

Recreational Marijuana Production and Processing

County Council
Policy Discussion
December 3, 2019



Briefing Purpose and Overview

The community wants a new regulatory structure for marijuana production and processing operations particularly in rural and resource lands.

- Provide background information
- Obtain policy direction on options: regulating production/processing.



Why Are Code Amendments Needed?

- Aesthetics and rural character
- Environmental - chemicals
- Traffic and access
- Lighting
- Noise
- Odor
- Fencing
- Energy and water use
- Property values
- Cross pollination with agricultural crops
- Waste disposal
- Security

Public Participation

Link to the project webpage:

<https://www.sanjuanco.com/1585/Marijuana>

Public Notices: The public may subscribe to receive Community Development news flashes for notices about this project at:

[https://www.sanjuanco.com/list.aspx.](https://www.sanjuanco.com/list.aspx)

Public Comments: Emailed comments about the draft documents must be sent to MarijuanaComments@sanjuanco.com

Please include your full name and address in the Email for the record.

Project Benchmarks:

Work Plan from Resolution 34 - 2019

2019 – January 2020: Research, obtain direction, and draft ordinance

2020

February: Brief Council on preliminary draft ordinance

March: Brief Planning Commission

April: Renew moratorium

April - June: Finalize public hearing draft, SEPA, 60-day notice

June: Planning Commission public hearing

July - Aug: Council briefings and public hearing

September: Adopt

Marijuana license applications status

- No applications pending in SJC on November 12, 2019 according to the WSLCB.
- Four marijuana retailers are licensed and active: 2 in Friday Harbor and 2 in Eastsound.
- There are three Tier 2 marijuana producers/processors licensed and active in the County:
 - Green Island Growers (AG Resources, San Juan Island, 6.3 acres);
 - NW Connoisseurs (Service Light Industrial, Orcas Island 1.5 acres); and
 - Sweetbriar Farms (Rural Farm Forest, Orcas Island 20.2 acres).

Background

State Liquor and Cannabis Board issues 3 license types:

- Marijuana production, indoor or outdoor;
- Marijuana processing; and
- Marijuana retail sales.

Not allowed in a single family residence.

Background Marijuana Production: Indoor or Outdoor

Indoor: Must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

Outdoor: May be in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier.

Outdoor: Must be enclosed by a sight obscure wall or fence at least eight feet high.

Background

Liquor and Cannabis Board: Marijuana Production

Three marijuana production tiers dictate the maximum amount of space licensed for marijuana production (canopy only):

- Tier 1: Less than 2,000 square feet
- Tier 2: 2,000 to 10,000 square feet
- Tier 3: 10,000 to 30,000 square feet

Background: Marijuana Processing

- Ranges from simple drying and trimming to 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.

State Requirements

- Lighting
- Security cameras
- Fencing
- Waste handling

Moratoria: Production and Processing

- Resolution 15-2019: 6 month moratorium.
- Renewed for 6 months in October 2019: Res. 34-2019.
- Exempts alteration of facilities legally established prior to Res. 15-2019, if no enlargement or intensification.
- Moratorium expires in April 2020 unless renewed.

Why Are Code Amendments Needed?

- Code does not specifically regulate production or processing.
- Production is interpreted to be most similar to agriculture and is treated as it in interpretation of the land use tables.
- Production is allowed wherever ag is allowed, almost all designations.
- Processing is a industrial use. Allowed in C/I designations and indoors in other designations such as Ag Resource.
- There are no local performance standards in existing code.

Retail sales are treated as retail establishments in the land use tables.

Code Amendment Strategy

- Adopt state definitions. Modify if needed for County code – in and outdoor;
- Include production and processing as a specific uses in the land use tables;
- Adopt general performance standards: production, processing and retailers;
- Adopt specific performance standards for production and processing;
- Prohibit production and processing as a home occupation or cottage industry;
- Expand the distance for permit application noticing requirements; and
- Adopt additional application submittal requirements.

Policy Option Bookends: Two Suggestions

Performance standards are in effect even when no permit required.



Policy Option 1: Similar to Skagit County

Production prohibited outdoors

- Prohibit in greenhouses or translucent (see through) structures;
- Restrict indoor production and processing in Activity Centers to commercial and industrial land use designations with no LU permit;
- Allow indoor production in Rural General, Industrial, Commercial, and Island Center; and
- In Eastsound, allow indoor production/processing in Service Light Industrial, Service Park, and Country Corner Commercial.

Policy Option: Option 1

Prohibitions suggested because outdoor production:

- Too many potential impacts in residential designations such as:
 - Rural Residential,
 - Rural Farm Forest, and
 - Village and Hamlet Residential, and ES Residential.
- Not aligned with the AG Resource, Forestry, Conservancy, and Natural designation goals.

Policy Option 1: Other Subarea 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
Eastsound			
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: Production and Processing

Options outside of Commercial/Industrial

- Allow outdoor production in Ag Resource and Rural Farm Forest: Tiers 1 and 2.
- Restrict production in greenhouses to Tiers 1 and 2 – limit conversion of large areas of Ag Resource land to non-agricultural use.
- Allow outdoor and indoor production and processing commercial and industrial designations except Village and Hamlet Commercial with lot size and permit requirements.
- Require conditional use permits in Eastsound designations for outdoor production (Service Light Industrial, Service Park and Country Corner)

Policy Option: Option 2

Prohibitions suggested because:

- Densities in Activity Centers increase potential impacts to neighbors.
- Commercial designations are primarily for retail sales and processing is more industrial in scope.
- Too many potential impacts in primarily residential designations such as:
 - Rural Residential,
 - Rural Farm Forest, and
 - Village and Hamlet Residential, and ES Residential.
- Not consistent with the purpose of Conservancy, Natural and Forestry.

Option 2: Rural and Resource Lands

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 ⁽⁴⁾	
	RGU	RR	RFF	RI	RC	AG	FOR	C	N
Commercial Uses									
Marijuana production and or processing, indoors	Y	N	Y ^{x.xx}	Y	Y	Y ^{x.xx}	N	N	N
Marijuana production and or processing, outdoors	N	N	Y ^{x.xx}	N	N	Y ^{x.xx}	N	N	N
Marijuana production and processing in a greenhouse and translucent structures	N	N	Y ^{x.xx}	N	N	Y ^{x.xx}	N	N	N

Option 2: Rural and Resource

Possible Footnotes

- Could have only tiers 1 and 2 or all three with minimum lots sizes, or no minimums.

X: Only Tier 1, Minimum 5 acres and

XX: Only Tier 2, Minimum 10 acres, or

**Council could give direction to allow XXX: Tier 3: Minimum 20 acres

- Policy Question: In AG and RFF, should indoor production be limited to permanent structures existing as of the effective date of the ordinance in Ag Resources? Doing this would limit the conversion of agricultural land

Option 2: Other Subarea 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
Eastsound			
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

Option 2: Possible Footnotes

- 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.

Performance Standards

- Started with Councilman Watson's.
- Incorporated options from 2015 work groups.
- Made more general and eliminated duplicates.



Minimum Lot Dimension and Traffic Volume Questions

General standards

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 can they demonstrate this? 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. ***Prohibit on private easements?***

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? PW: 10?** any easements or road improvements required by the County engineer to accommodate the increase must be provided prior to occupancy.

Production standards

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.

Distance from Residences

Should be made consistent for production and processing.

Processing locational choices

- New structures for **processing** shall not be located within **1,000 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.*

Procedural Amendments

- Require a pre-application meeting for conditional use permit.
- Noticing: change from 300 to 1,000 foot distance from boundaries of the subject property.



Direction
from
Council

Questions

