate both.</li> <li>● Use reasonable BMPS: Carbon filters would need regulations to require.</li> <li>● Odor control is important: recirculate air, use vertical exhaust vents or stacks; use carbon absorption filters.</li> <li>● Potentially add exemptions or decibel scale to SJCC noise ordinance, which applies “at the boundary”.</li> </ul>
<p><b>Various recommendations</b></p> <ul style="list-style-type: none"> <li>● Some group members prefer no regulations beyond state controls.</li> <li>● At least one group member would like to have marijuana production and processing included in the definition of “Cottage industry”.</li> <li>● Some group members favored land use tables tiered by size in accordance with State law that will establish County review that reflects the level of impact by the size of proposed production operation.</li> <li>● Recommendations ranged from regulating odor to maintaining that odor is too hard to regulate.</li> </ul>
<p><b>Data and background information</b></p> <ul style="list-style-type: none"> <li>● Farmers indicated that water use would be under the 5,000 GPD allowed for a permit exemption and should be acceptable.</li> <li>● Farm buildings up to 10,000 square feet are excluded from SEPA review.</li> </ul>
<p><b>Thresholds for regulations</b></p> <ul style="list-style-type: none"> <li>● The scale of the operation is relevant, tiers are useful.</li> <li>● Indoor or outdoor productions have different levels of impact and challenges controlling them.</li> </ul>

**Attachments F**  
**2015 Code Development Process – Greenhouse Workgroup**

This 2015 working group consisting of members of the ARC, Health and Community services and farmers had opinions that ranged from having no regulations to concerns with prime soil protection, size, scale, and mitigation of impacts from light, odor, and noise.

**General greenhouse information:** Greenhouses and temporary growing structures that are incidental to residential use are permitted as accessory uses. SJCC 18.20.010 defines "Accessory use" as use of land or of a building, or portion that is incidental and subordinate to the principal use or building and is located on the same lot with the principal use. SJCC 18.20.90 defines "Incidental" as subordinate to, minor in significance, and bearing a reasonable relationship with the primary use.

SEPA requirements are the State Environmental Protection Act's measures to protect the natural and built environment from adverse impacts. The County's threshold to review agricultural buildings in accordance with SEPA standards is those that are over 10,000 square feet in size.

<sup>1</sup> A land use review for the installation of a "temporary growing structure" may be necessary if certain development, lot coverage, or other regulatory thresholds are reached.

Under construction codes, a temporary growing structure is not considered a building, but the area covered by a temporary growing structure counts towards maximum lot coverage and cumulative area in cultivation. <sup>2</sup> A land use review for the installation of a "temporary growing structure" may be necessary if certain development, lot coverage, or other regulatory thresholds are reached.

**SJCC.40.110 Commercial uses – General standards for development.**

A. All commercial Uses. The following standards apply to all commercial uses as listed in Tables 3.1 and 3.2 in SJCC 18.30.040 and to any use determined by the director to be commercial use.

1. Water supplies and sewage disposal facilities adequate to serve the proposed use .....
2. Use of county access road or private road if applicant demonstrates public health, safety, and welfare will be protected, and if traffic and maintenance impacts to the road are minimized by conditions on the permit.
3. No use shall be made of equipment or material which produces unreasonable vibration, noise, dust, smoke, odor, or electrical interference to the detriment of an adjoining property.

B. Commercial Development in Rural Designations. The following standards apply to all commercial uses located in the rural land use designations listed in Table 3.2 SJCC 18.30.040 as determined by the director.

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<sup>1</sup> State Building Code interpretation No. 15-04, WAC 51-50-007

<sup>2</sup> SJC Land Use References Department Policies BI-2014-01 issued July 18, 2014

1. The proposed use will result in minimal additional demands on services and utilities available in rural areas and will not result in more than a minimal and manageable increase in demand on community water supplies, sewage disposal systems, or roads.
2. Building coverage impacts identified in Table 8.2 in SJCC 18.80.090 as medium or low may be allowed. Traffic and parking impacts need not necessarily meet the levels criteria of Table 8.2.

**Greenhouse Regulations Workgroup Summary of Comments – June 10, 2015:**

A primary concern of the workgroup was that regulations and permit requirements for greenhouses will create hardships for farmers. Typical agricultural production in San Juan County is small, especially when compared to the business operations found on hundreds of acres on the mainland. The workgroup noted that the cost of sending most products to markets outside the county will prevent large-scale farming operations on the islands.

Local farmers frequently find greenhouses and temporary growing structures necessary to extend the growing season in this latitude and climate to increase productivity. They are concerned that requiring permit applications for buildings or temporary structures integral to successful farming will raise further challenges for local farm operations and will discourage new farmers who are trying to establish a viable operation. The workgroup emphasized that farm buildings less than 10,000 square feet in area are currently exempt from environmental impact review under SEPA, and they believe the same size is a fair threshold for county regulations.

<b>Greenhouse Regulations Work Group</b>	
<b>Summary of Comments</b>	
<b>Should not regulate</b>	<ul style="list-style-type: none"> <li>• Temporary greenhouses or temporary membrane structures.</li> <li>• Lighting.</li> <li>• Energy use.</li> <li>• Size, noise, or odor (right-to-farm regulations should prevail); just use the existing provisions of UDC/SJCC Title 18, IBC, and WAC and RCW .</li> <li>• Parking and access regulations are too restrictive for seasonal variability.</li> </ul>
<b>Considerations for regulating</b>	<ul style="list-style-type: none"> <li>• Location relative to prime farmland /Protection of native agricultural soils.</li> <li>• Impact on soil and water.</li> <li>• Nature of foundation/flooring permeability.</li> <li>• Size of operation and cumulative scale.</li> <li>• Only large greenhouses.</li> <li>• Threshold to regulate whether a structure is “temporary” or “permanent”.</li> </ul>
<b>Group Questions</b>	<ul style="list-style-type: none"> <li>• The need for site plan, waste disposal plan, or documentation of adequate services, utilities, or roads to serve a proposed greenhouse construction in any farm-related application.</li> </ul>
<b>Data, background and technical information</b>	

- Farm buildings are excluded from SEPA up to 10,000 SF.
- Pervious/impervious surfaces are an important distinction. Concrete, wood chips, gravel are all used. Native soil is not the best medium. Even a dirt floor greenhouse may not use the underlying soil.
- Gravel is defined as an impervious surface in the UBC.
- Lighting within greenhouses can be directional and shaded.
- Electric wiring is not typically used with temporary growing structures.
- For a membrane structure, poly film can last without tearing or significant deterioration for up to 20 years, even though it is only guaranteed for 3 years.
- Rigid plastic is often used for ends of membrane structures and can also be used for permanent greenhouse buildings instead of glass, greatly decreasing the structural weight.

**Definitions**

- Greenhouses are accessory farm buildings essential to starting crops early, controlling flowering, and other techniques that enhance production.
- Group disagrees with categorizing agriculture activities as commercial.

**Thresholds for regulations**

- The size of the operation is relevant. A cumulative 10,000 square foot threshold would coincide with SEPA and might be reasonable.

**General comments**

- For temporary structures, no regulations should be necessary.
- Let's encourage, not discourage, agriculture.
- Agricultural use is an essential use of land and water resources; respect agricultural uses.
- No reference to marijuana belongs in this section of code.
- Growing food on the island is one of the most important land uses.
- Lightweight plastic, but rigid, greenhouses should be included in the Temporary Growing Structures definition, not in greenhouses. The material is only slightly more permanent than membranes (10 years vs. 6 years). Put it in definitions under land use, not building codes.

**Comments from members of the public attending workgroup meetings**

- Look to other counties where temporary growing structures are not regulated.
- Greenhouses are good for the soil, tilling is bad for soil, greenhouses are good for increasing yield. The best practice is to till as little as possible.



# Skagit County Planning & Development Services

ATTACHMENT G

DALE PERNULA, AICP *Director*

JACK MOORE, CBCO *Building Official*

## Permit Guidance for Recreational and Medical Marijuana

*created 12/4/2013; updated 8/7/2015*

### Overview

Marijuana has been legal for recreational use in Washington State since the passage of Initiative 502 in 2012. Marijuana production, processing, and retail facilities must obtain licenses from the **Washington State Liquor and Cannabis Board** (“WSLCB”) and obtain land use approval and building permits from the local jurisdictions they wish to locate in.

After a lengthy and deliberative public participation process, Skagit County adopted new rules for marijuana facilities in 2015.<sup>1</sup> This document replaces and supersedes all prior guidance for marijuana permitting in Skagit County.

### Skagit County’s Land Use Regulations

Skagit County regulates land use in all unincorporated areas of the County (areas outside the cities and towns). Marijuana facilities **must obtain land use approval and building permits from Skagit County** in addition to any approvals or licenses required by the Washington State Liquor and Cannabis Board.

### Generally

Skagit County Code (SCC) 14.16.855 **prohibits** the following uses and activities anywhere in unincorporated Skagit County:

1. Outdoor growing of marijuana.
2. Marijuana production or processing in a greenhouse or any translucent structure.
3. Any growing or processing of marijuana or keeping marijuana plants when not in compliance with state law governing the growing of medical marijuana at home or without a current license from the State Liquor and Cannabis Board.
4. Any storage or growing of plants if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

### Geographic Limitations

SCC Chapter 14.16, Zoning, identifies the zones in which marijuana facilities are allowed. In summary, production and processing is allowed only in:

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<sup>1</sup> Skagit County Ordinance O20150005 (August 3, 2015).

- Bayview Ridge Light Industrial
- Bayview Ridge Heavy Industrial
- Urban Reserve Commercial-Industrial
- Agricultural—Natural Resource Lands (in a structure existing as of January 1, 2014)

Retail uses are allowed only in:

- Rural Center
- Rural Freeway Service
- Rural Village Commercial
- Urban Reserve Commercial-Industrial

In zones where it is allowed, marijuana production, processing, or retail facilities usually require special use permits and building permits and may have other siting requirements.

Marijuana facilities are allowed only where explicitly identified in the zoning chapter.<sup>2</sup> The County considers marijuana production and processing to be an industrial use, not an agricultural use, and allows it only in zones consistent with that characterization.

### **Special Restrictions in Marijuana Processing**

Per SCC 14.16.855(1)(b), marijuana processing using hazardous or flammable solvents or gases is allowed only in the Bayview Ridge Heavy Industrial zone, only in a marijuana processing facility, and only in a professional-grade closed-loop extraction system that is designed to recover the chemicals and that is labeled for such use by the manufacturer. Processing using a CO<sub>2</sub>-based system is allowed in other zones where marijuana processing is allowed.

### **Medical Marijuana**

Per SCC 14.16.855, medical marijuana cooperatives and collective gardens are **prohibited** in unincorporated Skagit County. Growing medical marijuana at home by individuals, when done consistent with state law, is allowed in all zones. An **individual** may grow medical marijuana when:

1. consistent with state laws and rules governing medical marijuana;
2. grown at home, indoors, and not in a greenhouse or other translucent structure; and
3. storage and growing cannot be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

### **Liquor and Cannabis Board Regulations**

The WSLCB's licensing rules impose a number of restrictions on land use for marijuana facilities.<sup>3</sup> Those rules include:

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<sup>2</sup> Except that in municipal Urban Growth Areas where a municipality's development regulations apply, a marijuana facility must comply with the municipality's development regulations instead of this section.

<sup>3</sup> See WAC 314-55 Marijuana Licenses, Application Process, Requirements, and Reporting.

- Prohibition on locations within 1000 feet of “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.”
- Requirement for alarm systems and security cameras at licensed facilities.
- Requirement for signage prohibiting consumption of marijuana on the premises and prohibiting access by persons under 21.
- Restrictions on advertising and packaging that appeals to children.
- Limited hours of operation.

Skagit County cannot provide assistance in identifying separation distances or in complying with these or any of the other WSLCB rules. The WSLCB, not Skagit County, is responsible for enforcing these rules.

For more information on the Liquor and Cannabis Board’s process and rules, please visit [www.lcb.wa.gov](http://www.lcb.wa.gov).

## How to Apply

### **County Land Use Approval Required**

Persons or entities interested in obtaining a marijuana license from the WSLCB must also obtain land use approval and building permits from Skagit County. Correspondingly, no marijuana facility may operate in Skagit County if it does not have all required approvals from the WSLCB. WSLCB approval does not guarantee Skagit County land use approval, nor does it vest an applicant to Skagit County’s current land use code.

Skagit County will not provide pre-approval for any WSLCB marijuana license. The Board of County Commissioners will only evaluate a license application when the WSLCB sends it to the County for possible objection.

The County will object to any license application or renewal notice, and will pursue code enforcement after the operation begins, if the facility does not comply with County land use regulations.<sup>4</sup>

### **No County Business License Required**

Unlike the cities, Skagit County does not require or offer business licenses. You may still need a business license from the State of Washington. You can learn more about starting a business in Washington at [www.ora.wa.gov/business.asp](http://www.ora.wa.gov/business.asp).

### **No Health Department Review of Infused Food Products**

Under state law, the WSLCB has sole authority to regulate recreational marijuana, including “marijuana infused products.” The County Health Department will not, therefore, be involved in permitting or regulating such products.

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<sup>4</sup> Skagit County Resolution R20150187.

## COMPARISON OF COUNTIES' MARIJUANA REGULATIONS

## Attachment H

County								
	Production & processing indoors only Land Use	Setbacks	Special Permits	Production outdoor/indoor & processing LU Designation	Setbacks	Performance standards (applies to all marijuana production and processing activities)	Special permit conditions	Specifically prohibited
<p><b>Skagit County</b></p> <p>Chapter 14.16 Zoning</p> <p>Adopted 8/3/2015</p>	<p>Bayview Ridge Light Industrial, (BR-LI)</p> <p>Bayview Ridge Heavy Industrial (BR-HI)</p> <p>Urban Reserve Commercial-Industrial (URC-I) with HE permit</p> <p>Hamilton Industrial (H-I)</p>	<p>BR-LI: permitted outright if at least 1000 feet from Residential Zone</p> <p>BR-HI: 35' front, side &amp; rear 20'-50'</p> <p>URC-I: F-35', S-15', R-20'</p> <p>H-I: 50' 70% lot coverage 5000 s.f. max bldg. size</p>	<p>BR-LI: Admin Special Use if within 1000 feet of Residential Zone</p> <p>BR-HI: only zone where processing w/ hazardous or flammable solvents or gases allowed<sup>1</sup></p> <p>URC-I: Only with HE permit</p>	<p><u>Agricultural-Natural Resource Lands</u>: must have Administrative Special Use permit and the facility must be in a structure existing as of January 1, 2014</p> <p>(Only indoor production is permitted anywhere in Skagit County.)</p>	<p>Same as standards for all non-residential structures, minimum 35'-15'-15' or as conditioned</p>	<p>(a) A marijuana production or processing facility must employ ventilation systems such that no odors from the production or processing are detectable off the premises.</p> <p>(b) A marijuana facility that employs security cameras must aim those cameras so as to view only the facility property, not public rights-of-way or neighboring properties.</p> <p>(c) The Fire Marshal must notify the local fire district or other fire authority whenever the Department approves a permit for any marijuana production or processing facility.</p>	<p>(a) Hold a current license from the State Liquor and Cannabis Board;</p> <p>(b) Address impacts on surrounding properties: appropriate distance from residences, schools, daycare facilities, public parks, other public facilities, and other marijuana facilities;</p> <p>(c) Include appropriate controls on odor;</p> <p>(d) Include appropriate screening or other requirements to avoid lighting impacts and the visual impacts of security fencing;</p> <p>(e) Include requirements for appropriate disposal of the waste and byproducts of production and processing;</p> <p>(f) Include protections against security cameras infringing on neighbors' privacy</p> <p>(g) Include any additional controls on hazardous processing methods with potential to injure neighboring properties.</p>	<p>(i) Outdoor growing of marijuana.</p> <p>(ii) Marijuana production or processing in a greenhouse or any translucent structure.</p> <p>(iii) Marijuana cooperatives and collective gardens.</p> <p>(iv) Any growing or processing of marijuana or keeping marijuana plants when not in compliance with State law governing the growing of medical marijuana at home or without a current license from the State Liquor and Cannabis Board.</p> <p>(v) Any storage or growing of plants if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit</p>

<sup>1</sup> SCC 14.16.855(1)(b) Marijuana processing using hazardous or flammable solvents or gases is allowed only in BR-HI, only in a marijuana processing facility, and only in a professional-grade closed-loop extraction system that is designed to recover the chemicals and that is labeled for such use by the manufacturer

## COMPARISON OF COUNTIES' MARIJUANA REGULATIONS

## Attachment H

	Production & Processing Indoor Only Land Use	Setbacks	Special Permits	Production Outdoor/Indoor & Processing LU Designation	Setbacks	Performance Standards (Applies To All Marijuana Production and Processing Activities)	Special Permit Conditions	Specifically Prohibited
<p><b>Snohomish County</b></p> <p>Sections 30.22.100 and 110 Land use tables &amp; footnotes 5/14/2015</p>	<p>Urban districts</p> <p>Industrial park Business Park</p> <p>Light Industrial (LI)</p> <p>Heavy Industrial (HI)</p>	<p>Minimum 30' indoor facility</p> <p>LI- 50' from any residential use</p> <p>HI- 50' from any residential use</p>	None	<p>Rural Industrial</p> <p>Agriculture 10<sup>2</sup></p>	<p>50' outdoor production</p> <p>Min lot size 100,000 s.f. (2.3 acres)</p> <p>RI: 35% coverage</p>	<p>Greenhouse defined as indoor production</p> <p>Landscaping Type A (dense) - 25' buffer when adjacent residential use</p> <p>LI &amp; HI zones: Noise must be muffled to not create a nuisance</p>	No special permit required	<p>Marijuana processing facility allowed only where MJ production facility is on site.</p> <p>Prohibited as home occupation in all zones<sup>3</sup></p>
<p><b>Cowlitz County</b></p> <p>Chapter 18.76 Recreational Marijuana 7/29/14</p> <p>Performance standards<sup>4</sup></p>	<p>Urban and Industrial districts</p> <p><u>Production</u> Tier 1, 2, 3</p> <p><u>Processing</u> Type 1 Type 2</p>	<p>Urban and Industrial districts</p> <p><u>Setbacks</u> 250 ft from residential use</p> <p><u>Minimum Parcel size</u>: one acre</p>	Administrative or Special use review and permit required for all	<p><u>Production</u> Rural Agricultural Remote</p> <p><u>Processing</u> Rural Agricultural</p>	<p><u>Rural, Remote, or Agricultural</u> 75 feet from residential use</p> <p><u>Minimum Parcel size</u> Rural, Remote, or Agricultural: five acres</p>	<p>Lighting: hooded and/or shielded to prevent light transmission to neighboring properties.</p> <p>Odor. No odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring uses.</p> <p>Parking regulation compliance</p> <p>Proof of access</p>	<p>Permit required; Tier 3 producer &amp; Type 2 processor not permitted in AG<sup>5</sup></p> <p>Screening. Visual impacts - Obscure sight with evergreen vegetation. May be reduced to maintain visibility from public road or ROW</p> <p>Landscaping maybe met with existing vegetation berming, decorative wall, fence or combination – subject to Director approval.</p> <p>Cameras</p> <p>Retail separation minimum 300 feet.</p>	<p>Outdoor production prohibited. Greenhouses may be considered a fully enclosed building provided they are an opaque structure and are adequately screened from public ROW and neighbors</p> <p>Tier 3 production and Type 2 processing not allowed in Agriculture or Remote districts</p>

<sup>2</sup> In the A-10 zone, marijuana uses shall be subject to the same regulations that apply to agricultural uses and not subject to any more restrictive regulations except as specifically provided in this title and in state law. Marijuana processing is only allowed when there is a marijuana production facility on site.

<sup>3</sup> Snohomish county code 30.28.050(5)

<sup>4</sup> All marijuana uses subject to conditions, and performance standards. Special permit standards are listed as Development Standards in Section 18.76.070, and distributed under Performance Standards and special permit conditions on this table.

<sup>5</sup> Cowlitz: "Marijuana processor, Type 1" means a marijuana processor that is limited to drying, curing, trimming, and packaging marijuana.

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

## COMPARISON OF COUNTIES' MARIJUANA REGULATIONS

## Attachment H

	Production & processing indoor only Land use	Setbacks	Special Permits	Production outdoor/indoor & processing LU Designation	Setbacks	Performance standards	Special permit conditions	Specifically prohibited
<b>Jefferson County</b>  18.20.295 6/8/15	Indoor only is not a requirement	<p><u>Setbacks</u>: 25 ft from all property lines or as conditioned.</p> <p>Structure size limitations:                      RR 1:5: 5% of gross parcel size up to 10,890 s.f.                      RR 1:10 &amp; 1:20 and Forest resource: 5% of gross parcel size up to 21,780 square feet,</p>	Forest resource & rural residential zones: <u>Production</u> as conditional discretionary use <u>Processing</u> as conditional use per cottage industry standards <sup>6</sup>  <u>Processing</u> conditional and in all agricultural zones	<p><u>Production</u>                      Yes: AG, rural and urban industrial zones                      Conditional: rural residential, forest resource zones  <u>Processing</u>                      Yes: rural and urban industrial zones                      Conditional: with cottage industry permit in forest resource and rural residential zones</p>	In accord with zone, or as conditioned.	<p>Landscape screening required</p> <p>Cameras not to intrude on privacy of adjacent parcels</p> <p>Fences 8 ft. or taller must be setback 25 ft from all parcel property lines</p> <p>Comply with zones' development, performance and use-specific standards</p> <p>Copy of operation plans (LCB permit) including chemicals, processes, extraction methods, waste handling procedures, and safety measures</p> <p>Agriculture zone: subject to agriculture performance standards</p>	<p>Forest and rural residential zones: structure size limits: total combination of square footage up to five percent of gross parcel size in square feet</p> <p>Screening from visual impacts - Obscure sight with evergreen vegetation. May be reduced to maintain visibility from public road or ROW</p> <p>Security cameras not to intrude on privacy of adjacent parcels.</p> <p>Comply with development, performance and use-specific standards in Title 18; relevant sections named and referenced.</p>	<p>Production and processing prohibited in: rural commercial; urban commercial, public &amp; residential; essential public facility; mineral resource; parks; preserves and recreation; master planned resort zones.</p> <p>Not permitted as a home business.</p>
<b>Island County</b>  17.03 zoning 16.15 developmnt standards 5/5/2014	Type 1 – Tier 1 producer in building less than 4,000 s.f. Type 2 Tier 1 producer in same building more than 4,000 s.f.	<p><u>Production</u>                      In accord with zone  <u>Processing</u>                      275 ft from bldg                      30 ft from outdoor activity (loading</p>		<ul style="list-style-type: none"> <li>• Rural Agricultural and commercial Agricultural</li> <li>• Rural forest</li> <li>• Rural Service</li> <li>• Lt manufacturing</li> <li>• Oak Harbor Industrial</li> <li>• Airport</li> <li>• Rural center &amp; village</li> </ul>	<p><u>Production</u><sup>7</sup>                      In accord with zone or as conditioned  <u>Processing</u>                      275 ft from bldg                      30 ft from outdoor activity</p>	<p>Any outdoor processing /loading screened</p> <p><u>Production &amp; processing</u>                      Parking contained on-site</p>	<p><u>Production &amp; processing</u>                      impose reasonable conditions found necessary to ensure use is compliant with WAC 314-55 and does not disrupt the character of any surrounding permitted uses.</p>	<p>Rural Residential zones <sup>8</sup></p> <p>Langley UGA</p> <p>Home occupations or industry</p> <p>Any area where law enforcement access is limited.</p>

<sup>6</sup> JCC 18.20.170 max structure size 5,000 square feet, plus greenhouse. Minimum parcel size one acre.

<sup>7</sup> Not listed under agricultural uses, but as a use within several districts.

<sup>8</sup> ICC 17.030070

WSLCB Marijuana Licenses

WSLCB Licensed Marijuana Producers 11-12-2019											
Tradenname	License #	Street Address	City	State	ZipCode	PrivDesc	PrivilegeStatus	DateIssued	TPN	LU Des.	Acres
D&M GREEN HOUSE 420	417262	20 CANDLEWOOD LN	EASTSOUND	WA	982459461	MARIJUANA PRODUCER TIER 2	CLOSED (PERMANENT)	20170105	271313001000	ERR2	2.02
GREEN ISLAND GROWERS	412950	142 PEMBERTON PL STE B	FRIDAY HARBOR	WA	982507099	MARIJUANA PRODUCER TIER 2	ACTIVE (ISSUED)	20181218	351533005000	AG	6.39
NW CONNOISSEURS	421766	46 HOPE LANE	EASTSOUND	WA	982450000	MARIJUANA PRODUCER TIER 2	ACTIVE (ISSUED)	20191023	271462005000	SLI	1.53
SWEETBRIAR FARM	416633	539 EASTMAN RD	EASTSOUND	WA	982459388	MARIJUANA PRODUCER TIER 2	ACTIVE (ISSUED)	20190402	261012002000	RFF	20.24

WSLCB Licensed Marijuana Processors 11-12-2019											
Tradenname	License #	Street Address	City	State	ZipCode	PrivDesc	PrivilegeStatus	DateIssued	TPN	LU Des.	Acres
GREEN ISLAND GROWERS	412950	142 PEMBERTON PL STE B	FRIDAY HARBOR	WA	982507099	MARIJUANA PROCESSOR	ACTIVE (ISSUED)	20181218	351533005000	AG	6.39
NW CONNOISSEURS	421766	46 HOPE LANE	EASTSOUND	WA	982450000	MARIJUANA PROCESSOR	ACTIVE (ISSUED)	20191023	271462005000	SLI	1.53
SWEETBRIAR FARM	416633	539 EASTMAN RD	EASTSOUND	WA	982459388	MARIJUANA PROCESSOR	ACTIVE (ISSUED)	20190402	261012002000	RFF	20.24

WSLCB Licensed Marijuana Retailers 11-12-2019											
Tradenname	License #	Street Address	City	State	ZipCode	PrivDesc	PrivilegeStatus	DateIssued	TPN	LU Des.	Acres
BUD HUT	422332	70 SALTSRING DR UNIT 2A	FRIDAY HARBOR	WA	982509062	MARIJUANA RETAILER	ACTIVE (ISSUED)	20181204	351049103000	RGU	1.69
LAWRENCE ENTERPRISES	414881	322 DANIEL LN	FRIDAY HARBOR	WA	982500000	MARIJUANA RETAILER	ACTIVE (ISSUED)	20190202	352324006000	RGU	5.3
ORCAS ISLAND CANNABIS	420390	1533 MT BAKER RD	EASTSOUND	WA	982450000	MARIJUANA RETAILER	ACTIVE (ISSUED)	20190424	271422002000	SLI	1.09
TOKEN HERB	400209	837 A CRESCENT BEACH RD	EASTSOUND	WA	982451695	MARIJUANA RETAILER	ACTIVE (ISSUED)	20190919	271352007000	CCC	2.95

WSLCB License Information Accessed on November 20, 2019 at <https://cb.wa.gov/records/frequently-requested-lists>