

Next Ord: 1780-13
Next Res: 891-13

VISION STATEMENT

SEDRO-WOOLLEY IS A FRIENDLY CITY THAT IS CHARACTERIZED BY CITY GOVERNMENT AND CITIZENS WORKING TOGETHER TO ACHIEVE A PROSPEROUS, VIBRANT AND SAFE COMMUNITY

MISSION STATEMENT

TO PROVIDE SERVICES AND OPPORTUNITIES WHICH CREATE A COMMUNITY WHERE PEOPLE CHOOSE TO LIVE, WORK AND PLAY

CITY COUNCIL AGENDA

November 13, 2013

7:00 PM

Sedro-Woolley Municipal Building

Council Chambers

325 Metcalf Street

- 1. Call to Order
- 2. Pledge of Allegiance
- 3. Consent Calendar1 - 33

NOTE: Agenda items on the Consent Calendar are considered routine in nature and may be adopted by the council by a single motion, unless any Councilmember wishes an item to be removed. The Council on the regular agenda will consider any item so removed after the Consent Calendar.

- a. Approval of Agenda
- b. Minutes from Previous Meeting (Including November 6, 2013 Work Session)
- c. Finance
 - Claim Checks #77944 to #78055 in the amount of \$1,476,421.67
 - Payroll Checks #56855 to #56961 in the amount of \$256,569.72
- d. Interlocal Agreement for functioning of a Skagit County Multiple Agency Response Team (SMART) (2nd reading)
- e. Riverfront Park Caretaker Agreement
- f. Setting Public Hearing - 2014 Budget Ordinance
- 4. SCOG Presentation - Kevin Murphy, Executive Director
- 5. Public Comment.....35

PUBLIC HEARING

- 6. Possible Resolution - *Citizens United v. the Federal Elections Commission* (2nd reading).....37 - 61
- 7. Property Tax Levy Ordinances (1st reading).....63 - 73

UNFINISHED BUSINESS

- 8. Recreational Marijuana Producers and Processors - Planning Commission Direction.....75 - 160

NEW BUSINESS

- 9. Proposed modification to Municipal Code regarding parking requirements for new businesses in the CBD (1st reading).....161 - 177
- 10. Utility Rate Ordinances (1st reading).....179 - 190
- 11. 2014 Budget (1st reading).....191 - 207

COMMITTEE REPORTS AND REPORTS FROM OFFICERS

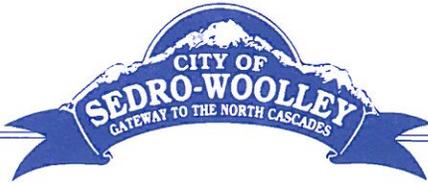
- 12. Minor contracts approved under SWMC 2.104.060 (if any)

EXECUTIVE SESSION

There may be an Executive Session immediately preceding, during or following the meeting.

NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 1-3



DATE: November 13, 2013
TO: Mayor Anderson and City Council
FROM: Patsy Nelson, Finance Director
SUBJECT: 1) CALL TO ORDER; 2) PLEDGE OF ALLEGIANCE; 3) CONSENT
CALENDAR

1. CALL TO ORDER - The Mayor will call the November 13, 2013 Regular Meeting to Order. The Finance Director will note those in attendance and those absent.

___ Ward 1 Councilmember Kevin Loy
___ Ward 2 Councilmember Tony Splane
___ Ward 3 Councilmember Thomas Storrs
___ Ward 4 Councilmember Keith Wagoner
___ Ward 5 Councilmember Hugh Galbraith
___ Ward 6 Councilmember Rick Lemley
___ At-Large Councilmember Brett Sandström

2. PLEDGE OF ALLEGIANCE - The Mayor will lead the City Council and citizens in the Pledge of Allegiance to the United States of America.
3. CONSENT CALENDAR - Mayor will ask for Council approval of Consent Calendar items.

NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 36

CITY OF SEDRO-WOOLLEY

Regular Meeting of the City Council
October 23, 2013 – 7:00 P.M. – Council Chambers

ROLL CALL: Present: Mayor Mike Anderson, Councilmembers: Kevin Loy, Tony Splane, Tom Storrs, Keith Wagoner, Hugh Galbraith, Rick Lemley and Brett Sandström. Staff: Recorder Brue, Finance Director Nelson, City Supervisor/Attorney Berg, Public Works Director Freiburger, Planning Director Coleman, Fire Chief Klinger and Police Lt. Tucker.

The Meeting was called to order at 7:00 P.M. by Mayor Anderson.

Pledge of Allegiance

Consent Calendar

- Approval of Agenda
- Minutes from Previous Meeting
- Finance
 - Claim Checks #77841 to #77943 in the amount of \$1,152,999.55
 - Payroll Checks #56748 to #56854 in the amount of \$186,696.06
- Approval of Contract for Prosecutor Services for 2014 – Canyon Law Office

Councilmember Storrs moved to approve the consent calendar Items A through D. Seconded by Councilmember Lemley. Motion carried (7-0).

Public Comment

Tina Brown – 1105 Fidalgo Street, addressed Council regarding the number of dogs in her neighborhood running loose as well as dogs running loose throughout town.

PUBLIC HEARING

Moratorium on Recreational Marijuana Producers and Processors

Planning Director Coleman introduced the topic for restricting site location of recreational marijuana producers and processors within the city. He noted the proposed moratorium would allow the Planning Commission time to review and propose code changes. He noted the timeliness of the topic because within a short time the state will begin to accept and approve licenses.

Discussion regarding inclusion of retail within the moratorium took place as well as a Council debate on Planning Commission involvement in the decision. Further discussion took place regarding interpretation of current zoning for producers and processors and the process of decision making.

Mayor Anderson opened the public hearing at 7:15 P.M.

Council questioned the application process, notification to the City by the State Liquor Control Board and an upcoming rules conference.

No public comment received.

Mayor Anderson closed the public hearing at 7:20 P.M.

Councilmember Wagoner moved to approve Ordinance No. 1779-13 An Ordinance of the City of Sedro-Woolley Adopting an Moratorium on the Siting, Establishment, Location, Permitting, Licensing, Operation or Maintenance of any Structures or Uses Relating to the Cultivation of Recreational Marijuana, Production of Recreational Marijuana or Marijuana-Infused Products and Processing of Recreational Marijuana or Marijuana-Infused Products. Seconded by Councilmember Sandström. Motion carried (5-2, Councilmembers Loy and Splane opposed).

Council consensus was to have the opportunity to provide specific direction prior to Planning Commission proceedings.

NEW BUSINESS

Interlocal Agreement with the City of Anacortes, City of Burlington, City of Mount Vernon and Skagit County for Functioning of a Skagit County Multiple Agency Response Team (SMART)

City Supervisor/Attorney Berg introduced the proposed Interlocal agreement with neighboring cities for mutual aid which is targeted for larger events. Berg noted there are no associated costs. The agreement is formalizing what is already being done. The topic is a first read and will appear on the consent calendar at the next meeting.

Possible Resolution – Citizens United v. the Federal Elections Commission

Cookson Beecher – 9641 Simpson Rd., addressed the Council as a community involved member of a non- partisan group in Skagit County regarding a Supreme Court decision known as Citizens United. She presented background information on the Citizens United case, campaign finance history and the proposed constitutional amendment to overrule the Supreme Court’s decision. On behalf of the group she requested Council consider a resolution in support of an amendment to the Constitution.

Council discussion took place regarding free speech, non-partisan status, role of the Council and only one view presented.

Louise Harris – 11115 Sterling Rd., asked the Council if it is fair that corporations are allowed to donate millions of dollars to candidates’ campaigns.

Glenn Bordner – 2910 Iroquois Dr, Mt. Vernon, and former Mt. Vernon City Councilmember spoke on the relevancy to City Councils and buying a candidates vote through shadow votes. He addressed the quote “We the people in order to form a more

perfect union” and spoke of leveling the playing field in needing to know who is contributing to campaigns. He noted that one of the highest honors is to serve in public office.

Council discussion ensued to include the effect of the outcome whether action is taken or not, transparency and opposite viewpoints.

Councilmember Galbraith moved to place on the agenda Citizens United vs. the Federal Elections Commission Resolution. Seconded by Councilmember Wagoner.

Discussion ensued regarding language for the Resolutions to include Unions.

Motion carried (6-1, Councilmember Loy opposed).

COMMITTEE REPORTS AND REPORTS FROM OFFICERS

Police Lt. Tucker – reported on “no smoking” enforcement efforts in the vicinity of the Library and Memorial Park. He also noted the department was following up on leads in regards to a hit and run where a car ran into the Library building. Lt. Tucker also reported that Officer Adams, the new reserve officer has been helping out on duty.

Fire Chief Klinger – reminded Council of the upcoming Boot the Burn fundraiser. He noted tickets are still available. Klinger also announced the Survey Rating Bureau will be on site beginning Monday.

Councilmember Wagoner questioned the status of the collective garden in a residential area.

Planning Director Coleman stated on September 30th Superior Court threw out the appeal, therefore the City Council decision to deny the conditional use permit was upheld. Notice was sent with an October 30th deadline to return the units back to standard storage.

Public Works Director Freiburger – reported on the opening of the Cook Road round-about. He noted things are running well. He noted Edward R. Murrow Street is complete but waiting for permanent signage. Freiburger reported on the progress of the Washington Street, Bingham Park and Ball and Waldron Street projects.

City Supervisor/Attorney Berg – noted a new item under Committee Reports, “Minor Contract Approved SWMC Code 2.104.060” He noted listing them would allow for better transparency. Berg also reported on meeting with outside counsel regarding the Dike 12 docketing stating the Examiner was trying to determine how much time was needed for Dike 12 to comply with the additional engineering requirements. The next hearing will be sometime in February. Discussion ensued.

Councilmember Loy – reported he was already working on the Skate Board Competition for next year.

Councilmember Sandström noted the Museum has requested it not be scheduled for the same time as the Founder’s Day Shoot Out.

Councilmember Storrs – noted the downtown looks good with the yellow lines.

Councilmember Wagoner – expressed congratulations to Finance Director Nelson and staff for another exceptional audit. He also congratulated Wastewater Treatment Plant Supervisor Debbie Allen for being named the SWAN Women of the Year. He noted that Sedro-Woolley was represented by two women, Allen and Ellen Palmer of the Senior Center.

Councilmember Galbraith. – stated he also appreciated the yellow lines.

Councilmember Lemley – acknowledge Councilmember Wagoner’s letter to the editor which clarified that the City is running on a lean and tight budget.

Councilmember Sandström – questioned the status of the closed section of Fruitdale Road.

City Supervisor/Attorney noted there has been no further action. He noted that calls should be referred to Commissioner Dillon and presented a brief history of the road.

Mayor Anderson – announced the upcoming grand opening for Dwayne Lane’s North Cascade Ford.

Minor Contracts Approved Under SWMC 2.104.060

EXECUTIVE SESSION

The meeting adjourned at 8:50 P.M. for the purpose of Labor Negotiations under RCW 42.30.140(4) for approximately 20 minutes with no decision anticipated.

The meeting reconvened at 9:10 P.M.

Councilmember Splane moved to adjourn. Seconded by Councilmember Galbraith. Motion carried (7-0).

The meeting adjourned at 9:10 P.M.

NOV 13 2013

CITY OF SEDRO-WOOLLEY

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3b

Council Worksession
November 6, 2013 – 7:00 P.M. – Public Safety Training Room

The worksession was called to order at 7:00 P.M. by Mayor Mike Anderson.

Flag Salute

ROLL CALL: Present: Mayor Mike Anderson, Councilmembers: Kevin Loy, Tony Splane, Tom Storrs, Keith Wagoner, Hugh Galbraith, Rick Lemley and Brett Sandström. Staff: City Supervisor/Attorney Berg, Finance Director Nelson, Public Works Operations Supervisor Salseina. Councilmember Candidates: Germaine Kornegay, Brenda Kinzer and Chuck Owen.

Distribution of the Mayor's 2014 Preliminary Budget

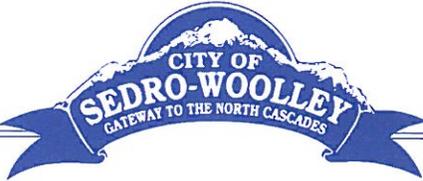
- Finance Director Nelson reviewed summary revenue and expenditure information by fund, budget philosophy and budget assumptions.
- City Supervisor/Attorney Berg reviewed the Mayor's budget message and detailed expenditures. Councilmembers questions were answered with discussion on various points.

Councilmember Galbraith moved to adjourn. Seconded by Councilmember Splane. Motion carried (7-0).

The worksession adjourned at 9:43 P.M.

NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 30



DATE: November 13, 2013
TO: Mayor Anderson and City Council
FROM: Patsy Nelson, Finance Director
SUBJECT: FINANCE - CLAIMS

Attached you will find the Claim Checks register proposed for payment for the period ending November 13, 2013.

Motion to approve Claim Checks #77944 to #78055 in the amount of \$1,476,421.67.

Motion to approve Payroll Checks #56855 to #56961 in the amount of \$256,569.72.

If you have any comments, questions or concerns, please contact me for information during the working day at 855-1661. This will allow me to look up the invoices that are stored in our office.

CITY OF SEDRO-WOOLLEY
 SORTED TRANSACTION WARRANT REGISTER
 11/13/2013 (Printed 11/07/2013 16:48)

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
77944	SKAGIT COUNTY AUDITOR	MISC-FILING FEES/LIEN EXP	SWR	1,136.00
		MISC-FILING FEES/LIEN EXP	SAN	1,136.00
		WARRANT TOTAL		2,272.00
77945	ADVANTAGE BUSINESS &	SUPPLIES	LGS	31.81
		SUPPLIES	JUD	3.18
		SUPPLIES	JUD	253.09
		SUPPLIES	EXE	3.18
		SUPPLIES	FIN	25.45
		OFFICE SUPPLIES	LGL	3.18
		OFFICE/OPERATING SUPPLIES	IT	3.18
		SUPPLIES/BOOKS	PLN	3.18
		SUPPLIES	ENG	19.08
		OFFICE/OPERATING SUPPLIES	PD	92.24
		OPERATING SUPPLIES	FD	47.71
		OFF/OPER SUPPS & BOOKS	INSP	3.18
		OPERATING SUPPLIES	PK	15.90
		OFFICE SUPPLIES	CEM	3.18
		OPERATING SUPPLIES	ST	15.90
		OPERATING SUPPLIES	LIB	19.08
		OFFICE SUPPLIES	SWR	3.18
		OPERATING SUPPLIES	SAN	25.45
		WARRANT TOTAL		571.15
77946	ACTION COMMUNICATIONS INC	REPAIRS/MAINT-EQUIP	FD	200.72
		WARRANT TOTAL		200.72
77947	ALLELUJAH BUSINESS SYSTEMS	OFF/OPER SUPPS & BOOKS	INSP	14.62
		WARRANT TOTAL		14.62
77948	ALL-PHASE ELECTRIC	REPAIRS/MAINTENANCE	ST	129.32
		WARRANT TOTAL		129.32
77949	AMERICAN FLEET MAIN. LLC	REPAIRS/MAINT-EQUIP	FD	1,323.63
		REPAIRS/MAINT-EQUIP	FD	778.79
		WARRANT TOTAL		2,102.42
77950	APPLIED INDUSTRIAL TECH	MAINT OF GENERAL EQUIP	SWR	38.45
		WARRANT TOTAL		38.45
77951	ARAMARK UNIFORM SERVICES	MISC-LAUNDRY	ST	4.60
		MISC-LAUNDRY	ST	4.60
		MISC-LAUNDRY	ST	4.60
		LAUNDRY	SWR	8.21
		LAUNDRY	SWR	11.65
		LAUNDRY	SWR	8.21
		WARRANT TOTAL		41.87
77952	ASSOC PETROLEUM PRODUCTS	AUTO FUEL	CWP	88.45
		AUTO FUEL	CWP	197.97
		AUTO FUEL	CS	209.28
		AUTO FUEL	CS	105.03

WARRANT	VENDOR NAME	DESCRIPTION	AMOUNT
		AUTO FUEL PD	1,320.27
		AUTO FUEL/DIESEL FD	738.59
		AUTO FUEL/DIESEL PK	29.65
		AUTO FUEL/DIESEL PK	85.27
		AUTO FUEL/DIESEL PK	391.84
		AUTO FUEL/DIESEL CEM	133.15
		AUTO FUEL/DIESEL ST	434.40
		AUTO FUEL/DIESEL ST	640.21
		AUTO FUEL/DIESEL ST	316.27
		AUTO FUEL/DIESEL ST	408.73
		AUTO FUEL/DIESEL ST	580.74
		AUTO FUEL/DIESEL ST	269.31
		AUTO FUEL/DIESEL SWR	117.71
		AUTO FUEL/DIESEL SWR	258.56
		REPAIRS/MAINT-EQUIP SAN	302.82
		AUTO FUEL/DIESEL SAN	1,970.36
		AUTO FUEL/DIESEL SAN	2,238.88
		VEHICLE FUEL SWTR	133.66
		WARRANT TOTAL	10,971.15
77953	AT & T	TELEPHONE JUD	.62
		TELEPHONE EXE	1.25
		TELEPHONE FIN	16.21
		TELEPHONE LGL	3.74
		TELEPHONE IT	.62
		TELEPHONE PLN	7.48
		TELEPHONE ENG	9.98
		TELEPHONE PD	56.11
		TELEPHONE FD	11.22
		TELEPHONE INSP	1.25
		TELEPHONE LIB	2.49
		TELEPHONE SWR	9.98
		TELEPHONE SAN	3.74
		WARRANT TOTAL	124.69
77954	BANK OF NEW YORK MELLON	BOND PRINCIPAL-G/O BONDS GO	190,000.00
		BOND INTEREST-G/O BONDS GO	16,600.00
		BOND INTEREST SWR	38,400.00
		WARRANT TOTAL	245,000.00
77955	BAY CITY SUPPLY	REPAIR/MAINTENANCE EQUIP PK	137.96
		OPERATING SUPPLIES SWR	208.25
		WARRANT TOTAL	346.21
77956	BLUMENTHAL UNIFORM & EQUIP	UNIFORMS/ACCESSORIES PD	76.00
		WARRANT TOTAL	76.00
77957	BOARD FOR VOLUNTEER	PENSION-VOLUNTEER FIREMEN FD	150.00
		WARRANT TOTAL	150.00
77958	BROWN & COLE STORES	SENIOR CRIME WATCH EXE	10.97
		WARRANT TOTAL	10.97

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
77959	CASCADE NATURAL GAS CORP.	PUBLIC UTILITIES	FD	137.41
		UTILITIES-COMMUNITY CTR	PK	50.28
		UTILITIES-SENIOR CENTER	PK	86.06
		UTILITIES-HAMMER SQUARE	PK	21.50
		UTILITIES - SHOP	PK	9.06
		UTILITIES - SHOP	PK	30.04
		PUBLIC UTILITIES-CITY HALL	PK	449.37
		PUBLIC UTILITIES	ST	10.60
		PUBLIC UTILITIES	ST	3.88
		PUBLIC UTILITIES	LIB	87.62
		PUBLIC UTILITIES	SWR	52.82
		PUBLIC UTILITIES	SAN	173.19
		WARRANT TOTAL		1,111.83
77960	CITIES INSURANCE ASSOC.	INSURANCE & BONDS	JUD	57.69
		INSURANCE & BONDS	FIN	173.06
		INSURANCE	LGL	57.69
		INSURANCE	PLN	115.37
		INSURANCE	ENG	115.37
		INSURANCE	PD	1,269.07
		INSURANCE	FD	807.59
		INSURANCE	INSP	57.69
		INSURANCE	PK	519.16
		INSURANCE	PK	894.10
		INSURANCE	CEM	115.37
		INSURANCE	ST	461.48
		INSURANCE	LIB	288.43
		INSURANCE	SWR	1,153.70
		INSURANCE	SAN	461.48
		INSURANCE	SWTR	115.37
		WARRANT TOTAL		6,662.62
77961	CODE PUBLISHING INC.	CODE BOOK	LGS	125.65
		WARRANT TOTAL		125.65
77962	COLLINS OFFICE SUPPLY, INC	SUPPLIES	FIN	51.63
		SUPPLIES	FIN	115.13
		REPAIR/MAINT-OFFICE EQUIP	PK	32.44
		OPERATING SUPPLIES	ST	32.43
		OPERATING SUPPLIES	SWTR	32.44
		WARRANT TOTAL		264.07
77963	COMCAST	INTERNET SERVICES	IT	130.68
		WARRANT TOTAL		130.68
77964	CONCRETE NOR'WEST, INC.	CONTRACTED OVERLAY	ST	2,165.36
		CONTRACTED OVERLAY	ST	406.03
		CONTRACTED OVERLAY	ST	1,786.34
		CONTRACTED OVERLAY	ST	346.55
		CONTRACTED OVERLAY	ST	381.16
		CONTRACTED OVERLAY	ST	754.45
		CONTRACTED OVERLAY	ST	2,428.44

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		CONTRACTED OVERLAY	ST	745.97
		MAINTENANCE OF LINES	SWR	129.13
		WARRANT TOTAL		9,143.43
77965	CORRECTIONAL INDUSTRIES	SUPPLIES	ENG	30.25
		WARRANT TOTAL		30.25
77966	CAPITAL ONE COMMERCIAL	EMPLOYEE WELLNESS (MEALS)	EXE	61.29
		OFFICE/OPERATING SUPPLIES	PD	59.14
		REPAIRS/MAINT-DORM	FD	495.62
		WARRANT TOTAL		616.05
77967	CREELMAN & SHILLING (DRS	MISC-PERMITS & LICENSES	PK	110.00
		WARRANT TOTAL		110.00
77968	CUES	MAINTENANCE OF LINES	SWR	134.11
		WARRANT TOTAL		134.11
77969	DATA BASE RECORDS DESTRUCTION LLC	SUPPLIES	JUD	22.39
		SUPPLIES	FIN	22.39
		SUPPLIES/BOOKS	PLN	6.51
		SUPPLIES	ENG	6.51
		OFFICE/OPERATING SUPPLIES	PD	44.78
		OFF/OPER SUPPS & BOOKS	INSP	6.50
		WARRANT TOTAL		109.08
77970	DAVID EVANS & ASSOC INC	CONST-SR20/COOK REALIGN	ART	53,039.25
		WARRANT TOTAL		53,039.25
77971	DEMCO INC.	EARLY LITERACY PROGRAM	LIB	99.77
		WARRANT TOTAL		99.77
77972	DWAYNE LANE'S NORTH CASCADE FORD	REPAIR & MAINT - AUTO	PD	48.74
		WARRANT TOTAL		48.74
77973	E & E LUMBER	OFFICE/OPERATING SUPPLIES	CWP	1.72
		OPERATING SUP - RIVERFRONT	PK	6.54
		OPERATING SUPPLIES	ST	28.58
		OPERATING SUPPLIES	ST	135.86
		REPAIR/MAINTENANCE-EQUIP	ST	87.96
		REPAIR/MAINTENANCE-EQUIP	ST	5.69
		CONTRACTED OVERLAY	ST	38.86
		CONTRACTED OVERLAY	ST	19.80
		MAINTENANCE OF LINES	SWR	22.21
		MAINTENANCE OF LINES	SWR	26.53
		WARRANT TOTAL		360.67
77974	EDGE ANALYTICAL, INC.	PROFESSIONAL SERVICES	SWR	47.00
		PROFESSIONAL SERVICES	SWR	129.00
		PROFESSIONAL SERVICES	SWR	35.00
		PROFESSIONAL SERVICES	SWR	35.00
		WARRANT TOTAL		246.00

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
77975	ENTERPRISE OFFICE SYSTEMS	SUPPLIES	JUD	84.37
		SUPPLIES	JUD	101.79
		SUPPLIES	FIN	14.07
		OFFICE/OPERATING SUPPLIES	PD	18.58
		OFFICE/OPERATING SUPPLIES	PD	25.98
		OFFICE/OPERATING SUPPLIES	PD	75.79
		OPERATING SUPPLIES	SAN	25.98
		WARRANT TOTAL		346.56
77976	EMERGENCY MEDICAL PRODUCTS INC	OPERATING SUPPLIES	FD	505.46
		OPERATING SUPPLIES	FD	41.65
		WARRANT TOTAL		547.11
77977	FABER CONSTRUCTION CORP	CONST SR9 LUCAS/PK COTTAGE AST		2,815.25
		CONST-SR9 MCGARG/SUMR MEAD AST		511.29
		WARRANT TOTAL		3,326.54
77978	FEDERAL CERTIFIED HEARING	PROFESSIONAL SERVICES	SWR	20.00
		WARRANT TOTAL		20.00
77979	FRONTIER	TELEPHONE	JUD	36.42
		TELEPHONE	EKE	54.63
		TELEPHONE	FIN	54.63
		TELEPHONE	LGL	24.28
		TELEPHONE	IT	18.21
		TELEPHONE	PLN	18.21
		TELEPHONE	ENG	42.49
		TELEPHONE	PD	182.34
		TELEPHONE	PD	59.35
		TELEPHONE	PD	50.16
		TELEPHONE	FD	66.77
		TELEPHONE	FD	140.06
		TELEPHONE	INSP	18.21
		TELEPHONE	PK	12.14
		UTILITIES-COMMUNITY CTR	PK	89.75
		PUBLIC UTILITIES-CITY HALL	PK	61.61
		PUBLIC UTILITIES-CITY HALL	PK	118.69
		TELEPHONE	CEM	70.67
		TELEPHONE	ST	6.07
		TELEPHONE	LIB	30.35
		TELEPHONE	LIB	136.61
		TELEPHONE	SWR	48.56
		TELEPHONE	SWR	232.55
		TELEPHONE	SAN	24.28
		TELEPHONE	SAN	89.05
		WARRANT TOTAL		1,686.09
		77980	GENERATOR SERVICES NW	MAINT OF GENERAL EQUIP
MAINT OF GENERAL EQUIP	SWR			1,010.44
WARRANT TOTAL				1,164.77
77981	GREAT AMERICA FINANCIAL SVCS.	REPAIR/MAINTENANCE-EQUIP	LIB	139.76

CITY OF SEDRO-WOLLEY
 SORTED TRANSACTION WARRANT REGISTER
 11/13/2013 (Printed 11/07/2013 16:48)

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		WARRANT TOTAL		139.76
77982	GUARDIAN NW TITLE & ESCROW	CONST-SR20/COOK REALIGN	ART	402.60
		WARRANT TOTAL		402.60
77983	H.B. JAEGER CO. LLC	MAINTENANCE OF LINES	SWR	1,748.61
		MAINTENANCE OF LINES	SWR	4,330.64
		MAINTENANCE OF LINES	SWR	3,539.42
		WARRANT TOTAL		9,618.67
77984	HACH COMPANY	OPERATING SUPPLIES	SWR	198.27
		WARRANT TOTAL		198.27
77985	HONEY BUCKET	UTILITIES-PORTABLE TOILETS	PK	75.00
		WARRANT TOTAL		75.00
77986	INDUSTRIAL MOWING & SPRAYING	CONTRACTED SERVICES	SWTR	6,365.62
		WARRANT TOTAL		6,365.62
77987	INGRAM LIBRARY SERVICES	BOOKS & MATERIALS	LIB	354.60
		BOOKS & MATERIALS	LIB	265.03
		BOOKS & MATERIALS	LIB	5.47
		WARRANT TOTAL		625.10
77988	JJ'S CRUISERS	ADVERTISING	HOT	100.00
		WARRANT TOTAL		100.00
77989	C. JOHNSON CONSTRUCTION INC.	OTHER IMPROVEMENTS	SWR	137,320.11
		WARRANT TOTAL		137,320.11
77990	KCDA PURCHASING COOPERATIVE	OFFICE/OPERATING SUPPLIES	PD	15.32
		OFFICE SUPPLIES	FD	15.31
		IMPROVEMENTS - BINGHAM	PK	16,986.24
		WARRANT TOTAL		17,016.87
77991	KING CO. SHERRIF'S OFFICE	PROFESSIONAL SERVICES	LGL	86.00
		WARRANT TOTAL		86.00
77992	LADIES HOME JOURNAL	BOOKS & MATERIALS	LIB	13.99
		WARRANT TOTAL		13.99
77993	LANGUAGE EXCH. INC. (THE)	LANGUAGE INTERPRETER	JUD	232.00
		WARRANT TOTAL		232.00
77994	LAW OFFICE OF CAWOOD BEBOUT	COLLECTION SERVICES	SWR	500.00
		WARRANT TOTAL		500.00
77995	LOGGERS AND CONTRACTORS	MAINTENANCE OF LINES	SWR	176.52
		OPERATING SUPPLIES	SAN	121.84
		REPAIRS/MAINTENANCE	SWTR	301.15
		WARRANT TOTAL		599.51

WARRANT	VENDOR NAME	DESCRIPTION	AMOUNT
77996	MATERIALS TESTING &	CONST SR9 LUCAS/PK COTTAGE AST	726.00
		CONST-SR9 MCGARG/SUMR MEAD AST	2,108.00
		WARRANT TOTAL	2,834.00
77997	MEREDITH BOOKS	BOOKS & MATERIALS LIB	36.72
		WARRANT TOTAL	36.72
77998	MARTIN MARIETTA MATERIALS	REPAIR/MAINT-STREETS ST	1,012.36
		TRAIL CONSTRUCTION PTH	792.40
		WARRANT TOTAL	1,804.76
77999	MOORE, JACK R.	PROFESSIONAL SERVICES INSP	565.76
		WARRANT TOTAL	565.76
78000	MOODY, JEFF	MISC-DUES/SUBSCRIPTIONS CEM	85.00
		WARRANT TOTAL	85.00
78001	MOTOR TRUCKS, INC.	REPAIR/MAINTENANCE-EQUIP ST	758.67
		WARRANT TOTAL	758.67
78002	NELSON PETROLEUM	REPAIR & MAINT - AUTO PD	289.60
		SMALL TOOLS & MINOR EQUIP FD	7.90
		WARRANT TOTAL	297.50
78003	NEOPOST NORTHWEST	OPERATING RENTALS/LEASES FIN	49.74
		POSTAGE PLN	49.74
		POSTAGE ENG	49.74
		POSTAGE PD	49.74
		POSTAGE FD	49.74
		POSTAGE INSP	49.74
		WARRANT TOTAL	298.44
78004	NEWMAN SIGNS INC	OPERATING SUP - SENIOR CTR PK	228.42
		WARRANT TOTAL	228.42
78005	OASYS	SUPPLIES/BOOKS PLN	35.71
		SUPPLIES ENG	35.72
		OFF/OPER SUPPS & BOOKS INSP	35.71
		WARRANT TOTAL	107.14
78006	OLIVER-HAMMER CLOTHES	OPERATING SUPPLIES CEM	108.26
		SAFETY EQUIPMENT CEM	190.59
		OPERATING SUPPLIES SAN	86.62
		WARRANT TOTAL	385.47
78007	P & P EXCAVATING LLC	MAINTENANCE OF LINES SWR	2,916.36
		WARRANT TOTAL	2,916.36
78008	PAT RIMMER TIRE CTR, INC	REPAIRS/MAINTENANCE SWTR	631.40
		WARRANT TOTAL	631.40
78009	PARTSMASTER	MAINT OF GENERAL EQUIP SWR	168.42

WARRANT	VENDOR NAME	DESCRIPTION	AMOUNT
		SMALL TOOLS & MINOR EQUIP SWR	217.82
		WARRANT TOTAL	386.24
78010	PEOPLES BANK	CONST SR9 LUCAS/PK COTTAGE AST	148.17
		CONST-SR9 MCGARG/SUMR MEAD AST	26.91
		WARRANT TOTAL	175.08
78011	PETTY CASH	TRAVEL ENG	22.00
		TRAVEL & MEALS FD	43.32
		MISC-FILING FEES/LIEN EXP SWR	28.00
		MISC-DUES/SUBS & TUITN/REG SAN	28.00
		WARRANT TOTAL	121.32
78012	PETTY CASH-DEBRA PETERSON	SUPPLIES LIB	29.21
		TRAVEL LIB	12.70
		BOOKS & MATERIALS LIB	36.31
		WARRANT TOTAL	78.22
78013	PROTECH AUTOMOTIVE	REPAIRS/MAINT-EQUIP SAN	662.99
		WARRANT TOTAL	662.99
78014	PUBLIC UTILITY DIS. NO.1	PUBLIC UTILITIES PD	19.35
		UTILITIES-RIVERFRONT PK	173.22
		UTILITIES-COMMUNITY CTR PK	107.78
		UTILITIES-SENIOR CENTER PK	270.38
		UTILITIES-HAMMER SQUARE PK	106.81
		UTILITIES-BINGHAM/MEMORIAL PK	40.87
		UTILITIES - OTHER PK	37.73
		PUBLIC UTILITIES-CITY HALL PK	194.10
		PUBLIC UTILITIES CEM	44.47
		PUBLIC UTILITIES ST	59.71
		PUBLIC UTILITIES LIB	28.77
		PUBLIC UTILITIES SWR	198.44
		PUBLIC UTILITIES SAN	40.87
		WARRANT TOTAL	1,322.50
78015	PUGET SOUND ENERGY	PUBLIC UTILITIES PD	17.54
		PUBLIC UTILITIES FD	111.07
		UTILITIES-RIVERFRONT PK	608.65
		UTILITIES-COMMUNITY CTR PK	145.23
		UTILITIES-SENIOR CENTER PK	486.04
		UTILITIES-TRAIN PK	42.44
		UTILITIES-HAMMER SQUARE PK	190.09
		UTILITIES-BINGHAM/MEMORIAL PK	60.23
		UTILITIES - SHOP PK	80.39
		UTILITIES - SHOP PK	16.09
		UTILITIES - OTHER PK	10.81
		PUBLIC UTILITIES-CITY HALL PK	2,090.15
		PUBLIC UTILITIES CEM	55.78
		PUBLIC UTILITIES ST	6.89
		PUBLIC UTILITIES ST	72.78
		PUBLIC UTILITIES ST	132.24

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		PUBLIC UTILITIES	ST	10,087.26
		PUBLIC UTILITIES	LIB	275.69
		ADVERTISING	HOT	36.22
		PUBLIC UTILITIES	SWR	8,374.91
		PUBLIC UTILITIES	SAN	113.43
		PUBLIC UTILITIES	SWTR	102.56
		WARRANT TOTAL		23,116.49
78016	RICOH USA, INC.	REPAIRS & MAINTENANCE	PD	381.76
		REPAIRS & MAINTENANCE	PD	81.39
		REPAIRS & MAINTENANCE	PD	75.81
		OFFICE SUPPLIES	FD	381.75
		EQUIPMENT LEASE	FD	75.81
		REPAIRS/MAINT-EQUIP	FD	81.40
		WARRANT TOTAL		1,077.92
78017	SANDERSON SAFETY SUPPLY	REPAIRS/MAINT-EQUIP	FD	168.39
		SAFETY EQUIPMENT	SWR	162.45
		SAFETY EQUIPMENT	SWR	162.45
		WARRANT TOTAL		168.39
78018	SEAWESTERN FIRE FIGHTING EQUIP.	REPAIRS/MAINT-EQUIP	FD	95.00
		WARRANT TOTAL		95.00
78019	SEDRO-WOLLEY AUTO PARTS	OPERATING SUPPLIES	CEM	3.91
		OPERATING SUPPLIES	CEM	7.13
		OPERATING SUPPLIES	CEM	.65
		OPERATING SUPPLIES	ST	81.14
		REPAIR/MAINTENANCE-EQUIP	ST	68.58
		OPERATING SUPPLIES	SAN	19.49
		OPERATING SUPPLIES	SAN	89.46
		WARRANT TOTAL		270.36
78020	SEDRO-WOLLEY VETERINARY CARE	VETERINARY SERVICES	PD	19.39
		WARRANT TOTAL		19.39
78021	SEDRO-WOLLEY VOLUNTEER	SALARIES-VOLUNTEERS	FD	9,757.00
		WARRANT TOTAL		9,757.00
78022	SEVEN SISTERS, INC.	MAINT OF GENERAL EQUIP	SWR	219.39
		WARRANT TOTAL		219.39
78023	SK CO DEPT OF EMERG MGMT	DEPT OF EMERG MANAGEMENT	EMG	5,719.35
		DEPT OF EMERG MANAGEMENT	EMG	5,719.35
		DEPT OF EMERG MANAGEMENT	EMG	5.23
		WARRANT TOTAL		11,443.93
78024	SK. FIRE CHIEFS ASSOC	MISC-DUES	FD	265.00
		WARRANT TOTAL		265.00
78025	SKAGIT CO. COMMUNITY SERVICES	SKAGIT SENIOR SERVICES	SEN	5,110.25
		WARRANT TOTAL		5,110.25

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
78026	SKAGIT COUNTY SHERIFF OFF	PRISONERS	PD	1,010.63
		WARRANT TOTAL		1,010.63
78027	SKAGIT FARMERS SUPPLY	CONTRACTED OVERLAY	ST	56.29
		WARRANT TOTAL		56.29
78028	SKAGIT READY MIX, INC.	MAINTENANCE OF LINES	SWR	403.96
		WARRANT TOTAL		403.96
78029	SK. VALLEY BARK & TOPSOIL, INC.	TRAIL CONSTRUCTION	PTH	205.77
		WARRANT TOTAL		205.77
78030	SKAGIT PUBLISHING	LEGAL PUBLICATIONS	LGS	45.00
		LEGAL PUBLICATIONS	LGS	65.00
		LEGAL PUBLICATIONS	LGS	90.00
		ADVERTISING	PK	177.25
		WARRANT TOTAL		377.25
78031	SPARKLE SHOP LAUNDRIES	UNIFORM CLEANING	PD	5.96
		WARRANT TOTAL		5.96
78032	STAPLES BUSINESS ADVANTAGE	OFFICE/OPERATING SUPPLIES	PD	93.81
		OFFICE/OPERATING SUPPLIES	PD	66.26
		OFFICE/OPERATING SUPPLIES	PD	2.65
		OFFICE/OPERATING SUPPLIES	PD	3.03
		OFFICE/OPERATING SUPPLIES	PD	10.93
		OFFICE/OPERATING SUPPLIES	PD	6.49
		OFFICE/OPERATING SUPPLIES	PD	42.06
		OFFICE/OPERATING SUPPLIES	PD	12.65
		WARRANT TOTAL		237.88
78033	STATE AUDITOR'S OFFICE	STATE AUDITING	FIN	3,477.51
		WARRANT TOTAL		3,477.51
78034	STRIDER CONST. CO INC.	CONTRACTED OVERLAY	ST	17,956.44
		CONST-SR20/COOK REALIGN	ART	561,637.16
		CONST-SR20/COOK REALIGN	PUD AR	25,990.28
		CONST-SR20/COOK REALIGN	SKAT	10,098.50
		WARRANT TOTAL		615,682.38
78035	SUMMIT LAW GROUP	NEGOTIATIONS	EXE	1,460.49
		WARRANT TOTAL		1,460.49
78036	TAYLOR, PAUL	RETIRED MEDICAL	PD	22.50
		WARRANT TOTAL		22.50
78037	THE WEEK	BOOKS & MATERIALS	LIB	79.00
		WARRANT TOTAL		79.00
78038	TKE CORP	REPAIR/MAINT-CITY HALL	PK	180.86
		WARRANT TOTAL		180.86

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
78039	TRAFFIC SAFETY SUPPLY CO.	OPERATING SUPPLIES	ST	131.58
		WARRANT TOTAL		131.58
78040	TRAIL ROAD EXPRESS LUBE	TRAINING FACILITIES	FD	8.15
		WARRANT TOTAL		8.15
78041	TRUE VALUE	EMPLOYEE WELLNESS (MEALS)	EXE	17.48
		OFFICE/OPERATING SUPPLIES	CWP	42.23
		OFFICE/OPERATING SUPPLIES	CWP	6.04
		OFFICE/OPERATING SUPPLIES	CWP	2.37
		SMALL TOOLS/MINOR EQUIP	IT	21.65
		TRAINING FACILITIES	FD	38.40
		OPERATING SUP - RIVERFRONT	PK	2.16
		OPERATING SUP - RIVERFRONT	PK	4.96
		OPERATING SUP - RV PARK	PK	25.97
		OPERATING SUP - LIBRARY	PK	16.23
		OPERATING SUPPLIES	ST	22.72
		OPERATING SUPPLIES	ST	22.22
		OPERATING SUPPLIES	ST	60.63
		OPERATING SUPPLIES	SWR	20.56
		OPERATING SUPPLIES	SAN	227.17
		WARRANT TOTAL		530.79
78042	U.S. HEALTHWORKS	OFFICE/OPERATING SUPPLIES	PD	70.00
		WARRANT TOTAL		70.00
78043	UPS	POSTAGE	FD	14.27
		WARRANT TOTAL		14.27
78044	USDA	PRINCIPAL PAYMENT USDA	ERR	217,532.89
		INTEREST USDA	ERR	8,845.20
		WARRANT TOTAL		226,378.09
78045	VALLEY AUTO SUPPLY	OFFICE/OPERATING SUPPLIES	CWP	3.12
		OPERATING SUPPLIES	SAN	31.40
		REPAIRS/MAINTENANCE	SWTR	8.65
		WARRANT TOTAL		43.17
78046	VANDERLINDEN, ROBERT	PROFESSIONAL SERVICES	INSP	200.00
		WARRANT TOTAL		200.00
78047	VERIZON WIRELESS	TELEPHONE	EXE	45.85
		TELEPHONE	FIN	45.85
		TELEPHONE	LGL	45.85
		TELEPHONE	IT	45.85
		CELL PHONES	ENG	134.06
		TELEPHONE	PD	169.94
		TELEPHONE	PD	440.11
		TELEPHONE	PD	410.07
		TELEPHONE	FD	364.55
		TELEPHONE	FD	71.40
		TELEPHONE	PK	60.08

WARRANT	VENDOR NAME	DESCRIPTION	AMOUNT
		TELEPHONE CEM	18.47
		TELEPHONE ST	68.15
		NEXTEL CELL PHONES SWR	134.43
		NEXTEL CELL PHONES SAN	139.87
		WARRANT TOTAL	2,194.53
78048	VISION FORMS, LLC	POSTAGE SWR	1,610.00
		POSTAGE SAN	767.85
		POSTAGE SWTR	99.07
		WARRANT TOTAL	2,476.92
78049	WA STATE DEPT OF ECOLOGY	MISC-DUES/SUBSCRIPTIONS SWR	30.00
		WARRANT TOTAL	150.00
78050	WA ST DEPT OF PROF LICEN	INTERGOV SVC-GUN PERMITS PD	294.00
		WARRANT TOTAL	294.00
78051	WA ST DEPT OF TRANSPORT	CONST-SR20/COOK REALIGN ART	1,587.68
		CONST SR9 LUCAS/PK COTTAGE AST	240.87
		CONST-SR9 MCGARG/SUMR MEAD AST	240.86
		WARRANT TOTAL	2,069.41
78052	WASHINGTON FEDERAL	CONTRACTED OVERLAY ST	945.08
		CONST-SR20/COOK REALIGN ART	29,559.85
		CONST-SR20/COOK REALIGN PUD AR	1,258.00
		CONST-SR20/COOK REALIGN SKAT	531.50
		WARRANT TOTAL	32,294.43
78053	WOOD'S LOGGING SUPPLY INC	OFFICE/OPERATING SUPPLIES CWP	16.19
		REPAIRS/MAINT-EQUIP FD	175.64
		SAFETY EQUIPMENT PK	46.55
		REPAIR/MAINTENANCE EQUIP PK	5,079.58
		REPAIR/MAINTENANCE EQUIP PK	6.31
		SMALL TOOLS/MINOR EQUIP CEM	51.94
		OPERATING SUPPLIES ST	28.05
		REPAIR/MAINT-STREETS ST	507.93
		MAINTENANCE CONTRACTS SWR	34.62
		MAINTENANCE OF LINES SWR	48.74
		REPAIRS/MAINT-EQUIP SAN	29.58
		REPAIR/MAINTENANCE SAN	18.94
		WARRANT TOTAL	6,044.07
78054	ZOLL MEDICAL CORP GPO	OPERATING SUPPLIES FD	403.56
		WARRANT TOTAL	403.56
78055	GRANDVIEW NORTH LLC	UNAPPLIED CASH - SUSPENSE	12.77
		WARRANT TOTAL	12.77

WARRANT	VENDOR NAME	DESCRIPTION	AMOUNT
		RUN TOTAL	1,476,421.67

FUND	TITLE	AMOUNT
001	CURRENT EXPENSE FUND	50,733.81
101	PARK FUND	30,688.90
102	CEMETERY FUND	888.57
103	STREET FUND	44,732.91
104	ARTERIAL STREET FUND	690,922.17
105	LIBRARY FUND	1,941.60
108	STADIUM FUND	136.22
113	PATHS AND TRAILS FUND	998.17
230	1996 G/O BOND REDEMPTION FUND	206,600.00
401	SEWER FUND	167,369.80
407	1998 SEWER REVENUE BOND FUND	38,400.00
412	SOLID WASTE FUND	8,828.74
425	STORMWATER	7,789.92
501	EQUIPMENT REPLACEMENT FUND	226,378.09
621	SUSPENSE FUND	12.77
TOTAL		1,476,421.67

CITY OF SEDRO-WOLLEY
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DEPARTMENT	AMOUNT
001 000 011	357.46
001 000 012	791.55
001 000 013	1,655.14
001 000 014	4,045.67
001 000 015	578.83
001 000 017	220.19
001 000 018	314.31
001 000 019	236.20
001 000 020	465.20
001 000 021	6,989.54
001 000 022	17,572.88
001 000 024	952.66
001 000 025	11,443.93
001 000 069	5,110.25
FUND CURRENT EXPENSE FUND	50,733.81
101 000 076	30,688.90
FUND PARK FUND	30,688.90
102 000 036	888.57
FUND CEMETERY FUND	888.57
103 000 042	44,732.91
FUND STREET FUND	44,732.91
104 000 042	690,922.17
FUND ARTERIAL STREET FUND	690,922.17
105 000 072	1,941.60
FUND LIBRARY FUND	1,941.60
108 000 019	136.22
FUND STADIUM FUND	136.22
113 000 095	998.17
FUND PATHS AND TRAILS FUND	998.17
230 000 082	206,600.00
FUND 1996 G/O BOND REDEMPTION FUND	206,600.00
401 000 035	167,369.80
FUND SEWER FUND	167,369.80
407 000 082	38,400.00
FUND 1998 SEWER REVENUE BOND FUND	38,400.00
412 000 037	8,828.74
FUND SOLID WASTE FUND	8,828.74
425 000 031	7,789.92
FUND STORMWATER	7,789.92

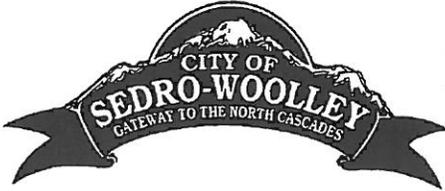
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VENDOR	VENDOR NAME	INVOICE NUMBER	REFERENCE	INVOICE DATE	DUE DATE	COMMENTS
	501 000 048		226,378.09			
	FUND EQUIPMENT REPLACEMENT FUND		226,378.09			
	621 000 000		12.77			
	FUND SUSPENSE FUND		12.77			
	TOTAL		1,476,421.67			

CITY COUNCIL AGENDA
REGULAR MEETING

OCT 23 2013



7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 6

CITY COUNCIL AGENDA
REGULAR MEETING

CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

NOV 13 2013

Eron M. Berg
City Supervisor/City Attorney

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 30

MEMO TO: City Council
FROM: Eron Berg
RE: SMART Interlocal
DATE: October 23, 2013

**2ND READING
CONSENT CALENDAR**

AGENDA PLACEMENT: New Business (1st Reading)

ISSUE: Should the Council approve the attached interlocal agreement between various law enforcement agencies in Skagit County for police services?

BACKGROUND: Chief Wood will provide the background and context for this agreement at the meeting. It is intended to provide an orderly mechanism for sister law enforcement agencies to support one another during specific situations. This type of activity occurs today, but under this new process the SMART team would be more prepared to assist.

REQUEST FOR ACTION:

1. Motion to approve the interlocal agreement.

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

**THE CITY OF ANACORTES, THE CITY OF BURLINGTON,
THE CITY OF MOUNT VERNON, THE CITY OF SEDRO-WOOLLEY
AND SKAGIT COUNTY**

THIS AGREEMENT (“Agreement”) is entered between the City of Anacortes, The City of Burlington; the City of Mount Vernon; the City of Sedro Woolley; and Skagit County in order to use agency investigative resources from various jurisdictions in a planned and concerted fashion that shares supervision, investigative staff, equipment, technology, skills and experience offering the best opportunity for apprehension and successful prosecution; and

WHEREAS each of the parties have authority granted through state or federal law to contract and be contracted with including but not limited to the Interlocal Cooperation Act (Chapter 39.34 RCW) granting additional and supplemental authority authorizing public agencies to enter into agreements for their mutual benefit; and

WHEREAS law enforcement agencies have the responsibility for protecting lives and property and keeping the peace; and

WHEREAS effective law enforcement depends upon the ability of responding officers to take emergency action to protect lives and property and to preserve the peace, without regard to jurisdictional limitations; and

WHEREAS law enforcement agencies face significant challenges in meeting the public’s needs when a major criminal incident such as when a homicide, child abduction, serial arson or sexual predator victimizes the community or when a criminal act or a potential criminal act is alleged against an officer; and

WHEREAS the issues of public trust and organizational credibility require an investigative process that is objective and fair; and

WHEREAS an agency can become overwhelmed by the volume of investigative demands including securing, preserving and processing crime scenes; locating and interviewing witnesses; searching for suspects; documenting, recording and impounding evidence; responding to media and public information requests, etc.; and

WHEREAS experience has shown that delays in the use of law enforcement personnel and facilities have an adverse impact on identifying perpetrators, discovering reliable evidence, and convictions rates; and

WHEREAS a team approach to investigating complex criminal acts offers increased staffing during critical time periods, allows for sharing of equipment and investigative tools that a small agency may not have, and takes advantage of individuals possessing specialized training; and

WHEREAS a team approach also provides an unbiased and competent investigation when police personnel are implicated; and

WHEREAS the adoption of a protocol for the use of resources from multiple agencies will:

- a) Foster public trust by conducting professional and consistent investigations of criminal incidents involving police employees;
- b) Provide a multi-jurisdictional response to criminal or fatal incidents involving police employees;
- c) Provide greater efficiency and effectiveness during large scale criminal acts by employing a multi-disciplinary response; and
- d) Offer flexibility to employ investigative methods and tools that are practical and appropriate for given circumstances.

NOW THEREFORE, the parties agree as follows:

1. **PURPOSE.** This agreement is intended to adopt protocols for the functioning of a Skagit County Multiple Agency Response Team (hereinafter "SMART" or "Team") that will conduct or assist in investigations of incidents that will benefit from the use of resources from multiple law enforcement agencies. The SMART will be activated upon the request of a Venue Agency to handle qualifying incidents including, but not limited to:

- a) Intentional and accidental officer-involved shootings, including police tactical incidents involving specialized response teams.
- b) Intentional or accidental use of any other dangerous or deadly weapon.
- c) Felony or serious assaults upon law enforcement officers or assaults on other law enforcement employees who are on duty or are acting in the performance of their duties.
- d) Attempts by law enforcement employees to make arrests or to otherwise gain physical control for a law enforcement purpose, including incidents where a law enforcement officer has applied a use of force on an individual and that individual stops breathing either during the application of force or immediately thereafter;
- e) Any fatal or serious injury in police custody.
- f) Any fatal or serious injury of an inmate at the Skagit County Jail that occurs as a result of the use of force by a jail employee.
- g) Vehicular collisions involving police gunfire directed at the suspect or the suspect vehicle.
- h) Vehicular collisions which result in a serious injury or fatality arising from the use of vehicle(s) by police as a "legal intervention" technique intended to apprehend a suspect. "Legal Intervention" includes vehicle ramming, roadblocks, and forcing a vehicle to alter its course by cutting in front of it or by contact.
- i) Vehicular collisions which involve serious injuries or a fatality that occur during a police pursuit. The serious injury or fatality may be to the suspect, an officer or other third party.

j) Significant criminal events that exhaust an individual agency's resources:

- (1) Crimes of violence such as homicide, aggravated assault, rape, arson, kidnapping, robbery or as determined by the Executive Board;
- (2) Serial crimes involving arson, rape, robbery, burglary, etc.;
- (3) "Crime spree" crimes with similar characteristics occurring in multiple jurisdictions; and
- (4) Activation of an Amber Alert and/or the Child Abduction Response Team when significant investigative resources are required.

Nothing in this agreement is intended to preclude any party from entering into agreements with any law enforcement or specialized service agency for limited or high profile investigations, including:

- a) Officer involved incidents that involved limited scope investigations, including allegations of DUI, misdemeanor assault-DVPA, theft, etc.
- b) Allegations of criminal misconduct against high ranking police staff; and
- c) Any significant crime or incident where the sheriff or the affected jurisdiction's Police Chief, believe seeking aid from another county or agency is appropriate.

The parties agree that use of the SMART for non-officer involved cases is meant for significant criminal events where an agency's resources are or are likely to be exhausted. Utilization of the SMART is not intended as a substitute for costs a Venue Agency could incur by using their own off-duty staff or resources. It is also not intended to defer continuing staff training and development for serious crimes.

2. TREATMENT OF ASSETS AND PROPERTY. No fixed assets or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement. Each party shall be responsible for the costs associated with its personnel, including wages, and consumable property, and basic safety equipment to adhere to current WISHA or OSHA blood borne pathogens rules. Participating agencies will work together to ensure the SMART has the non-consumable equipment necessary to support the Team's mission and goals. Any non-routine costs shall be the responsibility of the Venue Agency upon the approval by Venue Agency head.

3. SMART STRUCTURE AND DUTIES. Upon request of the Venue Agency, the SMART will assume control of an investigation into an officer-involved incident where a serious injury or fatality has occurred. When an investigation does not involve an officer or employee but the scope of the incident is beyond a Venue Agency's capability, the Venue Agency may request the SMART to supplement its investigatory efforts.

SMART operations shall be governed by the terms of this agreement and any mutual aid agreements between the participating agencies. The SMART command structure for Officer Involved investigations is depicted in Attachment 1 (SMART Structure). The command structure for supplementing a Venue Agency's investigation is illustrated in Attachment 3 (SMART Structure for Supplemented Investigations), is intended to be flexible depending on agency needs.

Every member assigned to the SMART is subject to his/her own agency's policies and procedures and to any non-conflicting policies and procedures adopted by the Executive Board.

3-1. Executive Board. An Executive Board comprised of representatives of the respective parties is established to administer this Agreement and to coordinate and monitor performance of the SMART. The Executive Board's responsibilities include, but are not limited to: (1) identification of crimes and incidents that qualify for the SMART to conduct or assist in investigations; (2) resolution of disputes arising under this Agreement; (3) coordination of personnel issues, investigative policies, practices, and training standards; (4) maintenance of relations between participating law enforcement departments; and (5) adoption of SMART policies and procedures.

Members of the Executive Board shall include:

- a) Skagit County Sheriff;
- b) Chief of Police, Anacortes Police Department;
- c) Chief of Police, Burlington Police Department;
- d) Chief of Police, Mount Vernon Police Department; and
- e) Chief of Police, Sedro-Woolley.

The Commander, Washington State Patrol for Skagit-Island-Whatcom County shall be invited to participate in Executive Board discussions as a non-voting member.

In the event an officer involved investigation is or becomes an investigation of the Venue Agency's Chief of Police or County Sheriff it shall be deemed ineligible under this Agreement to utilize the SMART. Nothing in this Agreement shall prevent a Venue Agency from entering into agreements with any law enforcement or specialized service agency to assist or conduct such investigations.

3-2. Skagit County Prosecuting Attorney. The Skagit County Prosecuting Attorney shall be the legal advisor for the SMART.

3-3. SMART Command.

- a) **SMART Commander:** The Executive Board shall appoint a SMART Commander, a law enforcement officer of command rank from one of the participating law enforcement agencies, for a term of two years. Selection criteria shall include a consideration of training, experience, skills and abilities. The Commander's responsibilities are provided in Attachment 2 (Command Structure and Personnel)
- b) **Assistant SMART Commander:** The Executive Board shall also appoint an Assistant Commander, a law enforcement officer of command rank from one of the participating law enforcement agencies. To provide for an overlap of experience at the command level, the term of appointment for the initial Assistant Commander will be for one year, with two year terms used thereafter. Selection criteria shall include a consideration of training, experience, skills and abilities. The Assistant Commander's responsibilities are provided in Attachment 2 (Command Structure and Personnel).

4. INVESTIGATION TEAM STRUCTURE AND DUTIES.

4-1. **Commander**. The SMART Commander is responsible for all aspects of an investigative response when SMART is activated for an officer/employee involved incident to include situational assessment, developing investigative priorities and objectives, and operations management. If SMART is requested to assist with an investigation that exceeds a Venue Agency's capabilities but doesn't involve an officer/employee the Venue Agency's Investigation's Commander may remain in charge and the Commander will provide support as requested or able. Nothing precludes the Commander from assuming these responsibilities if the Venue agency requests. Responsibilities are provided in Attachment 4 (Investigation Team Personnel and Responsibilities).

4-2. **Assistant Commander**. When required by the scope of an investigation, the Assistant Commander shall assist the Commander and shall assume the duties of the Commander in his/her absence. In a SMART controlled investigation, the Assistant Commander shall serve as the Assistant Commander. When the Venue Agency provides the Investigation Commander, the Assistant Commander may serve as the Assistant Investigation Commander. The Assistant Investigation Commander's responsibilities, including assisting with public information, safety and security liaison duties with the Venue Agency, are provided in Attachment 4.

4-3. **Supervisor**. The Commander shall appoint a Supervisor to lead each investigation conducted under this Agreement. The Supervisor will determine the number and skills of investigators and technicians needed for each aspect of an investigation and coordinate their work. In the event there are multiple scenes or responsibilities that stretch the Supervisor's span of control, he/she may designate Lead Investigators to cover specific areas of responsibility. The Supervisor's responsibilities are provided in Attachment 4.

4-4. **Investigation Teams**. The Commander shall establish Investigation Teams as needed for (1) crime scene processing; (2) suspect apprehension; (3) evidence collection, packaging, and storage; and (4) specialized services. See Attachment 3. Personnel assigned to these teams will be available to conduct the various aspects of an investigation. Depending upon need, the structure for the investigation teams may be amended upon approval by the Executive Board.

A leader for each team tasked to a particular investigation component shall be selected by the SMART Supervisor based upon a consideration of team needs and a consideration of the individual's training, experience, skills and abilities. Core areas of knowledge for all investigators are provided in Attachment 5 (Minimum Qualifications for Team Investigators).

4-5. **Case Manager**. Every investigation will have a person or persons who are assigned to track the case details from the start of the investigation through prosecution. The Case Manager will be familiar with all aspects of the case in order to be responsive to requests from others such as the prosecutor. The Case Manager reports to the SMART Supervisor unless directed otherwise and is responsible to have a working knowledge of all aspects of the case.

4-6. **Administrative Services**. Personnel qualified by training and experience shall handle the following duties under the supervision of the Commander or Assistant Commander, as assigned:

- a) Public information;

- b) Public disclosure and records management for all records held by the SMART; and
- c) Crime scene safety and security.

5. VENUE AGENCY. The Venue Agency is the law enforcement department with jurisdiction over the crime or incident requiring investigation. When an incident occurs in part in two or more jurisdictions, each of those jurisdictions is the Venue Agency. When the incident occurs on the boundary of two jurisdictions, or at a location where the relevant boundary is not readily ascertainable or is in dispute, the agency with the greater interest in the case by virtue of having the predominant police involvement in the incident or by virtue of having had the majority of the acts leading up to the incident within its jurisdiction shall be the Venue Agency.

5-1. Venue Agency obligations. When SMART assistance is desired, the Venue Agency shall:

- a) Determine its resource limitations and what additional levels are needed for an investigation;
- b) Request SMART assistance – either that the SMART assume control of an investigation or supplement Venue Agency resources – through a senior officer (Sheriff, Police Chief, or a command level officer above the rank of Sergeant), who shall direct the request for Team assistance to the SMART Commander with enough details for him/her to determine whether a callout is necessary and the level of resources and assistance needed;
- c) Designate an Incident Commander to coordinate the Venue Agency’s response with the SMART;
- d) Provide crime scene protection, security and staff support as required;
- e) Provide facilities, equipment, resources and assistance as needed for the SMART;
- f) Agree to be responsible for all reasonable investigative expenditures, including the costs of storing and handling extraordinary items such as vehicles, HAZMAT, etc.;
- g) Allow SMART personnel access to all available documents, reports and information regarding the incident and investigation; and
- h) Refer all media requests for information to the SMART Public Information Officer assigned to the investigation and coordinate any release of public information with the Team’s public information staff.
- i) Except as may be required by law and only after notice to the SMART Commander, the Venue Agency will not release any information that may compromise a SMART investigation.

If the Venue Agency determines that it has adequate oversight and control of an investigation that does not involve potential allegations of officer/employee misconduct and only needs additional staff or equipment, the Venue Agency may retain command of the investigation by assigning a qualified supervisor for the investigation. In such cases, the Venue Agency shall retain responsibility for decisions involving the investigative process and the release of any information and the SMART Commander may assist the Venue Agency in selecting and mobilizing needed resources or with organizational tasks. (If the Venue Agency’s request is for an Officer Involved incident, the SMART Commander, will have complete autonomy to manage the investigation or the SMART will not be utilized.)

5.2. SMART Obligation to Keep Venue Agency Informed. The following shall apply to investigations in which SMART has assumed control. The SMART Commander shall ensure that the Venue Agency's Police Chief, Sheriff or their designees are kept informed of the progress of the investigation. The Commander may meet with the involved agency's Police Chief/Sheriff or their designee the following business day after the initial investigation.

If requested by the Venue Agency's Chief, Sheriff or their designee, the SMART Commander will arrange for an administrative walk-thru of the scene with the Venue Agency's Chief, Sheriff or command staff. The SMART Supervisor and Case Manager will participate in this walk-thru to answer any questions. This walk-thru will only occur after the scene has been processed and evidence collected and just prior to the scene being turned back over to a responsible party. The Venue Agency's command staff will not take part in any crime scene processing. Involved officers and witnesses will not participate in a walk-thru.

After the SMART investigation has been completed and the prosecutor reviewing the case has made a charging decision, the SMART Commander will schedule a case overview meeting for the Venue Agency. This meeting is intended to brief the Venue Agency's command staff and legal department on what occurred during the incident, what investigative steps were undertaken, and to answer any questions that the Venue Agency may have with regards to the investigation. The SMART Supervisor and Case Manger will be responsible for presenting the case overview.

6. REPORTS, RECORDS and PERSONNEL.

a) Processing and maintenance of investigation reports.

- (1) Upon request from the SMART Commander, Supervisor, or designee, the Skagit 911 Dispatch Center will assign a Law Incident Case Number generated through Skagit County's public safety database currently managed through SPILLMAN® software ("SPILLMAN") to a SMART investigation. All original reports, statements, and other documentation shall be identified by this case number. Records staff from the participating agencies will have access to SPILLMAN to transcribe their investigator's reports using the SMART case number.
- (2) The SMART Commander may partition the case in SPILLMAN and limit access when the narrative is sensitive and confidentiality is needed for case integrity.
- (3) The Venue Agency may use or designate a separate SPILLMAN Law Incident Case Number for its originating incident but that number will remain separate from the SMART Investigation case.
- (4) Report processing.
 - (i) Investigators will deliver their completed reports to the SMART Supervisor for review and approval.
 - (ii) The Team Supervisor will deliver approved case reports to the Case Manager as soon as practical.
- (5) Maintenance of original records.
 - (i) For an Officer Involved investigation that does not involve a Sheriff's deputy, records will be maintained by the Skagit County Sheriff's Office.

- (ii) For an Officer Involved investigation that involves a Sheriff's deputy, records will be maintained by the SMART Commander's agency. If the Commander is from the Sheriff's Office, he/she would step out of that role and the Assistant Commander would step in to command the investigation (as long as they were from another agency). If it is determined that an alternate Commander or Assistant Commander is required to maintain investigation integrity, the Executive Board may appoint a qualified officer to fill the position for the duration of the investigation,
- (iii) For any SMART investigation required because need exceeds the Venue Agency's resources, the Venue Agency shall be maintain reports.

b) Personnel.

- (1) Law enforcement agencies providing personnel to the SMART will track successfully completed training and make it available to the SMART Commander as requested.
- (2) Incidents covered by this agreement can expose individuals to traumatic experiences. Upon an investigation team member's request or as recommended by a Team supervisor, commander, or executive board, Critical Incident Stress Management (CISM) services should be made available to any and all members of the SMART by the member's law enforcement agency.
- (3) Personnel may be removed from the SMART without cause by the SMART Commander or by his/her agency
- (4) In the event of a conflict between terms within this Agreement and a Party's collective bargaining agreement, terms within the collective bargaining agreement shall control.

c) Investigation review.

- (1) Upon the conclusion of a SMART investigation, the SMART Commander will schedule a timely debriefing for SMART Investigators. The debriefing shall review each investigator's involvement in the case, assign out any additional tasks that may need completing, and ensure equipment is returned in working order for future callouts. The SMART Supervisor shall facilitate the debriefing.
- (2) A formal SMART Use Review will be scheduled no later than 30 days from demobilization. The purpose of this review will be to improve readiness and identify training needs by reviewing roles, responsibilities, communication lines, investigative systems, and equipment applied during the Team's activation.
- (3) The SMART Commander or his/her designee shall prepare and report findings from the Use Review to the Executive Board. The SMART Commander will communicate any findings that involve the Venue Agency to the Venue Agency.
- (4) Each party's law enforcement agency shall communicate the findings of the Use Review to appropriate staff and shall train or retrain as appropriate.

7. INDEMNIFICATION.

Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees, and further agrees to save, indemnify, defend, and hold the other party(ies) harmless from any such liability for the wrongful and/or negligent acts or omissions of the indemnifying party or of the indemnifying party's officials, officers, agents, or employees.

For the purpose of indemnification, persons assigned to SMART shall be deemed to be, at all times, continuing under the control and employment of his or her assigning jurisdiction and its law enforcement department. It is mutually agreed by the participating agencies that any control exerted by SMART supervisors shall not supersede this clause.

It is intended that no liability shall attach to any party by reason of entering into this Agreement except as expressly provided herein.

Each party shall give written notice to the Executive Board, and the legal departments of the parties, of any act or occurrence that the party reasonably believes may lead to a claim or demand that may be subject to the indemnity provisions of this agreement. Such notice shall be given within 5 days after the incidence of such act or occurrence has come to the notifying party's knowledge.

8. DISPUTE RESOLUTION AND VENUE.

- a) **Mediation.** Any controversy, claim or dispute, including claims and counterclaims by the parties concerning the making, formulation, validity, obligations and duties under and/or breach of a party's obligations under this Agreement and issues related to the existence, interpretation and enforceability of the mediation and arbitration provisions of this Agreement shall be subject to mandatory mediation. A competent mediator shall be chosen by agreement of the parties. If the parties are unable to agree on a mediator, a party may request that the Presiding Judge for Skagit County Superior Court for the State of Washington appoint a mediator.
- b) **Arbitration.** If not resolved within fifteen days after selection or appointment of a mediator (or such longer period as may be mutually agreed upon by the parties), any controversy, claim or dispute, including claims and counterclaims by the parties, concerning the making, formation, validity, obligations and duties under and/or breach of a party's obligations under this Agreement and issues related to the existence, interpretation and enforceability of the mediation and arbitration provisions of this Agreement, shall be adjudicated by binding arbitration. The arbitration shall take place in the administrative offices of Skagit County, or such other place as the parties may agree. One neutral arbitrator shall be selected by mutual agreement. When applicable expedited arbitration procedures shall be used. The arbitrator shall have the power and authority to grant legal and equitable remedies in accordance with the provisions of this Agreement. The arbitrator shall have the authority to authorize or require discovery of the kinds provided for by the Washington Rules of Civil Procedure. The decision of the arbitrator shall be final and binding. The costs of arbitration shall be borne equally by the parties unless the arbitrator rules otherwise.

c) **Compelling and Enforcing Arbitration.** Mediation and arbitration under this paragraph 8 may be compelled and a decision of the arbitrator pursuant to sub-paragraphs B or D may be enforced through appropriate judicial proceedings initiated in the Skagit County Superior Court.

9. EMPLOYER DESIGNATION-STATUS OF PARTIES

- a) The parties agree that while performing any portion of the work described in this Agreement each police officer shall remain, for all purposes and issues of liability, the employee of the officer's originating employer. Each officer's originating employer shall remain obligated for that employee's benefits, of any nature, and all federal and state employment tax obligations as if that employee were performing the listed functions for its originating employer. The intent of this paragraph is to avoid the creation of a "borrowed employee" situation as the party's officers perform the functions laid out in this Agreement.
- b) Nothing contained herein shall be construed to imply a partnership, joint venture, or principal and agent relationship between the parties. No party to this Agreement shall have any right, power or authority to create any obligation, express or implied, on behalf of the other unless expressly provided for in writing.

10. **TERM OF AGREEMENT.** The term of this Agreement shall be from date signed by the participating municipalities and shall continue until terminated pursuant to Section 11 of this Agreement.

11. **TERMINATION.** Any party hereto may terminate its participation in this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to each remaining party to the Agreement. In cases where the withdrawing agency is receiving SMART assistance, the termination shall not be effective until the conclusion of the SMART investigation. A party's decision to terminate its participation in the SMART does not affect the participation of remaining parties under this Agreement. A terminating party shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

12. **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS.** The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

13. **SEVERABILITY.** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

14. **ENTIRE AGREEMENT.** This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

DATED this _____ day of _____, 2013.

CITY OF ANACORTES:

DEAN MAXWELL, Mayor

Mailing Address:

City of Anacortes
City Hall
P.O. Box 547
Anacortes, WA 98221

Approved as to content:

CHIEF OF POLICE

Approved as to form:

CITY ATTORNEY

Attest:

CITY CLERK

DATED this _____ day of _____, 2013.

CITY OF BURLINGTON:

STEVE SEXTON, Mayor

Mailing Address:

City of Burlington
City Hall
833 S. Spruce St.
Burlington, WA 98233

Approved as to content:

CHIEF OF POLICE

Approved as to form:

CITY ATTORNEY

Attest:

CITY CLERK

DATED this _____ day of _____, 2013.

CITY OF MOUNT VERNON:

JILL BOUDREAU, Mayor

Mailing Address:

City of Mount Vernon
City Hall, 2nd Floor
910 Cleveland Avenue
P.O. Box 809
Mount Vernon, WA 98273

Approved as to content:

CHIEF OF POLICE

Approved as to form:

CITY ATTORNEY

Attest:

CITY CLERK

DATED this _____ day of _____, 2013.

CITY OF SEDRO-WOOLLEY:

MIKE ANDERSON, Mayor

Mailing Address:

City of Sedro-Woolley
325 Metcalf Street
Sedro-Woolley WA 98284

Approved as to content:

CHIEF OF POLICE

Approved as to form:

CITY ATTORNEY

Attest:

CITY CLERK

DATED this ____ day of _____, 2013.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Sharon D. Dillon, Chair

Ron Wesen, Commissioner

Attest:

Kenneth A. Dahlstedt, Commissioner

Clerk of the Board

Recommended:

Will Reichardt, Skagit County Sheriff

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

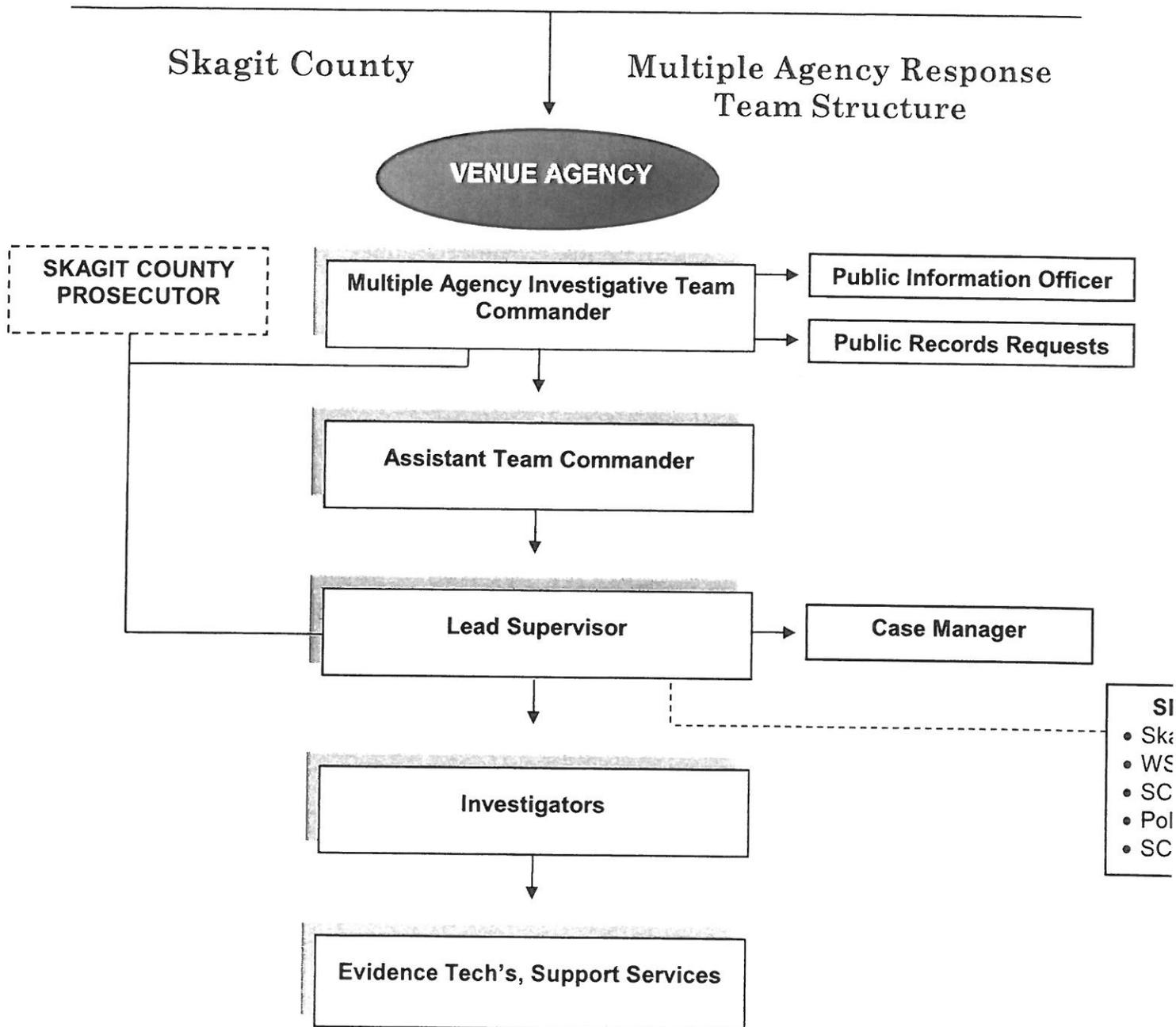
Risk Manager

Approved as to budget:

Budget & Finance Director

ATTACHMENT 1: SMART Structure

Skagit County Sheriff
Chiefs of Police
Commander, Washington State Patrol for Skagit-Island-
Whatcom County



ATTACHMENT 2: Command Personnel and Responsibilities

SMART COMMANDER

Maintains a command level rank and is appointed by the Executive Board for a two year term. The Executive Board may extend the service based on mutual agreement. He/she is responsible for all aspects of managing and coordinating SMART Team readiness to include equipment readiness, personnel training, situational assessments, developing investigative priorities/objectives and managing all operations as needed for an investigation.

Administrative Responsibilities:

- Develop a roster of investigators, specialists and equipment available for callout.
- Update training records for those assigned to SMART responsibilities annually.
- Arrange, coordinate and record all Team training and attendance.
- Manage financial transactions/records of the Team.
- Assume Investigative Command responsibilities when requested.
- Report SMART activities to the Executive Board annually.

Investigative Command Responsibilities:

- Command and control for all aspects of the investigative response including situational assessment, developing investigative priorities/objectives and managing the operation.
- Ensure safety and welfare of all personnel assigned to the investigation including any citizens directly or indirectly impacted.
- Consult with Skagit County Prosecutor regarding legal issues.
- Designate the SMART Supervisor & approve tactics to accomplish the objectives.
- Report status/progress to the Venue Agency Chief, Sheriff or designee.

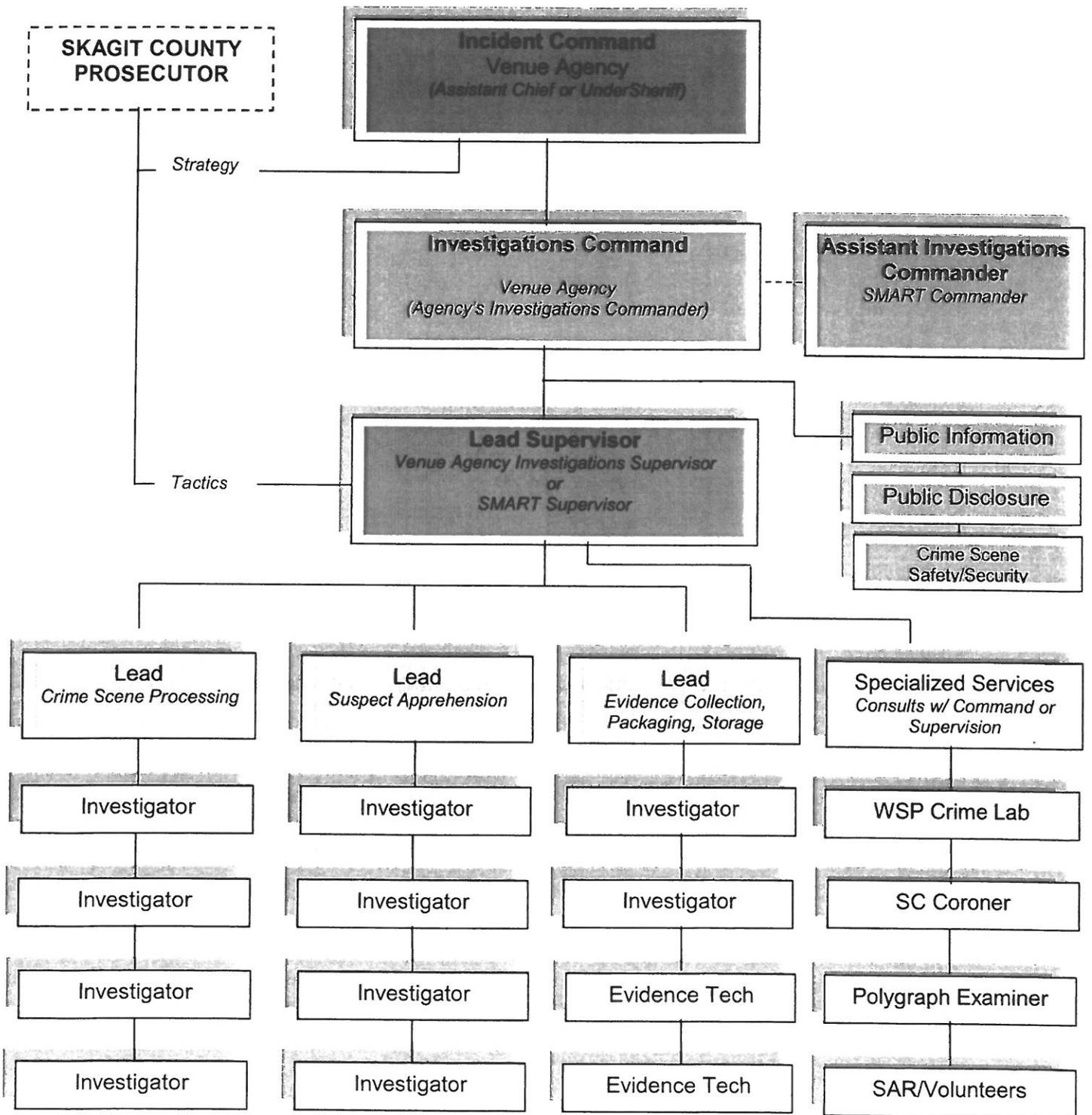
ASSISTANT SMART COMMANDER

Possesses a command level rank and is appointed by the Executive Board for a two year term. The Executive Board may extend the service based on mutual agreement. He/she is responsible for assuming all aspects of the SMART Team Commander's duties in his/her absence.

Key Responsibilities:

- Provide assistance to the SMART Commander as needed for administrative tasks.
- Report to the SMART Commander.
- Assist with investigative strategy development.
- Provide public information regarding the status/progress of the investigation or establish a formal Public Information Officer function.
- Conduct safety audits of the scene, personnel & methods.
- Coordinate with Venue Agency security supervisor.
- Liaison to community/business surrounding crime scene area addressing concerns, access restrictions, timelines, etc.

ATTACHMENT 3: SMART Structure (Optional) for SMART Assisting an Agency Investigation



ATTACHMENT 4: Investigation Team Personnel and Responsibilities

GENERAL: Participating in the SMART is voluntary and requires approval from the member's agency and the SMART Commander.

SMART command staff, including supervisors and team leaders, and investigators, shall be a general authority Washington peace officer who either works full-time for a city or county law enforcement agency or has such status under the Tribal Police Officers Act, chapter 10.92 RCW. Individuals with part-time or prior experience working in non-investigative areas will be referred or approved between the agency head and the SMART Commander.

Participants shall acknowledge the additional workload demands and potential hazards involved with this type of assignment including, but not limited to, extended hours of work, availability for callout with little or no notice, and exposure to potential hazards at crime scenes.

The SMART Commander will review a proposed member's training, experience, and performance and may consult with team supervisors before final acceptance occurs. Work assignments will be based on the individual's investigative training and experience.

SMART COMMANDER

Maintains a command level rank and is appointed by the Executive Board for a two year term. The Executive Board may extend the service based on mutual agreement. He/she is responsible for all aspects of managing and coordinating SMART Team readiness to include equipment readiness, personnel training, situational assessments, developing investigative priorities/objectives and managing all operations as needed for an investigation.

Administrative Responsibilities:

- Develop a roster of investigators, specialists and equipment available for callout.
- Update training records for those assigned to SMART responsibilities annually.
- Arrange, coordinate and record all Team training and attendance.
- Manage financial transactions/records of the Team.
- Assume Investigative Command responsibilities when requested.
- Report SMART activities to the Executive Board annually.

Investigative Command Responsibilities:

- Provide command and control for all aspects of the investigative response including situational assessment, developing investigative priorities/objectives and managing the operation.
- Ensure safety and welfare of all personnel assigned to the investigation including any citizens directly or indirectly impacted.
- Consult with Skagit County Prosecutor regarding legal issues.
- Designate the SMART Supervisor and approve tactics to accomplish the objectives.
- Report status/progress to the Venue Agency Chief, Sheriff or designee.

ASSISTANT SMART COMMANDER

Possesses a command level rank and is appointed by the Executive Board for a two year term. The Executive Board may extend the service based on mutual agreement. He/she is responsible for assuming all aspects of the SMART Team Commander's duties in his/her absence.

Key Responsibilities:

- Provide assistance to the SMART Commander as needed for administrative tasks.
- Report to the SMART Commander.
- Assist with investigative strategy development.
- Provide public information regarding the status/progress of the investigation or establish a formal Public Information Officer function.
- Conduct safety audits of the scene, personnel & methods.
- Coordinate with Venue Agency security supervisor.
- Liaison to community/business surrounding crime scene area addressing concerns, access restrictions, timelines, etc.

SMART SUPERVISOR

The SMART Supervisor is designated by the Team Commander. The SMART Supervisor will take direct charge of the crime scene investigation. In the event teams of investigators are created to handle certain tasks or areas, one person from each team shall be designated the Lead Investigator and report back to the SMART Supervisor.

If multiple supervisors are required, only one will be designated as the SMART Supervisor, the remainder will be Lead Investigators or general investigators.

Key Responsibilities:

- Reports to the Team Commander.
- Develops investigative tactics to accomplish objectives outlined by the Investigation Commander.
- Supervises all personnel and resources committed to the investigation.
- Develops specific methods for preserving, processing and collecting evidence.
- Develops investigative timelines.
- Organizes processes to collect victim, witness & suspect interviews.
- Participates in meetings or consults with the Prosecutor as needed.
- Coordinates investigative processes with specialized services (WSP Crime Lab, Coroner, Polygraph, etc.)

CASE MANAGER

Every investigation needs a person or persons who are assigned to track the case details from start of the investigation through prosecution stages. This function will be familiar with all aspects of the case in order to be responsive to requests from agencies like the prosecutor's office. Case Manager(s) are selected by the SMART Supervisor as early as possible in the investigation and remain until reassigned.

Key Responsibilities:

- Report to the SMART Supervisor.
- Responsible have a working knowledge of all aspects of the case.
- Respond to requests from the prosecutor's office.
- Coordinate responses with the SMART Commander/Supervisor to the Venue Agency.
- Review all investigator reports.
- Confirm evidence collection is accurately reported.

INVESTIGATORS & LEADS (TEMPORARY)

Investigators are comprised of those currently assigned to the Participating Agency's Criminal Investigations Division. Selection and assignment of specific investigatory tasks will be at the direction of the SMART Supervisor or his/her designee.

Leads, in the event teams of investigators are created to handle certain tasks or areas (hospital scene, outdoor scene, interviews, etc.), one person may be designated the Lead Investigator. Once the task is complete, Leads return to their normal assignment.

Key Responsibilities - Investigators:

- Report to the SMART Supervisor or assigned Lead.
- Responsible for specific investigative tasks as assigned.
- Work collaboratively with other investigators & personnel to accomplish tasks.
- Prepare investigative reports to document work as required.
- Maintain proficiency with various equipment and contemporary investigative practices.
- Report safety issues or concerns.

Key Responsibilities - Leads:

- Report to the Lead Supervisor.
- Responsible for personnel or resources within a defined task or area. (Example: Neighborhood canvass, scene documentation, evidence collection, witness interviews, a specific geographic area, etc.).
- Develop investigative approaches for the specific assignment.
- Supervise all personnel and resources assigned to him/her.

- Develop timelines to accomplish assigned tasks.
- Coordinate investigative processes with specialized services (Prosecutor, Crime Lab, Coroner, etc.) within the specific task or area assigned.

EVIDENCE TECHNICIANS

Evidence Technicians shall help with tabulating, collecting, packaging, transporting and storing evidence. Other duties within the scope of their assignment and training may be assigned.

Key Responsibilities:

- Report to the SMART Supervisor or Lead Investigator.
- Responsible for specific evidentiary collection, packaging or transport tasks.
- Establish packaging logs and appropriate audit trails for collected items.
- Assess appropriate transportation needs.
- Solve special evidence collection/packaging challenges – Haz Mat, oversized items, storage space limitations, etc.
- Work collaboratively with other investigators & personnel to accomplish tasks.
- Prepare investigative reports to document work as required.
- Report safety issues or concerns.

PUBLIC INFORMATION OFFICER (PIO)

The Team Commander will designate a PIO at all investigation scenes. The PIO serves as an information conduit to the organized media. The PIO will ensure that all information is accurate, objective and factual and shall coordinate its release information through the SMART Commander. At incidents where the media is on-scene and a PIO is not immediately available the Team Commander or his/her designee may provide preliminary statements to the media. In the event the media does not respond to the scene of an investigation but still contacts the affected agencies requesting information, the media will be instructed to first contact the designated PIO assigned to the investigation

Key Responsibilities:

- Report to the Team Commander.
- Assist news personnel in covering news stories at the scene of incidents.
- Is reasonably available for on-call responses to the news media.
- Is available for after hours call-out.
- Prepare and distribute agency news releases.
- Arrange for and assist at news conferences.
- Coordinate and authorize the release of information about victims, witnesses, and suspects.
- Coordinate and authorize the release of information.

ATTACHMENT 5: MINIMUM QUALIFICATIONS FOR TEAM INVESTIGATORS

GENERAL AUTHORITY

- General authority Washington peace officer who works full-time for a city or county law enforcement agency and is commissioned to enforce the criminal laws of the State of Washington.
- Tribal police officers recognized and authorized to act as general authority Washington peace officers under the Tribal Police Officers Act, chapter 10.92 RCW.

BASIC TRAINING

- Criminal Investigations
- Basic Homicide Investigation
- Crime Scene Investigation
- Reid Technique of Interviewing and Interrogation
- Officer Involved Shooting Investigation
- In-Custody Death Investigation
- WSP Evidence, Collection & Packaging/Crime Scene Laboratory Services
- Cell Phone Forensic extraction (Cellebrite)

ADVANCED TRAINING

The following are recommended courses for investigators:

- Advanced Homicide Investigation
- Advanced Reid Interviewing and Interrogation
- Blood Spatter
- Crime Scene Photography
- Cell phone tracking
- GPS Tracking
- DNA collection
- Sudden Infant Death Syndrome
- Excited Delirium and Positional Asphyxia
- Other related training, seminars, and conferences or on-going training as offered by CJTC or other training venues on an as available basis.

IN-SERVICE TRAINING

- Monthly area detectives meetings.
- At least annually, an exercise or training that mobilizes the entire team.

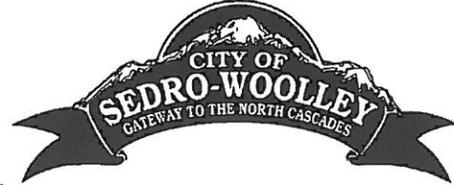
NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3e

CITY OF SEDRO-WOOLLEY PUBLIC WORKS OPERATIONS DEPARTMENT

409 Alexander Street, Sedro-Woolley, WA 98284 (360) 856-5167

Memorandum



To: Mayor Mike Anderson, City Council
From: Nathan Salseina, Public Works Operations Supervisor
Date: 11/4/2013
Re: Riverfront Park Caretaker Agreement

Mayor and Council

Our Riverfront Park Caretaker vacated her position on October 27th.
We advertised the position for most of last month and interviewed 7 applicants for the position.

Having a qualified and trustworthy person in this position is very important for the park and the city.
Staff would like to have the new caretaker in place and ready to begin their duties on December 1st.

Staff has selected Kenneth Clark a retired City of Anacortes Police Officer. Kenneth also worked as a Sedro-Woolley Police Officer from 1975 to 1986. He has a great background of experience and will be an asset to the city. Kenneth and his wife are very excited about this opportunity and are eager to begin their duties.

Staff recommends approval of the attached agreement.

Please let me know if you have any questions.

Thank you,

A handwritten signature in black ink, appearing to read 'Nathan Salseina', is written over a horizontal line.

Nathan Salseina
Public Works Operations Supervisor

Riverfront Park Caretaker Agreement

This agreement, dated this _____ day of November, 2013, is made and entered into between Ken and Loretta Clark, married persons, (hereinafter "Caretaker") and the City of Sedro-Woolley, a Washington municipal corporation (hereinafter "City").

Caretaker and the city agree that he/she shall perform the duties of Riverfront Park Caretaker upon the following terms and conditions.

COMPENSATION: Caretaker shall be paid a monthly stipend of \$100.00 for his/her work as caretaker (\$50.00 each for a total compensation of \$100.00). Caretaker shall be required to reside in the caretakers' residence at Riverfront Park as a condition of this position.

UTILITIES: City agrees to pay or provide for septic, garbage, electric power and water utilities and services to the caretakers quarters at city expense.

USE OF PREMESIS: Caretaker shall not assign this agreement, sublet the premises, give accommodations to any roomers or lodgers or permit the premises to be used for any purpose other than a private dwelling for caretaker and immediate family.

PREMESIS DEFENTION: The premises are defined as the caretakers' quarters, and the fenced in area surrounding the caretakers quarters.

CARETAKER'S RESIDENCE OBLIGATIONS: Caretaker agrees as follows:

- (a) To park their personal vehicles only at spaces provided adjacent to the premises.
- (b) To keep the premises in a clean, presentable and sanitary condition.
- (c) To report any damage or maintenance needed to the caretaker residence to the Public Works Operations Supervisor immediately.
- (d) To repair at caretakers expense any damage to the caretakers residence caused by negligence within 30 days of written notice from the city or sooner if made necessary by and emergency.
- (e) To permit the city, its agents, employees or representatives to enter the premises at reasonable times after notice for the purpose of inspections, to make necessary repairs, or to show the residence to insurance representatives.
- (f) Not to have any pets or animals of any kind within the premises without prior written approval from the city.
- (g) Not to make alterations, additions, painting or improvements to the premises without prior written approval from the city.
- (h) To comply with reasonable rules and regulations for the use of the caretakers quarters as established by the city which are not inconsistent with this agreement.

LIABILITY: The city or its officials, employees, and agents shall not be liable for any claim, actions or judgements for injury to property, or injury to persons suffered or alleged to be suffered within the caretakers premises, unless caused by negligence of the city, its officials, employees or agents acting in the course of their employment.

INSURANCE: The city shall carry an insurance policy for the caretakers quarters for fire and casualty, and shall receive any and all proceeds thereof, in case of fire or casualty. caretaker hereby waives any right to receive proceeds under this policy. Caretaker shall provide his own insurance for personal contents of the caretakers quarters. Caretaker shall look solely to his own insurance, in the event of fire or other casualty, and waives any claim against the city therefore.

REPAIRS: In the event of fire or other natural disasters which render the premises uninhabitable, the city reserves the right to repair the premises owned by the city and continue this agreement in force, or alternatively, at its option, to terminate this agreement without further obligation to Caretaker.

MAINTENANCE: The city shall be responsible for all exterior maintenance of the caretakers residence. Interior maintenance including light bulbs, carpet cleaning, fire and carbon monoxide alarms, and other normal wear and tear shall be the responsibility of the caretaker.

APPLIANCES: The City shall furnish an oven/range, a refrigerator, and a hot water heater. The Caretaker shall provide all other personal appliances.

CARETAKERS DUTIES AND OBLIGATIONS

- (a) Open and close park entrance gates and restroom facilities morning and dusk,
- (b) General security of the park and its use by the public. Caretaker shall attempt, without force to resolve and control any disputes, unruly behavior, disturbances or violation of park rules and ordinances that might occur. Any disputes or disturbances that cannot be peacefully resolved by the caretaker shall immediately be referred to the Sedro-Woolley Police Department.
- (c) Caretaker maintenance duties shall include the following:
 - 1. General maintenance, litter pick up, and cleaning of the park grounds and restrooms;
 - 2. Restrooms shall be inspected daily to supply necessary paper towels, toilet paper, and hand soap. Restrooms will be thoroughly washed and cleaned when necessary; during the peak season this will need to be done every couple of hours.
 - 3. Garbage cans shall be checked daily, emptied when necessary.
 - 4. Notify Operations Supervisor when supplies are needed;
 - 5. Watering of grounds as necessary, and flower baskets and beds;
 - 6. Clean and wash park kitchen area and all tables before all scheduled event rentals and when necessary;
 - 7. Flower bed weeding and maintenance;

8. Clean ash out of BBQ pits and picnic tables and pads as needed;
 9. Replace picnic tables when they are removed from their designated area;
 10. Provide other park maintenance not otherwise listed to ensure an aesthetic and sanitary park environment.
 11. Caretaker will perform weekly cleaning of off leash dog-park as needed.
 12. Caretaker will set up electrical system for amphitheater when requested.
 13. Caretaker will inspect playground equipment daily for safety purposes.
- (d) Caretaker will close and lock restrooms at Hammer Heritage Square, Memorial Park, and Bingham Park at dusk daily.
- (e) Caretaker in the absence of an RV Park Host shall greet park guests, assist them with hooking up with utilities, and ensure that RV space rent is paid, and report problems to the Public Works Operations Supervisor.

WORK HOURS

Caretaker is free to determine hours of work to accomplish the above tasks unless specifically directed by the Public Works Operations Supervisor or designee.

TERMINATION: This agreement shall terminate and Caretaker shall surrender the premises to the city without notice or compensation, and in accordance with this agreement, upon the sooner of:

- (a) Upon election by the city to terminate this agreement for material violation of its terms by Caretaker;
- (b) As otherwise set forth in this agreement;
- (c) By either party with 60 days notice to the other party.

APPLICABLE LAW: This agreement shall be governed by the laws of the State of Washington and the Laws of the City of Sedro-Woolley.

Caretaker acknowledges that s/he has read this agreement and will abide by the terms and comply with all rules and regulations adopted by the city.

CITY OF SEDRO-WOLLEY

Mayor

Caretaker

ATTEST:

Finance Director

Caretaker

APPROVED AS TO FORM:

City Attorney

NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 31

Memorandum

To: Mayor Anderson and City Council

From: Patsy Nelson *Patsy*

Date: 11/5/2013

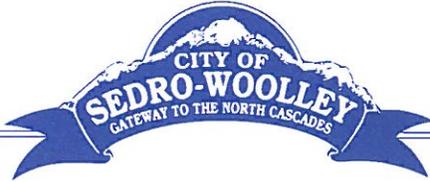
Re: 2014 Budget Ordinance Hearing

Recommended Action

Staff recommends the Council move to set a public hearing to consider adoption of the 2014 Budget Ordinance on Tuesday, November 26, 2013 at 7:00 p.m.

NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 5

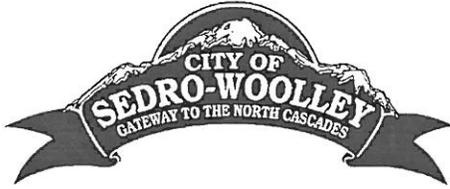


SUBJECT: PUBLIC COMMENT

Name:
Address:
Narrative:

CITY COUNCIL AGENDA
REGULAR MEETING

NOV 13 2013



7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 6

CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

Eron Berg
City Supervisor/Attorney

MEMO TO: City Council
FROM: Eron Berg
RE: *Citizens United v. the Federal Elections Commission*
FOR MEETING ON: November 13, 2013

ISSUE: Should the Council pass a resolution commenting on this decision?

BACKGROUND: This item returns to the City Council for a public hearing and possible action by vote of the City Council at the last meeting.

Attached is a resolution that is substantially similar to the one adopted by the City of Anacortes which calls upon the legislature and congress to take action to restore the carefully crafted balance between free speech and campaign finance restrictions that existed prior to the *Citizens United* decision.

Attached for your convenience is a copy of the U.S. Constitution.

RECOMMENDATION: *Following a public hearing:*

- Options:
1. No action.
 2. Motion to adopt the attached resolution regarding the *Citizens United* decision.
 3. Motion to adopt a modified resolution.

A Resolution of the City Council of the City of Sedro-Woolley Supporting an Amendment to the United States Constitution to Regulate Corporate and Union Political Spending and Campaign Financing

Whereas the freedom of speech, especially political speech, is a fundamental component of any functioning democracy;

Whereas the U.S. Supreme Court has long held that the freedom of speech may only be restricted where a compelling governmental interest demands it;

Whereas the U.S. Supreme Court established in *Buckley v. Valeo*, 424 U.S. 1 (1976), that independent campaign expenditures made by individuals and groups—made without coordination with a candidate for political office—constitute speech protected under the First Amendment to the United States Constitution;

Whereas *Buckley* found that “limitation on independent expenditures ‘relative to a clearly identified candidate’ precludes most associations from effectively amplifying the voice of their adherents, the original basis for the recognition of First Amendment protection of the freedom of association”;

Whereas *Buckley* found that the government’s compelling interest in preventing “corruption or its appearance” justifies restrictions on direct contributions to federal political candidates because those limits involve “little direct restraint on [the contributor’s] political communication, for it permits the symbolic expression of support evidenced by a contribution but does not in any way infringe the contributor’s freedom to discuss candidates and issues”;

Whereas the Court found constitutional the prohibition of direct corporate and labor union spending (from their treasury funds) on elections;

Whereas *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238 (1986) found it was unconstitutional to bar direct corporate spending of treasury funds by non-profit corporations which were not conduits or agents for for-profit corporations or labor unions;

Whereas a leading academic in the field of election law, Richard L. Hasen of the University of California, Irvine, School of Law, has written that the “jumble of rules did...strike a delicate balance between free speech rights and anti-corruption and political equality interests” (Harvard Law & Policy Review, Winter 2013 [forthcoming]; UC Irvine School of Law Research Paper No. 2013-117);

Whereas the United States Supreme Court in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010) reversed prior rulings to hold that the First Amendment prohibits any restriction of independent political expenditures by corporations, associations, or labor unions;

Whereas the decision did not affect the federal ban on direct contributions from corporations or unions to federal candidate campaigns and political parties;

Whereas many Americans find offensive the notion that for-profit corporations have rights equivalent to individuals;

Whereas the increasing wealth inequality of American society has led to small numbers of individual speakers being able to spend extraordinary sums of money to promote their message—essentially speaking louder than others;

Whereas just as the Ethiopian proverb holds that “when spiders unite, they can tie down a lion,” the need for individual citizens to leverage their individual voices through *non*-profit corporations and political action committees may be essential to ensuring those voices are heard;

Whereas many have promoted a Constitutional amendment to reverse *Citizens United*, but the field of First Amendment and election law is nuanced and complex, and it is not clear that language in such a constitutional amendment would protect the incorporated press nor non-profit ideological corporations;

Whereas placing broad power to control political speech in the hands of Congress or state or local governments would subvert the fundamental underpinnings of the First Amendment and our democracy;

Now therefore be it resolved by the City Council of the City of Sedro-Woolley:

The City Council calls upon the Washington State Legislature and the United States Congress to amend federal statutes or the United States Constitution with provisions that restore the carefully-balanced framework that existed prior to the *Citizens United* decision.

PASSED this ____ day of _____, 2013.

MAYOR

Attest:

Finance Director

Approved as to form:

City Attorney

The Constitution of the United States

Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article. I. - The Legislative Branch

Section 1 - The Legislature

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2 - The House

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

(Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.) **(The previous sentence in parentheses was modified by the 14th Amendment, section 2.)** The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3 - The Senate

The Senate of the United States shall be composed of two Senators from each State, *(chosen by the Legislature thereof,)* **(The preceding words in parentheses superseded by 17th Amendment, section 1.)** for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; *(and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.)* **(The preceding words in parentheses were superseded by the 17th Amendment, section 2.)**

No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4 - Elections, Meetings

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Place of Chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall *(be on the first Monday in December.)* **(The preceding words in parentheses were superseded by the 20th Amendment, section 2.)** unless they shall by Law appoint a different Day.

Section 5 - Membership, Rules, Journals, Adjournment

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6 - Compensation

(The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.) **(The preceding words in parentheses were modified by the 27th Amendment.)** They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7 - Revenue Bills, Legislative Process, Presidential Veto

All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8 - Powers of Congress

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and Post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9 - Limits on Congress

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

(No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.) (Section in parentheses clarified by the 16th Amendment.)

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince or foreign State.

Section 10 - Powers prohibited of States

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II. - The Executive Branch

Section 1 - The President

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice-President chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

(The Electors shall meet in their respective States, and vote by Ballot for two persons, of whom one at least shall not lie an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.) **(This clause in parentheses was superseded by the 12th Amendment.)**

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

(In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.) **(This clause in parentheses has been modified by the 20th and 25th Amendments.)**

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2 - Civilian Power over Military, Cabinet, Pardon Power, Appointments

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3 - State of the Union, Convening Congress

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4 - Disqualification

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III. - The Judicial Branch

Section 1 - Judicial powers

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

Section 2 - Trial by Jury, Original Jurisdiction, Jury Trials

(The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States; between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.) (This section in parentheses is modified by the 11th Amendment.)

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3 - Treason

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV. - The States

Section 1 - Each State to Honor all others

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2 - State citizens, Extradition

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

(No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, But shall be delivered up on Claim of the Party to whom such Service or Labour may be due.) (This clause in parentheses is superseded by the 13th Amendment.)

Section 3 - New States

New States may be admitted by the Congress into this Union; but no new States shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4 - Republican government

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article. V. - Amendment

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article. VI. - Debts, Supremacy, Oaths

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article. VII. - Ratification

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. In Witness whereof We have hereunto subscribed our Names.

Go Washington - President and deputy from Virginia

New Hampshire - John Langdon, Nicholas Gilman

Massachusetts - Nathaniel Gorham, Rufus King

Connecticut - Wm Saml Johnson, Roger Sherman

New York - Alexander Hamilton

New Jersey - Wil Livingston, David Brearley, Wm Paterson, Jona. Dayton

Pensylvania - B Franklin, Thomas Mifflin, Robt Morris, Geo. Clymer, Thos FitzSimons,
Jared Ingersoll, James Wilson, Gouv Morris

Delaware - Geo. Read, Gunning Bedford jun, John Dickinson, Richard Bassett, Jaco.
Broom

Maryland - James McHenry, Dan of St Tho Jenifer, Danl Carroll

Virginia - John Blair, James Madison Jr.

North Carolina - Wm Blount, Richd Dobbs Spaight, Hu Williamson

South Carolina - J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce
Butler

Georgia - William Few, Abr Baldwin

Attest: William Jackson, Secretary

The Amendments

The following are the Amendments to the Constitution. The first ten Amendments collectively are commonly known as the Bill of Rights.

Amendment 1 - Freedom of Religion, Press, Expression. Ratified 12/15/1791.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment 2 - Right to Bear Arms. Ratified 12/15/1791.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment 3 - Quartering of Soldiers. Ratified 12/15/1791.

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment 4 - Search and Seizure. Ratified 12/15/1791.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment 5 - Trial and Punishment, Compensation for Takings. Ratified 12/15/1791.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 6 - Right to Speedy Trial, Confrontation of Witnesses. Ratified 12/15/1791.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses

against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment 7 - Trial by Jury in Civil Cases. Ratified 12/15/1791.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment 8 - Cruel and Unusual Punishment. Ratified 12/15/1791.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment 9 - Construction of Constitution. Ratified 12/15/1791.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment 10 - Powers of the States and People. Ratified 12/15/1791.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Amendment 11 - Judicial Limits. Ratified 2/7/1795.

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Amendment 12 - Choosing the President, Vice-President. Ratified 6/15/1804.

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;

The person having the greatest Number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment 13 - Slavery Abolished. Ratified 12/6/1865.

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.
2. Congress shall have power to enforce this article by appropriate legislation.

Amendment 14 - Citizenship Rights. Ratified 7/9/1868.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment 15 - Race No Bar to Vote. Ratified 2/3/1870.

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment 16 - Status of Income Tax Clarified. Ratified 2/3/1913.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Amendment 17 - Senators Elected by Popular Vote. Ratified 4/8/1913.

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment 18 - Liquor Abolished. Ratified 1/16/1919. Repealed by Amendment 21, 12/5/1933.

1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.
 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.
 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.
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Amendment 19 - Women's Suffrage. Ratified 8/18/1920.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

Amendment 20 - Presidential, Congressional Terms. Ratified 1/23/1933.

1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.
2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.
3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.
4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.
5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.
6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

Amendment 21 - Amendment 18 Repealed. Ratified 12/5/1933.

1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

3. The article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Amendment 22 - Presidential Term Limits. Ratified 2/27/1951.

1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President, when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Amendment 23 - Presidential Vote for District of Columbia. Ratified 3/29/1961.

1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment 24 - Poll Tax Barred. Ratified 1/23/1964.

1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or

Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment 25 - Presidential Disability and Succession. Ratified 2/10/1967.

1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty eight hours for that purpose if not in session. If the Congress, within twenty one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty one days after Congress is required to assemble, determines by two thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment 26 - Voting Age Set to 18 Years. Ratified 7/1/1971.

1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.
 2. The Congress shall have power to enforce this article by appropriate legislation.
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Amendment 27 - Limiting Congressional Pay Increases. Ratified 5/7/1992.

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

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NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 7

Memorandum

To: Mayor Anderson and City Council
From: Patsy Nelson *Patsy*
Date: 11/5/2013
Re: Public Hearing Property Tax Levy Ordinances (first reading)

Background information: The City of Sedro-Woolley's property taxes have two components. The first is voter approved bond tax revenues and the second is general property tax revenues.

Voter Approved Bond Tax Revenues Part of the ordinance is for the debt service for the Public Safety Building which was previously approved by the voters of Sedro-Woolley. Low-income senior citizens and disabled persons do not pay this tax. The 2014 tax request is \$210,000 which is the same as 2009, 2010, 2011, 2012 and 2013. The final payment on this bond is December 1, 2016.

General Property Tax Revenues As the population of the City is greater than 10,000, we fall under the Implicit Price Deflator (IPD) levy limit factor. The IPD limits the property tax levy to the lesser of 100% plus inflation or 101 percent (plus new construction and annexation). The Department of Revenue calculates the rate of inflation based upon the percentage change in the IPD. For the 2014 tax year the change in the IPD is 1.314% which limits the 2014 property tax to 101% of the 2013 dollar amount of tax (plus any new construction & annexations).

The Skagit County Auditor's Office has not yet issued the City's preliminary assessed valuations with preliminary tax rate calculations. It is our hope that they will be available by the next Council meeting. The final assessed valuations and resulting tax rate, will not be known until January/February, 2014.

If the Council were to decide upon a levy increase in the amount of 1%, it would result in \$17,619 of additional property tax; and a levy increase at the highest lawful levy would result in \$43,922 of additional property tax. Low-income senior citizens and disabled persons either do not pay this tax or receive a tax reduction, as determined by the Skagit County Assessor's Office. The use of this tax increase is not limited to the general fund; it may be restricted for specific items such as the acquisition of land, payment of debt etc.

Three sample property tax ordinances are attached showing general property taxes increased at 0%, 1% and 2.47%. A 1% increase is the maximum allowed except in the case of banked capacity. If the City Council were to choose to use the City's entire banked capacity in 2014, it would result in a tax increase of 2.47%. The amount of the voter approved bond tax revenues is the same on all three sample ordinances.

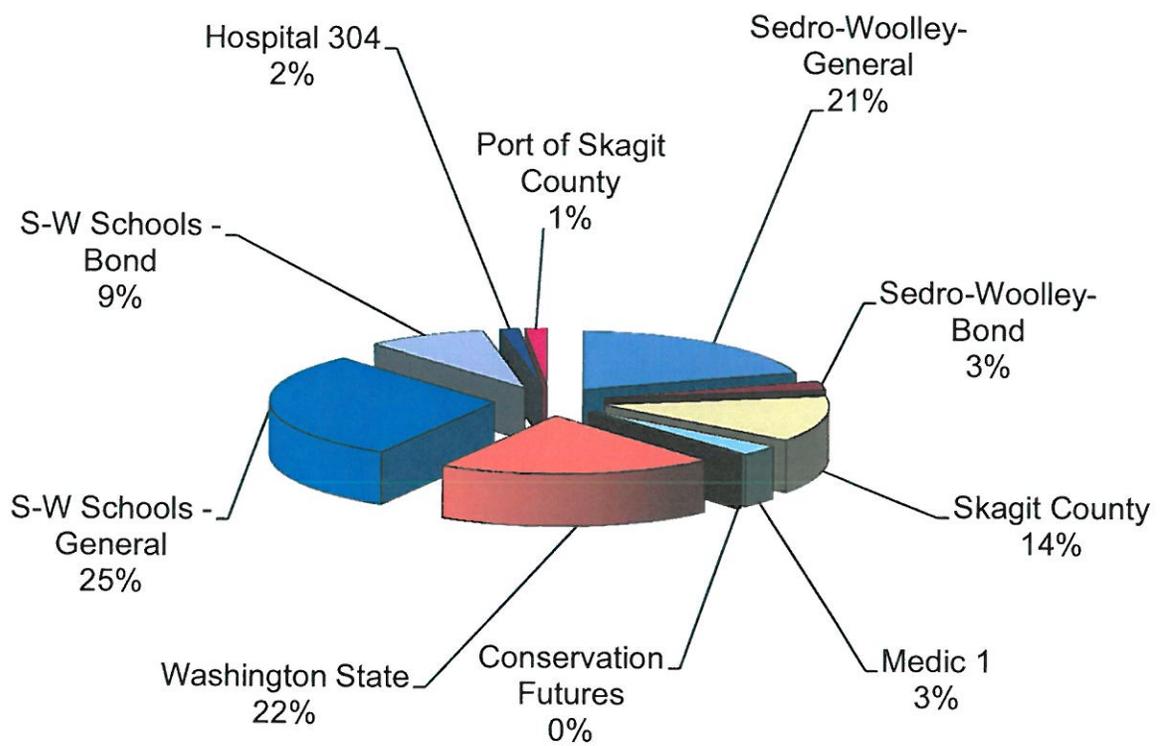
Process of Banking Property Tax If the Council does not wish to increase general property tax this year and save it as banked capacity for the future; approve an Ordinance with an increase of 1% and instruct the Finance Director to complete the 2014 Budget/Levy Request with a lower percentage increase. The difference between the ordinance and the levy request will be banked for the future.

If the Council does not wish to create banked capacity, either take the 1% tax increase (nothing left to bank) or approve an increase of 0%.

According to the Washington State Department of Revenue, no one has the authority to delete prior banked capacity so the dollar amount which is currently banked will remain available until used.

Other Revenues Other general fund revenues are anticipated to remain at their current level or with slight increases extending through 2014. The City has experienced an increase in sales taxes in 2013 due to the Cascade Middle School project; however sales taxes are expected to be reduced upon the completion of that project in 2014. A very slight increase in liquor excise taxes is expected unless a future legislative session re-appropriates these monies to the State general fund. All indicators predict a long, slow economic recovery.

City of Sedro-Woolley 2013 Property Tax



ORDINANCE NO. -13

AN ORDINANCE OF THE CITY OF SEDRO-WOOLLEY APPROVING THE PROPERTY TAX LEVY AT AN INCREASE OF 0%.

WHEREAS, The City Council of the City of Sedro-Woolley has properly given notice of the public hearing held November 13, 2013, to consider the City of Sedro-Woolley 2014 Real Estate Property Tax Levy; and

WHEREAS, the City Council, after hearing, and after duly considering all relevant evidence and testimony presented, has determined that the City of Sedro-Woolley will not require an increase or decrease in general property tax revenue from the previous year, in addition to the increase resulting from the addition of new construction and improvements to property, addition of properties as a result of annexation and any increase in the value of state assessed property, in order to discharge the expected expenses and obligations of the City of Sedro-Woolley and in its best interest; and

WHEREAS, per a 1996 citizen voted and approved GO Bond issuance, it is necessary to increase property taxes to pay GO Bond principal and interest; and

WHEREAS, the City's actual levy amount from the previous year was \$1,774,725; and

WHEREAS, the population of this City is more than 10,000; and now, therefore,

IT IS HEREBY ORDAINED, by the City Council of the City of Sedro-Woolley, an increase in the regular property tax levy shall not be imposed in addition to the increase resulting from the addition of new construction and improvements to property, addition of properties as a result of annexation and any increase in the value of state-assessed property. It is further ordained that the City Council hereby authorizes the 2014 levy in the amount of an increase of 0.00% from last year, or \$0.00 not to exceed the levy limit as allowed by law.

Also levied here is an amount necessary to fund the debt service of the 1996 G/O Bond Fund (Public Safety Building) in the amount of \$210,000.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 26th DAY OF NOVEMBER, 2013.

Mike Anderson, Mayor

ATTEST:

Finance Director

APPROVED AS TO FORM:

City Attorney

ORDINANCE NO. -13

AN ORDINANCE OF THE CITY OF SEDRO-WOOLLEY APPROVING THE PROPERTY TAX LEVY AT AN INCREASE OF 1%.

WHEREAS, The City Council of the City of Sedro-Woolley has properly given notice of the public hearing held November 13, 2013, to consider the City of Sedro-Woolley 2014 Real Estate Property Tax Levy; and

WHEREAS, the City Council, after hearing, and after duly considering all relevant evidence and testimony presented, has determined that the City of Sedro-Woolley will require an increase in general property tax revenue from the previous year, in addition to the increase resulting from the addition of new construction and improvements to property, addition of properties as a result of annexation and any increase in the value of state assessed property, in order to discharge the expected expenses and obligations of the City of Sedro-Woolley and in its best interest; and

WHEREAS, per a 1996 citizen voted and approved GO Bond issuance, it is necessary to increase property taxes to pay GO Bond principal and interest; and

WHEREAS, the City's actual levy amount from the previous year was \$1,774,725; and

WHEREAS, the population of this City is more than 10,000; and now, therefore,

IT IS HEREBY ORDAINED, by the City Council of the City of Sedro-Woolley, an increase in the regular property tax levy shall be imposed in addition to the increase resulting from the addition of new construction and improvements to property, addition of properties as a result of annexation and any increase in the value of state-assessed property. It is further ordained that the City Council hereby authorizes the 2014 levy in the amount of an increase of 1% from last year, or \$17,747.25 not to exceed the levy limit as allowed by law.

Also levied here is an amount necessary to fund the debt service of the 1996 G/O Bond Fund (Public Safety Building) in the amount of \$210,000.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 26th DAY OF NOVEMBER, 2013.

Mike Anderson, Mayor

ATTEST:

Finance Director

APPROVED AS TO FORM:

City Attorney

ORDINANCE NO. -13

AN ORDINANCE OF THE CITY OF SEDRO-WOOLLEY APPROVING THE PROPERTY TAX LEVY AT AN INCREASE OF 2.47%.

WHEREAS, The City Council of the City of Sedro-Woolley has properly given notice of the public hearing held November 13, 2013, to consider the City of Sedro-Woolley 2014 Real Estate Property Tax Levy; and

WHEREAS, the City Council, after hearing, and after duly considering all relevant evidence and testimony presented, has determined that the City of Sedro-Woolley will require an increase in general property tax revenue from the previous year, in addition to the increase resulting from the addition of new construction and improvements to property, addition of properties as a result of annexation and any increase in the value of state assessed property, in order to discharge the expected expenses and obligations of the City of Sedro-Woolley and in its best interest; and

WHEREAS, per a 1996 citizen voted and approved GO Bond issuance, it is necessary to increase property taxes to pay GO Bond principal and interest; and

WHEREAS, the City's actual levy amount from the previous year was \$1,774,725; and

WHEREAS, the population of this City is more than 10,000; and now, therefore,

IT IS HEREBY ORDAINED, by the City Council of the City of Sedro-Woolley, an increase in the regular property tax levy shall be imposed in addition to the increase resulting from the addition of new construction and improvements to property, addition of properties as a result of annexation and any increase in the value of state-assessed property. It is further ordained that the City Council hereby authorizes the 2014 levy in the amount of an increase of 2.47% from last year, or \$43,922.06 not to exceed the levy limit as allowed by law.

Also levied here is an amount necessary to fund the debt service of the 1996 G/O Bond Fund (Public Safety Building) in the amount of \$210,000.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 26th DAY OF NOVEMBER, 2013.

Mike Anderson, Mayor

ATTEST:

Finance Director

APPROVED AS TO FORM:

City Attorney

HOW TO USE BANKED CAPACITY

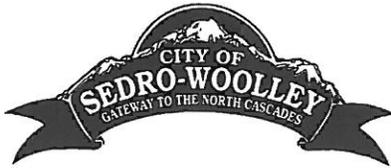
Taxing District #1 had a levy of \$1,774,725.29 for the 2013 tax year. They had the proper resolutions and could have had a levy of \$1,800,640.95. They now have \$25,915.66 in banked capacity available for the 2014 tax year.

A 1% increase in the highest allowable (\$1,800,640.95) is \$1,818,647.36.

In order to collect the banked capacity the Resolution/Ordinance should request an increase of \$43,922.07 which is an increase of 2.47%.

Highest Allowable Levy	-	\$1,800,640.95
1% Increase	-	+ 18,006.40
2014 Highest Allowable	-	\$1,818,647.35
2014 Highest Allowable Levy	-	\$1,818,647.35
Less 2013 Levy taken	-	1,774,725.29
Increase allowed	-	\$ 43,922.06

%Calculation 43,922.06 divided by 1,774,725.29 = 2.47%



CITY COUNCIL AGENDA
REGULAR MEETING

NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 8

Building and Planning Departments
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

MEMO:

To: City Council
Mayor Anderson

From: John Coleman, AICP 
Planning Director

Date: November 13, 2013

Subject: Recreational Marijuana Producers and Processors – Planning Commission Direction

ISSUE

Provide direction for the Planning Commission on proposed changes to zoning rules that will define where recreational marijuana producers and processors may be located.

PROJECT DESCRIPTION / HISTORY

At its previous three meetings the Council discussed the possible impacts of recreational marijuana retailers, producers (growers) and processors on the Sedro-Woolley community and determined that new rules are necessary to address producers and processors. On October 23, 2013 Council passed a six-month moratorium on accepting applications for marijuana producer and processor businesses. The Council also expressed interest in discussing the issue further and providing the Planning Commission with guidance before the Planning Commission begins work and holds hearing on the topic.

ATTACHMENTS

Attachment 1 – Updated Washington State Liquor Control Board press release (Oct. 31, 2013)
Attachment 2 – I-502 Adopted Rules – Chapter 314-55 WAC
Attachment 3 – Medical and Recreational Marijuana Uses – by Morris Law P.C.

REQUESTED ACTION

Provide direction to the Planning Commission about the Council's desired changes to zoning regulations for recreational marijuana producers and processors.

Attachment 1

**Washington State Liquor Control Board press release
Updated October 31, 2013**



Washington State Liquor Control Board

Frequently Asked Questions about the I-502 Proposed Rules

Topic: Initiative 502

Updated: October 31, 2013

*Note: New questions and answers are indicated with an asterisk **

Licensing

When can I get my license?

BLS will begin accepting applications on November 18. The WSLCB will begin processing applications for all three license types (producer, processor and retailer) for 30 days on November 20, 2013. Due to the anticipated turnout and rush to obtain a license it is possible that the process may take longer than the projected 90 days. The best way to stay up to date on the implementation process and when the applications become available is to register for [email notifications](#) on the WSLCB website.

Why are you only accepting applications for 30 days?

Opening up the licensing window for 30 days affords anyone who is qualified to apply for a license the opportunity to do so. Whether you are a small grower or larger company you will be given the same opportunity to get a license. Closing the window after 30 days allows the Board the opportunity to assess the market and see what changes, if any, are needed regarding the number of licenses. The Board may also reopen the window at its discretion.

*** When can I get an application?**

Application documents will be available, both online and in hard copy, sometime after the Board accepts the proposed rules, which is scheduled for October 16.

*** What do I have to do to start my application?**

To start the application process, and qualify within the 30 day licensing window, you will need to have a location and file your application with Business Licensing Services.

How many producer and processor licenses will be issued?

Presently the WSLCB does not intend to limit the amount of producer or processor licenses it will issue. The LCB will open a 30 day window in November where anyone can apply, and qualified applicants will receive licenses.

*** Can I have more than one license?**

Any entity and/or principles within an entity are limited to no more than three marijuana licenses. Retail marijuana license holders are limited to no more than three retail licenses with no more than 33% of the allowed licenses in any county or city.

*** Why did you limit the number of licenses per licensee?**

Limiting the number of licenses any one entity can hold reduces the possibility that any one entity can singlehandedly control the market.

*** How many retail licenses will be issued?**

334 retail licenses will be issued. The number of retail locations was determined using a formula that distributes the number of locations proportionate to the most populous cities within each county.

Locations not assigned to a specific city are at large. The specific locations will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county.

How will the lottery work?

WSLCB staff are developing the guidelines for the retail license lottery. As more information becomes available we will notify stakeholders via the [I-502 Listserv](#).

If the local authority objects to my proposed location after filing my application can I move my location without refiling?

Applicants will be able to change the location of a potential license if the local authority objects, as long as the application is still in the processing stage, without filing a new application.

Will a criminal record impact my ability to get a license?

The WSLCB will employ a disqualifying criminal history point system similar to liquor. An exception would be allowed for two misdemeanor convictions of possession within three years. A felony conviction will prohibit you from obtaining a marijuana license if the conviction was in the last 10 years.

How do I prove three months residency?

There are many ways to prove residency. Some examples include:

- Get a Washington State driver's license or ID card, which has an issue date on it
- Present three months worth of utility bills, pay stubs, etc.
- Register to vote

You can find out more about state residency requirements at [Access Washington](#).

How do I show I'm current on my taxes?

Prospective licensees will be required to sign an attestation that they are current on their taxes. Failure to do so or misrepresentation of the status of your taxes is grounds to deny the application.

Can I get my \$250 application fee back?

Marijuana application fees are non-refundable.

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

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

Can local jurisdictions prevent me from opening a location?

The LCB has no authority to dictate zoning requirements to local governments. Municipalities could conceivably zone marijuana/related businesses out of their geographical area, check with your local authority to understand their requirements.

Since there are a limited number of retail licenses available can I apply for a retail license and a processor and/or producer license at the same time to ensure that I'm not left out and then withdraw the processor and/or producer license application in the event that I get the retail license?

No. Applicants must decide ahead of time which license type they are pursuing. If an applicant applies for a retail license in addition to one of the other two license types all of the applications will be rejected.

Can I be a processor and a producer?

Yes. Licensees may hold a both a producer and processor license together.

Is there a producer/processor license?

No. Applicants must apply for, and obtain, both licenses separately and must pay the application and renewal fees on both licenses.

Do I have to pay the 25% tax on sales between producer and processor if I hold both licenses?

No. If you hold a producer/processor license you avoid the 25% tax that would be applied to a producer to processor sale.

Do I have to provide proof from my landlord that they are aware of how their property is being used?

No. The provision requiring an applicant to provide a signed affidavit showing their landlord is aware of the marijuana related business using their property has been removed.

There is a bus stop in front of my location; will that disqualify me from getting a license?

The rules define "public transit center" as a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge.

*** Does a walking trail qualify as a park?**

No. The Board has specifically addressed that a walking trail, such as a converted former rail line, does not qualify as a park.

Can I have multiple locations?

Yes. However each location must be licensed separately and the licensee must meet the previously mentioned requirements on license types.

*** How will the WSLCB measure distance from a restricted area to a potential marijuana location?**

~~Distance will be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of:~~ an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older.

Important Note Regarding the 1,000 foot Measurement: The LCB will file an emergency rule on October 16, 2013, that will revise the current language regarding the 1,000' buffer. The language in the emergency rule will state: "The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older."

*** Why did the Board change the exclusion zone measuring method from "most common legal pathway" to "straight line?"**

The Board, after receiving guidance from the federal government, changed the measuring method to ensure that WLSCB rules match federal enforcement guidelines.

If I'm providing financial backing do I have to be a resident?

Yes. Financiers will be required have three months Washington state residency and to pass the same criminal background checks as a licensee.

Testing

How can I get my laboratory certified to test marijuana?

The LCB will contract (via the request for proposals process) with a firm who will be responsible for accrediting labs.

How will I get my products tested?

The LCB will furnish a list, via our website, of accredited labs for producers to contract with for testing services.

Traceability/Product

What is the traceability system?

A robust and comprehensive traceability software system will that will trace product from start to sale. Licensees will have to use tracking software that is compatible with LCB's traceability system and allows the LCB to monitor and track any plant at any time.

When do my plants need to be entered into the traceability system?

Prior to reaching eight inches in height or width each plant must be tagged and tracked individually

How do I obtain startup inventory?

Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises and recorded into the traceability system. No flowering marijuana plants may be brought into the facility during this fifteen day timeframe. After the 15 days pass, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

Growing

Where can I grow?

- **Indoors/Greenhouse**
Fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

- **Outdoor**
Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

Can a current farm just convert its crop to marijuana?

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

Can I grow in my personal residence?

No. The rules state that “the Board will not approve a license for any location where law enforcement access, without notice or cause, is limited. This includes personal residences.” Private residences are afforded a degree of privacy under the 4th amendment of the U.S. Constitution that is incompatible with the regulatory requirements of I-502.

*** How much marijuana can I keep on my licensed premise?**

- Producer: Outdoor/Greenhouse – One and ¼ of a year’s harvest, Indoor – six months harvest
- Processor: six months useable marijuana and total production
- Retailer: four months of average inventory

*** As a producer how long do I have to hold my product before transporting it to a processor?**

There is a mandatory 24 hour quarantine period. Previously this period was 72 hours.

How can I get my marijuana certified as organic?

Marijuana may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

Processing

Why can’t I advertize marijuana’s medical benefits?

The WSLCB is regulating the recreational marijuana market and does not evaluate the medical claims of a recreational product. Prospective licensees who want to produce/market marijuana for medical purposes should research Washington’s medical marijuana laws.

How will you prevent children from accidentally ingesting marijuana products?

Marijuana infused products must be packaged in child resistant packaging in accordance with Title 16 CFR 1700 of the Poison Prevention Packaging Act.

*** Can I sell marijuana blends?**

Yes, provided the marijuana lots that are being blended have been tested and that the labeling requirements for each lot used in the blend are met.

What happened to the “Produced in Washington” icon?

During the public comment period the WSLCB heard a variety of comments on the icon and ultimately decided to remove it from the rules. The intent of the icon was to provide parents, teachers, etc with a visual aid that helped them readily identify a product as marijuana. Many of the comments were positive and appreciated the WSLCB’s work on this issue, while others were concerned that the icon may be seen as promotional. The Board does reserve the ability to require an icon be included on packaging in the future for public safety purposes if they deem it necessary.

*** If my marijuana fails quality testing can I turn it into an extract?**

Yes. With the Board’s approval, marijuana that fails testing can be converted into an extract and sold provided that the resulting extract passes quality/safety testing.

Why does the Board want to ban concentrates?

The Board's analysis believes that the definition of usable marijuana or infused product in I-502 does not cover concentrates. While the Board was willing to allow concentrates they are not inclined to break the law to do so.

Does hash qualify as usable marijuana?

No. Under the definitions of I-502 hash does not qualify as usable marijuana.

Can I infuse concentrates with an inert oil, or similar substance, and sell it?

Yes. This would qualify as a marijuana infused product.

What is the minimum level of added marijuana for a product to be considered a marijuana infused product?

The Board has not set minimum thresholds for what constitutes an "infused" product.

*** What is the serving size for infused extracts for inhalation? What is the transaction limit?**

The serving size for infused extracts for inhalation is a unit, which may not exceed one gram. Customers may purchase up to seven grams of marijuana infused extract for inhalation.

Retail

*** Why can't I sell over the internet? Or have a delivery service?**

The initiative states that all retail sales must take place in a licensed retail establishment. Neither internet nor delivery sales qualify as retail establishments.

Can a medical marijuana outlet and a retail outlet share the same space?

No. The two operations would have to be separate. Retail outlets are only allowed to sell marijuana that comes from a licensed processor and licensed processors are not allowed to sell to unlicensed entities, such as a medical marijuana outlet.

Are there any restrictions on retail hours of operation?

Retail marijuana operations may take place between the hours of 8:00AM and 12:00AM.

Why can't I hold the marijuana before purchase?

I-502 is very clear that there can be no open containers of marijuana, or consumption of marijuana at licensed locations. The WSLCB cannot write rules that contradict the law.

Why can't I smell the marijuana before purchase?

Retail licensees are allowed to provide a sample jar with a plastic or metal mesh screen to allow customers the ability to smell the product before purchasing. Opened marijuana products are not allowed inside a licensed retail outlet.

*** Can I produce/sell THC infused alcohol (i.e. THC infused vodka)?**

No. The initiative is clear that retail outlets may only sell marijuana, marijuana infused products and marijuana paraphernalia. To sell alcohol in Washington you would need a liquor license which would violate the above provisions.

Miscellaneous

Will the WSLCB be setting prices?

No. The WSLCB will not set prices but licensees are not allowed to sell marijuana products below their acquisition cost.

*** As a licensee can I test my product for quality?**

Licensees are allowed to test for quality under the specific requirements set forth in WAC 314-55-083(6). Those requirements limit the amount of product that can be tested, how often testing can take place, and the reporting requirements by license and product type.

Can I provide samples?

Producers are allowed to provide samples to a processor and processors are allowed to provide samples to a retailer. Retailers are not allowed to supply samples to the public.

Attachment 2

I-502 Adopted Rules – Chapter 314-55 WAC

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

NEW SECTION

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

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

(a) Elementary or secondary school;

(b) Playground;

(c) Recreation center or facility;

(d) Child care center;

(e) Public park;

(f) Public transit center;

(g) Library; or

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

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

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

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

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

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

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

NEW SECTION

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

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

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

NEW SECTION

WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license? (1)

A marijuana producer license allows the licensee to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.

NEW SECTION

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) All point of sale records;

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

(e) All employee records, to include training;

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

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

(ii) The date the pesticide was applied;

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

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

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

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

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

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

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

(k) Inventory records;

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

NEW SECTION

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

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

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

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

NEW SECTION

WAC 314-55-097 Marijuana waste disposal--Liquids and solids. (1)

Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Other wastes as determined by the LCB.

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

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

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

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

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

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

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

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

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

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

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

(ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

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

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

NEW SECTION

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

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

(7) Table of required quality assurance tests.

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

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

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

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

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

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

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

(13) If a lot of marijuana flowers fail a quality assurance test, any marijuana plant trim, leaf and other usable material from the same plants automatically fails quality assurance testing also. Upon approval of the board, a lot that fails a quality assurance test may be used to make a CO₂ or solvent based extract. After processing, the CO₂ or solvent based extract must still pass all required quality assurance tests in WAC 314-55-102.

(14) At the request of the producer or processor, the board may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor.

NEW SECTION

WAC 314-55-104 Marijuana processor license extraction requirements. (1) Processors are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the board. These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in a spark free environment with proper ventilation, and follow all applicable local fire, safety and building codes in processing and the storage of the solvents.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch and follow all applicable local fire, safety and building codes in processing and the storage of the solvents. The CO₂ must be of at least ninety-nine percent purity.

(4) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(5) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts.

(6) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(7) Parts per million for one gram of finished extract cannot exceed 500 parts per million or residual solvent or gas when quality assurance tested per RCW 69.50.348.

NEW SECTION

WAC 314-55-105 Packaging and labeling requirements. (1) All usable marijuana and marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(2) Any container or packaging containing usable marijuana or marijuana products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana or marijuana product.

(3) Upon the request of a retail customer, a retailer must disclose the name of the accredited third-party testing lab and results of the required quality assurance test for any usable marijuana or other marijuana product the customer is considering purchasing.

(4) usable marijuana and marijuana products may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(5) The accredited third-party testing lab and required results of the quality assurance test must be included with each lot and disclosed to the customer buying the lot.

(6) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:

- (a) Lot number;
- (b) UBI number of the producer; and
- (c) Weight of the product.

(7) Marijuana-infused products meant to be eaten, swallowed, or inhaled, must be packaged in child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act or use standards specified in this subsection. Marijuana-infused product in solid or liquid form may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamper-proof measure. Marijuana-infused product in liquid form may also be sealed using a metal crown cork style bottle cap.

(8) A processor may provide a retailer free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of usable marijuana. The sample jar and the usable marijuana within may not be sold to a customer and must be either returned to the licensed processor who provide the usable marijuana and sample jar or destroyed by the retailer after use in the manner described in WAC 314-55-097 and noted in the traceability system.

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

(10) Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.

(11) All usable marijuana when sold at retail must include accompanying material that contains the following warnings that state:

(a) "Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health";

(b) "There may be health risks associated with consumption of this product";

(c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.

(12) All marijuana-infused products sold at retail must include accompanying material that contains the following warnings that state:

(a) "There may be health risks associated with consumption of this product";

(b) "This product is infused with marijuana or active compounds of marijuana";

(c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours";

(g) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to the infused product; and

(h) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.

(13) Labels affixed to the container or package containing usable marijuana sold at retail must include:

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot number;

(c) Concentration of THC, THCA, CBD, including a total of active cannabinoids (potency profile);

(d) Net weight in ounces and grams or volume as appropriate;

(e) Warnings that state: "This product has intoxicating effects and may be habit forming";

(f) Statement that "This product may be unlawful outside of Washington state";

(g) Date of harvest.

(h) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.

(14) Sample label mock up for a container or package containing usable marijuana sold at retail with required information:

UBI: 1234567890010001	Lot#: 1423
	Date of Harvest: 4-14
<i>The Best Resins</i>	
Blueberry haze	
16.7 % THC 1.5% CBD	
Warning – This product has intoxicating effect and may be habit forming	
<u>THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE</u>	
Net weight: 7 grams	

(15) Labels affixed to the container or package containing marijuana-infused products sold at retail must include:

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

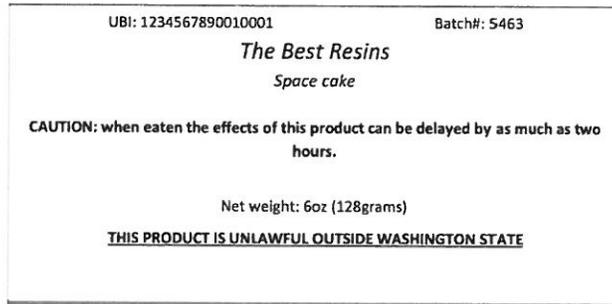
(b) Lot numbers of all base marijuana used to create the extract;

(c) Batch number;

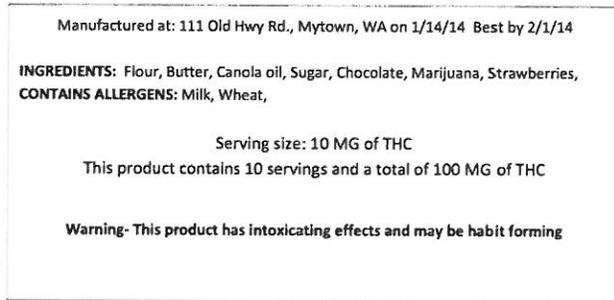
(d) Date manufactured;

- (e) Best by date;
 - (f) Recommended serving size and the number of servings contained within the unit, including total milligrams of active tetrahydrocannabinol (THC), or Delta 9;
 - (g) Net weight in ounces and grams, or volume as appropriate;
 - (h) List of all ingredients and any allergens;
 - (i) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours."
 - (j) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;
 - (k) Warnings that state: "This product has intoxicating effects and may be habit forming";
 - (l) Statement that "This product may be unlawful outside of Washington state";
 - (m) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.
- (16) **Sample label mock up (front and back) for a container or package containing marijuana-infused products sold at retail with required information:**

(Front of label)



(Back of label)



NEW SECTION

WAC 314-55-120 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the qualifying persons in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the qualifying persons for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the qualifying persons in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75

(2) The board may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

NEW SECTION

WAC 314-55-125 Change of location. (1) Changing your marijuana license to a new location requires an application, per the process outlined in WAC 314-55-020.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

NEW SECTION

WAC 314-55-130 Change of business name. (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of revenue, business license service.

(2) If you wish to change your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See chapter 434-12 WAC for guidelines for trade names.

NEW SECTION

WAC 314-55-135 Discontinue marijuana sales. You must notify the board's enforcement and education division in writing if you plan to stop doing business for more than thirty days, or if you plan to permanently discontinue marijuana sales.

NEW SECTION

WAC 314-55-140 Death or incapacity of a marijuana licensee. (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

NEW SECTION

WAC 314-55-145 Are marijuana license fees refundable? When a license is suspended or canceled, or the licensed business is discontinued, the unused portion of the marijuana license fee will not be refunded.

NEW SECTION

WAC 314-55-147 What hours may a marijuana retailer licensee conduct sales? A marijuana retailer licensee may sell usable marijuana, marijuana-infused products, and marijuana paraphernalia between the hours of 8 a.m. and 12 a.m.

NEW SECTION

WAC 314-55-150 What are the forms of acceptable identification?

(1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of purchasing marijuana:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the Dis-

trict of Columbia, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) The identification document is not acceptable to verify age if expired.

NEW SECTION

WAC 314-55-155 Advertising. (1) Advertising by retail licensees.

The board limits each retail licensed premises to one sign identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to sixteen hundred square inches.

(2) **General.** All marijuana advertising and labels of useable marijuana and marijuana-infused products sold in the state of Washington may not contain any statement, or illustration that:

(a) Is false or misleading;

(b) Promotes over consumption;

(c) Represents the use of marijuana has curative or therapeutic effects;

(d) Depicts a child or other person under legal age to consume marijuana, or includes:

(i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or

(ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(3) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, usable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter;

or

(c) On or in a publicly owned or operated property.

(4) Giveaways, coupons, and distribution of branded merchandise are banned.

(5) All advertising must contain the following warnings:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults twenty-one and older. Keep out of the reach of children."

NEW SECTION

WAC 314-55-160 Objections to marijuana license applications. (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a marijuana license?** Per RCW 69.50.331, the board will notify cities, counties, tribal governments, and port authorities of the following types of marijuana applications. In addition to these entities, any person or group may comment in writing to the board regarding an application.

Type of application	Entities the board will/may notify
<ul style="list-style-type: none">Applications for an annual marijuana license at a new location.	<ul style="list-style-type: none">Cities and counties in which the premises is located will be notified. <p>Tribal governments and port authorities in which the premises is located may be notified.</p>
<ul style="list-style-type: none">Applications to change the class of an existing annual marijuana license.	
<ul style="list-style-type: none">Changes of ownership at existing licensed premises.	<ul style="list-style-type: none">Cities and counties in which the premises is located will be notified. <p>Tribal governments and port authorities in which the premises is located may be notified.</p>

(2) **What will happen if a person or entity objects to a marijuana license application?** When deciding whether to issue or deny a marijuana license application, the board will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the board shall not issue a new marijuana license if any of the following are within one thousand feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public

parks, public transit centers, libraries, game arcade where admission is not restricted to persons twenty-one years of age or older.

(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a marijuana license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the board for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within twenty days of the date the intent to deny notification was mailed.

NEW SECTION

WAC 314-55-165 Objections to marijuana license renewals. (1) How can local cities, counties, tribal governments, or port authorities object to the renewal of a marijuana license?

(a) The board will give governmental jurisdictions approximately ninety days written notice of premises that hold annual marijuana licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a marijuana license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the board for an extension for good cause shown.

(d) This letter must be received by the board at least thirty days before the marijuana license expires. The objection must state specific reasons and facts that show issuance of the marijuana license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) **What will happen if a city, county, tribal government, or port authority objects to the renewal of a marijuana license?** The board will give substantial weight to a city, county, tribal govern-

ment, or port authority objection to a marijuana license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the board will decide to either renew the marijuana license, or to pursue nonrenewal.

(a) Board decides to renew the marijuana license:	(b) Board decides to pursue nonrenewal of the marijuana license:
<p>(i) The board will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p> <p>(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to renew notification was mailed. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p> <p>(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to deny notification was mailed.</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.</p> <p>(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the marijuana license until a final decision is made.</p>

NEW SECTION

WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a liquor control board statute or regulation?

(1) When an enforcement officer believes that a licensee has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent, or employee.

(2) The AVN notice will include:

(a) A complete narrative description of the violation(s) the officer is charging;

(b) The date(s) of the violation(s);

(c) A copy of the law(s) and/or regulation(s) allegedly violated;

(d) An outline of the licensee's options as outlined in WAC 314-55-510; and

(e) The recommended penalty.

(i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.

(ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty.

NEW SECTION

WAC 314-55-506 What is the process once the board summarily suspends a marijuana license? (1) The board may summarily suspend any license after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.

(3) When a license has been summarily suspended by the board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the board.

NEW SECTION

WAC 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license? (1) Upon summary suspension of a license by the board pursuant to WAC 314-55-506, an affected licensee may petition the board for a stay of suspension pursuant to RCW 34.05.467 and 34.05.550(1). A petition for a stay of suspension must be received by the board within fifteen days of service of the summary suspension order. The petition for stay shall state the basis on which the stay is sought.

(2) A hearing shall be held before an administrative law judge within fourteen days of receipt of a timely petition for stay. The hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified to allow the conduct of limited activities under current licenses or permits.

(3) Any hearing conducted pursuant to subsection (2) of this section shall be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing shall consist of the documentary information upon which the summary suspension was based. The licensee or permit holder shall have the burden of demonstrating by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay shall be effective immediately upon service unless another date is specified in the order.

NEW SECTION

WAC 314-55-508 Review of orders on stay. (1) The licensee, or agency, may petition the board for review of an initial order on stay. Any petition for review must be in writing and received by the board within ten days of service of the initial order. If neither party has requested review within ten days of service, the initial order shall be deemed the final order of the board for purposes of RCW 34.05.467.

(2) If the board receives a timely petition for review, the board shall consider the petition within fifteen days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the board on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

NEW SECTION

WAC 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation? (1) A licensee has twenty days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) What happens if a licensee does not respond to the administrative violation notice within twenty days?

(a) If a licensee does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect.

(b) If the penalty does not include a suspension, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

(3) What are the procedures when a licensee requests a settlement conference?

(a) If the licensee requests a settlement conference, the hearing examiner or designee will contact the licensee to discuss the violation.

(b) Both the licensee and the hearing examiner or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or designee will prepare a compromise settlement agreement. The hearing examiner or designee will forward the compromise settlement agreement, authorized by both parties, to the board, or designee, for approval.

(i) If the board, or designee, approves the compromise, a copy of the signed settlement agreement will be sent to the licensee and will become part of the licensing history.

(ii) If the board, or designee, does not approve the compromise, the licensee will be notified of the decision. The licensee will be given the option to renegotiate with the hearing examiner or designee, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee and the hearing examiner or designee cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or designee will forward a request for an administrative hearing to the board's hearings coordinator.

NEW SECTION

WAC 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule? (1) The purpose of WAC 314-55-515 through 314-55-540 is to outline what penalty a marijuana licensee can expect if a licensee or employee violates a liquor control board law or rule. (WAC rules listed in the categories provide reference areas, and may not be all inclusive.)

(2) Penalties for violations by marijuana licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-55-520.

(b) Group Two—Regulatory violations, WAC 314-55-525.

(c) Group Three—License violations, WAC 314-55-530.

(d) Group Four—Producer violations involving the manufacture, supply, and/or distribution of marijuana by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-55-535.

(3) For the purposes of chapter 314-55 WAC, a three-year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the board may offer a monetary option in lieu of suspension, or alternate penalty, during a settlement conference as outlined in WAC 314-55-510(3).

(a) Mitigating circumstances	(b) Aggravating circumstances
<p>Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Having a signed acknowledgment of the business' responsible handling and sales policies on file for each employee; • Having an employee training plan that includes annual training on marijuana laws. 	<p>Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of marijuana license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor control board officer, or when people have sustained injuries.

NEW SECTION

WAC 314-55-520 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4).

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Violations involving minors:	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Sale or service to minor: Sale of marijuana and/or paraphernalia to a person under twenty-one years of age WAC 314-55-079	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Allowing a minor to frequent a restricted area. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	
Employee under legal age. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Licensee and/or employee open and/or consuming marijuana on a retail licensed premises. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct.	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized pesticides, soil amendments, fertilizers, other crop production aids. WAC 314-55-020(8) WAC 314-55-083(4) WAC 314-55-087 (1)(f)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Adulterate usable marijuana with organic or nonorganic chemical or other compound WAC 314-55-105(8)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized solvents or gases in processing WAC 314-55-104	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. WAC 314-55-050	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Marijuana purchased from an unauthorized source. Marijuana sold to an unauthorized source. Sales in excess of transaction limitations. WAC 314-55-095(3)	Cancellation of license Cancellation of license Cancellation of license			

NEW SECTION

WAC 314-55-525 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m.	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Advertising: Violations (statements/illustrations). WAC 314-55-155(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Advertising violations – Sign exceeding 1600 square inches; within 1000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. RCW 69.50.357 RCW 69.50.369	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Packaging and/or labeling violations (processor/retailer). WAC 314-55-105	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
License/employee failing to display required security badge. WAC 314-55-083(1)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (3), (4), and (5)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to submit monthly tax reports and/or payments. WAC 314-55-089 WAC 314-55-092	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Signs: Failure to post required signs. WAC 314-55-086	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to utilize and/or maintain traceability (processor or retail licensee). WAC 314-55-083(4)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Exceeding maximum serving requirements for marijuana-infused products. WAC 314-55-095(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure for a processor to meet marijuana waste disposal requirements. WAC 314-55-097	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain standardized scale requirements (processor/retailer). WAC 314-55-099	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Marijuana processor extraction requirements. WAC 314-55-104	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Retail outlet selling unauthorized products. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retailer displaying products in a manner visible to the general public from a public right of way. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

NEW SECTION

WAC 314-55-530 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
True party of interest violation. WAC 314-55-035	Cancellation of license			
Failure to furnish required documents. WAC 314-55-050	Cancellation of license			
Misrepresentation of fact. WAC 314-55-050	Cancellation of license			
Operating plan: Violations of a board-approved operating plan. WAC 314-55-020	5-day suspension or \$500 monetary option	10-day suspension or \$1,500 monetary option	30-day suspension	Cancellation of license
Failing to gain board approval for changes in existing ownership. WAC 314-55-120	30-day suspension	Cancellation of license		
Failure to maintain required insurance. WAC 314-55-080	30-day suspension	Cancellation of license		

NEW SECTION

WAC 314-55-535 Group 4 marijuana producer violations. Group 4 violations are violations involving the manufacture, supply, and/or distribution of marijuana by marijuana producer licensees and prohibited practices between a marijuana producer licensee and a marijuana retailer licensee.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Unauthorized sale to a retail licensee. WAC 314-55-075	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to utilize and/or maintain traceability. WAC 314-55-083(4)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Packaging and/or labeling violations (producer). WAC 314-55-105	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Unauthorized product/unapproved storage or delivery.	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure for a producer to meet marijuana waste disposal requirements. WAC 314-55-097	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (2) and (4) WAC 314-55-092	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain standardized scale requirements (producer). WAC 314-55-099	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation.				

NEW SECTION

WAC 314-55-540 Information about marijuana license suspensions.

(1) On the date a marijuana license suspension goes into effect, a liquor control officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a board law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable marijuana laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

(3) During the period of marijuana license suspension:

(a) A marijuana retailer or marijuana processor licensee may not operate his/her business during the dates and times of suspension.

(b) There is no sale, delivery, service, destruction, removal, or receipt of marijuana during a license suspension.

(c) A producer of marijuana may do whatever is necessary as a part of the producing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsalable during a suspension, provided it does not include processing the product. The producer may not receive any agricultural products used in the production of marijuana during the period of suspension.

Attachment 3

Medical and Recreational Marijuana Uses – by Morris Law P.C.

(Updated 9/15/13)

MEDICAL AND RECREATIONAL MARIJUANA USES -- LOCAL REGULATION

by

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Carol Morris, owns Morris Law, P.C, which focuses on the representation of municipalities in land use litigation. Carol is also a panel attorney for the Association of Washington Cities Risk Management Services Agency (RMSA), hired by the insurance pool since 1994 to represent cities in land use litigation. She answers the AWC-RMSA sponsored land use hotline, which is a free service to cities in the insurance pool. From 1989 to the present, Carol has been a city attorney for seven cities as well as assistant city attorney, or special legal counsel in primarily land use matters, for over 35 other cities and counties.

MEDICAL AND RECREATIONAL MARIJUANA USES LOCAL REGULATION

By
Carol A. Morris

I. Background.

A. Federal Law. The Controlled Substances Act (CSA), makes it unlawful to manufacture, distribute, dispense or possess any controlled substance except in the manner authorized by the CSA.¹ All controlled substances are categorized into five schedules, based on the drugs' accepted medical uses, potential for abuse and their psychological/physical effects on the body.² Each schedule corresponds with controls on the manufacture, distribution, registration, labeling, packaging, production quotas, drug security and recordkeeping, as well as use of the listed substances.³

Marijuana is classified as a Schedule I drug.⁴ Drugs with a high potential for abuse, lack of any accepted medical use and absence of any accepted safety for use in medically supervised treatment, are labeled Schedule I.⁵ The inclusion of marijuana on Schedule I reflects the federal government's determination that "marijuana has no currently accepted medical use at all."⁶ While there have been repeated efforts to reclassify marijuana, it remains a Schedule I drug.⁷ By classifying it as a Schedule I drug, the manufacture, distribution or possession of marijuana became a criminal offense (with one exception for research studies).⁸ It is also illegal under the CSA to open, use, lease or maintain any place for the purpose of manufacturing, distributing or using any controlled substance.⁹

B. Washington State Law.

1. *Washington's Uniform Controlled Substances Act (USCA)* makes it unlawful to manufacture, deliver or possess with intent to manufacture or deliver, a controlled substance.¹⁰ Marijuana is listed as a Schedule I drug.¹¹

¹ 21 U.S.C. Section 841(a)(1).

² 21 U.S.C. Section 811, 812.

³ 21 U.S.C. Section 821-830; CFR Section 1301 *et seq.*

⁴ 21 U.S.C. Section 812(c).

⁵ 21 U.S.C. Section 812(b)(1).

⁶ *United States v. Oakland Cannabis Buyers' Co-op*, 532 U.S. 483, n. 5, 121 S.Ct. 1711, 149 L.Ed.2d 722 (2001). July 11, 2012).

⁷ *See, Alliance for Cannabis Therapeutics v. DEA*, 15 F.3d 1131, 1133 (D.C. Cir. 1994).

⁸ 21 U.S.C. Section 823(f); 841(a)(1), 844(a).

⁹ 21 U.S.C. Section 856(a)(1).

¹⁰ RCW 69.50.401.

¹¹ RCW 69.50.204(c)(22).

2. *Medical Marijuana Initiative.* In November of 1998, the voters of the State of Washington approved Initiative 692 (codified as chapter 69.51A RCW). The intent of Initiative 692 was that “qualifying patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law,” but that nothing in the law “shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes.”¹²

3. *Legislature’s Adoption of chapter 69.51A RCW, Medical Cannabis.* In 2011, the Washington State Legislature passed ESSSB 5073, which amended chapter 69.51A RCW. In this bill, qualifying patients or their designated care providers are presumed to be in compliance with the medical use of marijuana, and not subject to criminal or civil sanctions, penalties, and/or consequences, if they possess no more than 15 cannabis plants, no more than 24 ounces of usable cannabis, and as long as they meet certain other qualifications.¹³

This bill directed employees of the Washington State Departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. In addition, the bill required that the Department of Health develop a secure registration system for licensed producers, processors and dispensers. These provisions, however, were vetoed by the Governor, together with many others relating to dispensaries and all of the definitions in the bill.¹⁴

The bill’s provisions relating to individual cultivation of medical cannabis and cultivation in collective gardens were not vetoed. An individual qualifying patient may cultivate up to 15 cannabis plants in his/her own residence (or possess up to 24 ounces of usable cannabis).¹⁵ There are other limits for qualifying patients who are also designated providers.¹⁶ Up to ten qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use.¹⁷ A collective garden may not contain more than 15 plants per patient up to a total of 45 plants per garden, and the garden may not contain more than 24 ounces of usable cannabis per patient, up to a total of 72 ounces of usable cannabis.¹⁸

Under the bill, cities, towns and counties may adopt and enforce requirements for zoning, business licensing, health and safety and business taxes relating to the “production, processing, or dispensing of cannabis or cannabis products within their jurisdiction.”¹⁹ Additional protection from state prosecution exists in the bill: “no civil or criminal liability may be imposed by any court on cities, towns, and counties or their municipalities and their officers and employees for

¹² RCW 69.51A.005, 69.51A.020.

¹³ RCW 69.51A.040.

¹⁴ See, letter from Christine Gregoire, Governor, April 29, 2011, re: ESSSB 5073. Definitions have since been added to RCW 69.51A.010.

¹⁵ RCW 69.51A.040(1).

¹⁶ See, RCW 69.51A.040(1)(b).

¹⁷ RCW 69.51A.085.

¹⁸ *Id.*

¹⁹ RCW 69.51A.140.

actions taken in good faith under chapter 69.51A RCW, within the scope of their assigned duties.”²⁰

The Governor’s veto caused confusion in the interpretation of chapter 69.51A RCW. There is a general assumption that medical marijuana dispensaries could be prohibited by local jurisdictions, given the veto on definitions and elimination of corresponding provisions relating to the State Department of Health’s regulation of dispensaries. Although the provisions relating to collective gardens and individual cultivation/possession were not vetoed, the definitions of “qualified patient” and “designated provider” were, causing more confusion.²¹ The bill’s definitions of these terms provided an affirmative defense to charges of state law cannabis violations to qualified patients and designated providers who were on a State registry that was never established (because it was included in another vetoed section of the bill).²²

4. *Initiative 502.* In 2012, the Washington voters passed I-502, which directs the Washington State Liquor Control Board (LCB) to regulate marijuana by licensing and taxing producers, processors and retailers.²³ The regulatory scheme requires the LCB to adopt rules before December of 2013²⁴ to address the methods for producing, processing and packaging of the marijuana, to establish security requirements for retail outlets, retail outlet locations and hours of operation, labeling requirements, method of transport of marijuana throughout the state, etc. A tax is also levied on marijuana-related activities, and a dedicated fund consisting of marijuana excise taxes, license fees, penalties and other income received by the state LCB from marijuana-related activities is created. The THC concentration for various offenses is established, and possession of limited amounts of marijuana by persons 21 years of age or older is decriminalized.

5. *Liquor Control Board’s Rules.*

(i) State Environmental Policy Act (SEPA) Checklist. On July 1, 2013, the LCB issued a SEPA Checklist for its proposed rulemaking. The Checklist references a draft white paper prepared by the LCB’s consultant, as the “only environmental information that

²⁰ RCW 69.51A.130. Of interest on the issue of municipal liability is *Qualified Patients Association, et al. v. City of Anaheim*, 187 Cal. App. 4th 734, 760, 115 Cal.Rptr. 3d 89 (2010):

[A] city’s compliance with state law in the exercise of its regulatory, licensing, zoning or other power with respect to the operation of medical marijuana dispensaries that meet state law requirements would not violate conflicting federal law. . . . The fact that some individuals or collectives or cooperatives might choose to act in the absence of state criminal law in a way that violates federal law does not implicate the city in any such violation. As we observed in *Garden Grove* [*City of Garden Grove v. Superior Court*, 157 Cal. App.4th 355, 368, 68 Cal. Rptr. 3d 656, 663 (2007)], governmental entities do not incur aider and abettor or direct liability by complying with their obligations under the state medical marijuana laws.

²¹ Definitions have since been added, including those for “designated provider” and “qualifying patient.” RCW 69.51A.010.

²² RCW 69.51A.043.

²³ I-502 has been codified in chapter 69.50 RCW (primarily in RCW 69.50.101, .325 through .369.

²⁴ The Liquor Control Board has developed their draft rules, which are now available for public comment.

. . . has been prepared, or will be prepared, directly related to this proposal.”²⁵ In this white paper, the authors admit its limitations: “This memo reviews the main environmental effects of cannabis cultivation (we do not analyze processing or distribution).”²⁶

Although the LCB is responsible for determining the number and general location of retail outlets in the State, it chose not to address the environmental impacts of marijuana retail uses, because the proposed Rules “do not directly affect land or shoreline use.”²⁷ Water availability issues are peripherally addressed (“hemp cultivation will probably occur west of the Cascades because of water availability”).²⁸ Even after acknowledging that (what will likely be) the State’s largest cash crop must be transported from the western side of the Cascades to all other areas in the State, the LCB concludes that the proposed Rules will “not have a probable adverse impact on transportation or utility service.”²⁹ The authors of the white paper also note that indoor marijuana cultivation will require high energy use,³⁰ which the LCB proposes to mitigate by simply allowing outdoor cultivation.

In sum, the SEPA Checklist presents little helpful information to local governments seeking environmental information for use in the adoption of local ordinances regulating recreational marijuana uses, or in preparation of their “written objections” to the LCB’s proposed issuance of a license. The LCB’s determination of the number and location of retail sites appears to have involved no environmental analysis (the decision was based on population and estimated consumption). Unless it plans to perform SEPA on the individual license applications submitted to the LC for approval, environmental review has effectively been deferred until the land use permitting stage.³¹

(ii) On September 4, 2013, the LCB issued their Revised Proposed Rules for the implementation of I-502.³² The Board also issued a list of retail store locations, with the number of retail outlets that would be allowed in each county and city in Washington. In these Proposed Rules, the LCB:

²⁵ The final version of this white paper is dated June 28, 2013, and was available when the SEPA Checklist was prepared. There is no explanation for LCB’s use of the draft white paper instead of the final version when it issued a DNS.

²⁶ *Environmental Risks and Opportunities in Cannabis Cultivation*, draft white paper, by Michael O’Hare, BOTEK Analysis, US Berkley, Daniel L. Sanchez, UC Berkley & Peter Alstone, p. 3.

²⁷ SEPA Checklist, No. 5, p. 5.

²⁸ *Environmental Risks*, p. 16.

²⁹ *Id.*, No. 6, p. 6.

³⁰ *Id.*, quoting from *Energy Up in Smoke, the Carbon Footprint of Indoor Cannabis Production*, by Evan Mills, Ph.D, April 5, 2011, p. 1.

³¹ SEPA requires completion of “[a]ppropriate consideration of environmental information . . . before an agency commits to a particular course of action.” WAC 197-11-055(2)(c). If information on significant adverse environmental impacts essential to a reasoned choice among alternatives is not known, and the costs of obtaining it are not exorbitant, the LCB is required to obtain the information and include it in the LCB’s environmental documents. WAC 197-11-080(1). The LCB may proceed in the absence of vital information only as described in the SEPA Rules, and the LCB must “generally indicate in the appropriate environmental documents its worst case analysis and the likelihood of occurrence, to the extent that this information is available.” WAC 197-11-080(3).

³² Chapter 314-55 WAC.

- Establishes definitions, including those for the definitions of all of the sensitive uses which trigger the 1,000 foot distance limitations (between the recreational marijuana use and child care centers, schools, etc.). WAC 314-55-010.
- Describes the qualifications for recreational marijuana licensees (requiring criminal history background checks, among other things, and identifying the type of past criminal activity that would prohibit license issuance). WAC 314-55-020, 035, 040.
- Prohibits issuance of a license for a recreational marijuana use within 1,000 feet of the defined sensitive uses and describes the method for measurement of the distance. WAC 314-55-050(10). The LCB plans to change this rule governing the method of measurement. This is discussed on page 7.
- Describes the procedure to obtain a recreational marijuana license, which involves payment of fees, LCB review, and notification to local government, possible hearing, etc. WAC 314-55-075.
- Limits the maximum amount of space for marijuana production to two million square feet. WAC 314-55-075(6).
- Describes the manner in which marijuana production may take place (within a fully enclosed, secure indoor facility or greenhouse with four walls or outdoors fully enclosed by a physical barrier with an 8 foot high fence). WAC 314-55-075.
- Limits the average inventory that may be on the licensed premises at any time. WAC 314-55-077, 314-55-079.
- Limits the number of marijuana retailers within counties and cities within the counties based on estimated consumption and population data. WAC 314-55-081.
- Describes the insurance requirements for recreational marijuana licensees. WAC 314-55-082.
- Describes the security requirements within the licensed premises, requiring employees to wear identification badges and requiring alarm and surveillance systems on the premises. WAC 314-55-083.
- Requires that the licensees track marijuana from seed to sale. WAC 314-55-083(4).
- Establishes the manner in which free samples of marijuana may be provided. WAC 314-55-083(6).
- Prohibits the use of soil amendments, fertilizers and other crop production aids, other than those identified in WAC 314-55-084.

- Identifies the transportation requirements for recreational marijuana. WAC 314-55-085.
- Identifies sign requirements and limitations. WAC 314-55-086.
- Identifies recordkeeping requirements, including the amount and concentration of pesticides, soil amendments and other applications used on the product. WAC 314-55-087.
- Identifies the tax record keeping requirements. WAC 314-55-089.
- Identifies mechanisms for enforcement of violations, including failure to pay taxes. WAC 314-55-092.
- Specifies marijuana infused product serving size, maximum number of servings and limitations on transactions. WAC 314-55-095.
- Identifies marijuana waste disposal restrictions. WAC 314-55-097.
- Describes the process for quality assurance testing, extraction and the requirements for packaging and labeling. WAC 314-55-099, 314-55-102, 314-55-104, 314-55-105.
- Describes the manner in which the licensee may advertise his or her business. WAC 314-55-155.
- Describes the violations that would subject a licensee to the enforcement process, suspension, revocation and penalties. WAC 314-55-505, 506, 507, 508, 510, 515.

Schedule for LCB Action. The LCB intends to change the method for measuring the 1,000 foot separation requirement between recreational marijuana businesses and identified “sensitive uses,” including schools and playgrounds (proposed WAC 314-55-050(10)). In the proposed rule, the LCB planned to measure the distance by the path of most common travel. Federal law, however, doubles the criminal penalty for producing or distributing controlled substances within 1,000 feet of a school, playground or public housing. On September 13, 2013, the U.S. Department of Justice told the LCB that it would continue to enforce federal law this 1,000 foot rule as measured by a straight line. The same day, the LCB’s representative announced that the LCB would change its proposed rule to be consistent with federal law.³³

There will be a hearing on the Revised Proposed Rules on October 9, 2013. The Rules will become effective on November 16, 2013. The LCB will begin accepting applications for licenses on November 18, 2013 and will begin issuing licenses on December 1, 2013.

Banking. One issue that has not been addressed under the Proposed Rules is the fact that under current law, processing money from marijuana sales puts federally insured banks at risk of drug

³³ *State to change rules on where marijuana outlets can locate*, by Gene Johnson, Associated Press, published September 13, 2013.

racketeering charges.³⁴ In 2011, American Express announced it would no longer handle marijuana-related transactions because of fear of federal prosecution.³⁵ Senate Judiciary Committee Chairman Patrick Leahy, D-Vt., acknowledged recently that as a result of the banking constraints, marijuana businesses are operating on a cash-only basis. He admitted that this contributes to the public safety problem, because a cash-only business will attract guns and violence. Deputy Attorney General Cole told Congress on September 10, 2013 that “the absence of banking services for marijuana businesses is one that ‘we need to deal with’ and that ‘we’re working on it.’”³⁶

II. Preemption.

A. Federal Law. No state can authorize violations of federal law. The CSA supersedes state regulation of marijuana, even when it is used for medicinal purposes.³⁷

1. *Ogden Memo*. In 2009, the U.S. Department of Justice (“DOJ”) provided clarification and guidance to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana,” that certain marijuana users and providers would be a lower priority for prosecution than others.³⁸ (The “Ogden Memo” states that prosecution of “individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or those caregivers in clear and unambiguous compliance with existing state law who provide such individuals with marijuana, is unlikely to be an efficient use of federal resources...”)³⁹

2. *June 2010 DOJ Memo*. Another Justice Department memo was sent to U.S. attorneys in June of 2010, clarifying that dispensaries and licensed growers could be prosecuted for violating federal drug and money laundering laws.⁴⁰ A spokesman for the U.S. Attorney in Los Angeles said the crackdown is aimed at stores that “are selling marijuana at a profit, which is also a violation of California law.”⁴¹ The California director of the Drug Policy Alliance complained that the Obama administration had “betrayed the promise it originally made to leave patients and their caregivers alone.”⁴²

³⁴ In Colorado, “a state chartered bank or credit union may loan money to any person licensed pursuant to [the medical marijuana state laws] for the operation of a licensed business.” C.R.S.A. Section 12-43.3-401.

³⁵ *Feds Seek to Legalize Marijuana Industry Banking*, Kristen Wyatt and Colleen Slevin, Denver, Associated Press, September 10, 2013.

³⁶ *Id.*, taken from the NPR (National Public Radio) website, dated September 10, 2013.

³⁷ *Gonzales v. Raich*, 545 U.S. 1, 125 S.Ct. 2195, 2198, 162 L.Ed.2d 1 (2005). In *Raich I*, the US Supreme Court held that the “CSA’s categorical prohibition of the manufacture and possession of marijuana as applied to the intrastate manufacture and possession of marijuana for medical purposes pursuant to California law [does not] exceed Congress’ authority under the Commerce Clause.” 545 US. at 9, 15; *see also*, *Raich v. Gonzales* (*‘Raich II’*), 500 F.3d 850 (9th Cir. 2007).

³⁸ *See*, David W. Ogden, Dep. Atty. Gen., U.S. Dept. of Just., *Investigations and Prosecutions in states Authorizing the Medical Use of Marijuana* (“Ogden Memo”) (October 19, 2009) (available at www.justice.gov/opa/documents/medical-marijuana.pdf).

³⁹ *Id.*

⁴⁰ *See*, *USA Today*, article dated 10/10/11, “Feds Target Medical Marijuana Dispensaries in California.”

⁴¹ *Id.*

⁴² *Id.* This quote was attributed to Stephen Gutwillip, California Director of the Drug Policy Alliance.

3. *DOJ's letter to Clark County Commissioners.* Here in Washington, the Clark County Commissioners asked the federal government whether such enforcement efforts would extend to their activities implementing the State's laws on medical marijuana. The response:

[A]nyone who knowingly carries out the marijuana activities contemplated by Washington state law, as well as anyone who facilitates such activities, or conspires to commit such violations, is subject to criminal prosecution as provided in the CSA. That same conclusion would apply with equal force to the proposed activities of the Board of . . . County Commissioners and . . . County employees.⁴³

In the same letter, the County Commissioners were warned that such persons may also be subject to money laundering statutes, and that the CSA provides for forfeiture of real property and other tangible property used to facilitate the commission of such crimes, as well as the forfeiture of all money derived from, or traceable to, such activity.⁴⁴

4. *Federal Response to I-502.* On August 29, 2013, the U.S. DOJ issued another memo to all U.S. Attorneys. In this memo, the DOJ advised that as long as states adopting laws governing marijuana have "sufficiently robust" regulatory and enforcement systems (on paper and in practice) to address the federal government's identified enforcement priorities, then "enforcement of state laws by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity."⁴⁵ Here are the enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.⁴⁶

⁴³ Letter from Joseph T. Rannazzisi, Deputy Assistant Administrator, Office of Division Control, U.S. Department of Justice, Drug Enforcement Administration, dated January 17, 2012, addressed to Board of Clark County Commissioners.

⁴⁴ *Id.*

⁴⁵ Memorandum dated August 29, 2013 from the U.S. Department of Justice, Office of the Attorney General, James M. Cole to All United States Attorneys, "Guidance Regarding Marijuana Enforcement."

⁴⁶ *Id.*, p. 1-2.

The DOJ warned that “[i]f state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government *may seek to challenge the regulatory system itself* in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on these harms.”⁴⁷

B. Marijuana Laws in States Other than Washington.

1. *Generally.* At least seventeen states have now adopted laws allowing the medical use of marijuana and six states have similar legislation pending.⁴⁸ Colorado and Washington are the only states that have adopted laws legalizing recreational marijuana.

2. *California.* Some California courts have held that state medical marijuana laws are not in conflict with the CSA because they do not legalize medical marijuana.⁴⁹ These decisions recognize that while the CSA preempts state laws that positively conflict, the California medical marijuana law “simply decriminalizes for the purposes of state law certain conduct related to medical marijuana.”⁵⁰ Recently, the California Supreme Court decided to supersede and accept review of decisions rendered in four significant medical marijuana cases, including a case in which a local ordinance was invalidated as preempted under the CSA.⁵¹

The confusion caused by the California courts’ action on these cases (and the delay in the issuance of the decisions) prompted the City of Los Angeles to adopt an unusual ordinance. It prohibits medical marijuana businesses, but grants a limited immunity from the enforcement of the prohibition, until the California Supreme Court “rules regarding what cities can and cannot regulate and the City enacts new medical marijuana legislation consistent with that judicial guidance.”⁵² The immunity is granted to certain medical marijuana businesses, including those that were legally operating in the City under the previous regulations relating to medical

⁴⁷ *Id.*, p. 2, emphasis added.

⁴⁸ Alaska, Arizona, California, DC, Delaware, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Washington, <http://medicalmarijuana.procon.org>. According to this website, the states vary in the amount of usable cannabis possession limits (from 1 oz. (Alaska) to 24 oz. (Washington and Oregon)) as well as the number of plants (from 6 plants to 24 plants (Oregon)).

⁴⁹ California’s Compassionate Use Act “does not conflict with federal law because on its face it does not purport to make legal any conduct prohibited by federal law; it merely exempts certain conduct by certain persons from the California drug laws.” *Qualified Patients Assn. v. City of Anaheim*, 187 Cal.App.4th 734, 760, 115 Cal.Rptr.3d 89 (2010).

⁵⁰ *County of San Diego v. San Diego NORML*, 165 Cal. App. 4th 798, 81 Cal.Rptr.3d 461 (2008).

⁵¹ See, *Medical Marijuana Cases Have Courts Exhibiting Multiple Personalities, Flurry of Conflicting Rulings on Medical Marijuana Sets Up Landmark California Review*, posted March 13, 2012 by Peter Hecht of McClatchy Newspapers. In one of these cases, the court ambiguously held that only those ordinances that distinguished between “not making an activity unlawful and making the activity lawful” would be upheld. *Pack v. Superior Court*, 199 Cal.App.4th 1070, 132 Cal.Rptr.3d 633 (10-4-11); *opinion superseded and review granted*, 268 P.3d 1063 (1-18-12); *dismissed as moot* 146 Cal.Rptr.3d 271, 283 P.3d 1159 (8-22-12). After review was granted in *Pack*, the City repealed the ordinance and replaced it with another which imposed a complete and immediate ban on collectives in the City.

⁵² Section 45.19.6, Ordinance 182,580 (effective 6/20/13) of the Los Angeles Municipal Code.

marijuana businesses.⁵³ All other medical marijuana businesses not operating in a manner consistent with the restrictions in the ordinance are required to cease operations.⁵⁴

The California Supreme Court has held that the California medical marijuana law did not preempt the City of Riverside, California's ban on medical marijuana dispensaries.⁵⁵ In this decision, the court held that nothing in California law "expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land, including the authority to provide that facilities for the distribution of medical marijuana will not be permitted to operate within its borders."⁵⁶ (While this may also be true for the Washington medical marijuana laws, there are certain aspects of I-502 or recreational marijuana, that are not contemplated by the court's decision in this case, such as Washington State licensing.)

3. *Colorado.* Washington legislators would do well to consider the manner in which the Colorado laws regarding medical marijuana recognize home rule. In Colorado, the laws legalizing medical marijuana uses allow for a "local option," meaning that they operate statewide **unless**:

a municipality, county, city or city and county, by either a majority of the registered electors of the municipality, county, city or city and county, voting at a regular election or a special election . . . or a majority of the members of the governing board for the municipality, county, city or city and county vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers' licenses.⁵⁷

In addition, there is significant licensing coordination between the state and local jurisdictions for medical marijuana businesses. Colorado's state law describes the type of medical marijuana licenses that may be issued by both the state and a local licensing authority.⁵⁸ The law does not allow a local licensing authority to issue a medical marijuana license unless the city or county has adopted an ordinance with specific standards for license issuance, including those identified in the code, such as distance restrictions, size of the licensed premises, etc.⁵⁹ A medical marijuana business that may be licensed under these laws cannot begin operations until a license has been obtained by both the local licensing authority and the state licensing authority. "If the state licensing authority issues the applicant a state license and the local licensing authority subsequently denies the applicant a license, the state licensing authority shall consider the local licensing authority a denial as a basis for the revocation of the state-issued license."⁶⁰

Colorado's state auditors recently determined that even with Colorado's more comprehensive medical marijuana regulatory system, the "the state is not providing enough

⁵³ *Id.*, Section 45.19.6.3.

⁵⁴ *Id.*, Section 45.19.6.7.

⁵⁵ *City of Riverside v. Inland Empire Patients Health and Wellness Center* 56 Cal.4th 729 (2013) (2013 WL 1859214).

⁵⁶ *Id.*

⁵⁷ C.R.S.A Section 12-43.3-106.

⁵⁸ C.R.S.A. Section 12-43.3-401, 12-43-3-301.

⁵⁹ C.R.S.A. Section 12-43.3-301(2)(a).

⁶⁰ C.R.S.A. Section 12-43.3-310(2).

oversight of the medical marijuana industry.”⁶¹ The state auditors found that only a dozen Colorado doctors issued half of the medical marijuana patient recommendations in the state.⁶² The audit revealed that in 2009 there were only 6,000 medical marijuana patients in the Colorado, but this number increased to 108,000 in March of 2013. Some doctors also appear to have recommended excessive amounts of marijuana to some patients – one patient received a recommendation for 501 marijuana plants, while another received a recommendation for 75 ounces.⁶³

4. *Michigan.* In Michigan, the City of Wyoming sought to ban medical marijuana uses by adopting a zoning ordinance which provided that “uses not expressly permitted under this article are prohibited in all districts. Uses that are contrary to federal law, state law or local ordinance are prohibited.”⁶⁴ The City argued that this ordinance was valid even if it was preempted by state law allowing medical marijuana, because the federal CSA preempted the state law. In a decision that has been accepted for review by the Michigan Supreme Court, the City’s ban was invalidated because it conflicted both with the state law and the CSA.

III. Local Response to Marijuana Laws.

A. Moratoria and Interim Zoning, Generally.⁶⁵ A moratorium is an emergency measure adopted without public notice or public hearings, designed to preserve the status quo while the city or town officials consider new regulations to respond to new or changing circumstances not addressed in current laws. During the period of the moratorium, no applications for building permits or other development permits for medical marijuana dispensaries may be submitted.

Cities and towns may adopt interim zoning in response to an emergency situation to regulate use of land pending amendments to the zoning code.⁶⁶ Interim zoning is:

[A] process whereby a governmental body in response to an emergency situation temporarily establishes an ordinance to classify or regulate uses of land pending . . . revision of the existing zoning code . . .⁶⁷

⁶¹ This conclusion was included in “*Colorado Medical Marijuana Audit: 12 Docs Issued Half of the Medical Pot Patients Recommendations in State*,” The Huffington Post, Denver, by Matt Ferner, posted 7/16/13.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Ter Beek v. City of Wyoming*, 823 N.W.2d 864 (2012), *appeal granted*, 828 N.W.2d 381 (2013).

⁶⁵ For a complete explanation of moratoria and interim zoning, complete with sample ordinances, contact Carol Morris at carol_a_morris@msn.com for a copy of the Article “Moratoria Handbook for Municipalities,” commissioned by the Association of Washington Cities Risk Management Services Agency.

⁶⁶ Interim zoning is adopted under the same authority and procedures as moratoria. GMA cities: RCW 36.70A.390; code cities: RCW 35A.63.220; other cities and towns: RCW 35.63.200.

⁶⁷ *Smith v. Skagit County*, 75 Wn.2d 715, 723, 453 P.2d 832 (1969), *holding modified by State v. Post*, 118 Wn.2d 596, 837 P.2d 599 (1992).

The author of this Article does not recommend adoption and repeated renewal of moratoria or interim zoning regulations as a substitute for bans on marijuana uses.⁶⁸ The question whether municipalities should adopt development regulations allowing the medical marijuana or recreational uses is addressed below.

B. Medical Marijuana Moratoria and Adoption of Development Regulations. Based on the DOJ's August 29, 2013 memo, local governments should consider the following courses of action:

1. Local governments with no regulations addressing medical marijuana.⁶⁹ First, the local government needs to ask whether it believes that the existing state law on the subject of medical marijuana addresses the federal government's enforcement priorities (identified on page 9 of this Article). Even if it could be argued that chapter 69.51A RCW and the type of local development regulations adopted by most municipalities for collective gardens meet this standard, few municipalities have the resources to provide vigorous enforcement of these laws.

According to the August 29, 2013 DOJ Memo, "[i]f state efforts are not sufficiently robust to protect against the harms set forth above, *the federal government may seek to challenge the regulatory system itself* in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms."⁷⁰ Rather than face an action from the federal government challenging the municipality's ordinance (or enforcement of that ordinance) governing medical marijuana, consideration should be given to the adoption of a temporary ban prohibiting all medical marijuana uses (see below), to be in effect until the State of Washington revises chapter 69.51A RCW (on medical marijuana) to provide for the same type of regulatory system governing recreational marijuana.

This type of a ban on medical marijuana uses can be adopted under the procedures for interim zoning controls if there is an emergency – but the interim zoning control must be repealed at some point and a "permanent" ban adopted.⁷¹ If there is no emergency, the ban could be adopted under the usual procedures for adoption of a development regulation.⁷²

2. Local governments that have adopted regulations addressing medical marijuana.⁷³ For the reasons set forth above, local governments with regulations addressing medical marijuana uses should consider adoption of an ordinance that:

⁶⁸ See, *Byers v. Board of Clallam County Comm'rs*, 84 Wn.2d 796, 901, 529 P.2d 823 (1974) and *Biggers v. Bainbridge Island*, 162 Wn.2d 683, 169 P.3d 14 (2007). If moratoria and interim zoning are adopted and renewed without following the correct procedures for adoption, even though there is no emergency necessitating adoption, there is a risk that the ordinance could be invalidated.

⁶⁹ Model ordinances have been drafted for the cities and towns in the AWC-RMSA insurance pool and are available on the AWC-RMSA website.

⁷⁰ DOJ's August 29, 2013 Memo, p. 3.

⁷¹ For GMA cities and towns, RCW 36.70A.390. For code non-GMA cities, RCW 35A.63.220. For non-code, non-GMA cities and towns, RCW 35.63.200.

⁷² See, *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995) for a discussion of what needs to be in the declaration of emergency to withstand a legal challenge.

⁷³ Model ordinances have been drafted for the cities and towns in the AWC-RMSA insurance pool and are available on the AWC-RMSA website.

- Prohibits new medical marijuana collective gardens and any medical marijuana dispensaries (and any marijuana businesses that do not have a license from the Liquor Control Board of the State of Washington);
- Grants limited immunity as provided in chapter 69.51A RCW and against this prohibition to those medical marijuana collective gardens that were legally in existence at the time the ordinance was adopted, as long as they do not violate the existing regulations applicable to collective gardens;
- Identifies the time limitation for the effectiveness of the ordinance (“until such time as the State of Washington revises chapter 69.51A RCW consistent with the DOJ’s priorities as set forth in the August 29, 2013 Memo”);
- Clearly states that no immunity, vested right or legal nonconforming use is created between the date of the adoption of this ordinance and any new ordinance on the same subject;⁷⁴
- Provide that the ordinance shall expire permanently on the effective date of the local government’s adoption of a new ordinance on the subject of medical marijuana uses; and
- Requires that any medical marijuana uses that are not in conformance with the ordinance must immediately cease operations.

In other words, if your jurisdiction hasn’t adopted regulations allowing medical marijuana uses, consider the temporary ban described on page 13 and the paragraph above. If your jurisdiction has adopted regulations allowing medical marijuana uses, consider an ordinance described in the paragraph above, which will ban new medical marijuana uses but allow certain ones to continue temporarily. If your jurisdiction has adopted regulations allowing medical marijuana uses but wants to immediately terminate them, review pages 18-19 of this Article to see a brief discussion of the issues that you must consider with an ordinance of this type.

C. Recreational Marijuana. Production, processing, possession, delivery, distribution and sale of the maximum amounts of marijuana established by law, are not criminal or civil offenses under Washington law, *as long as they are performed by a person with a valid license (or his/her employee)*.⁷⁵ The LCB has issued its Proposed Rules and a timeline which will allow the LCB to begin accepting applications on November 18, 2013 and to begin issuing licenses on December 1, 2013. This means that prospective licensees may be searching for property prior to this time, and if a municipality hasn’t adopted development regulations to address recreational marijuana, the licensees will have no locational guidance on siting the proposed use. If a municipality has a moratorium in place to address recreational marijuana uses, the new regulations need to be adopted and the moratorium lifted as soon as possible to avoid challenges.

During the period of the moratoria, municipalities should be plotting out the application of the 1,000 foot rule (separation between recreational marijuana uses and sensitive uses defined in the draft Rules)⁷⁶ “on the ground,” to determine where recreational marijuana uses cannot

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⁷⁵ RCW 69.50.366, .363, .360.

⁷⁶ Keep in mind that the LCB will be revising Proposed Rule WAC 314-55-050(10), so that the method for measurement is consistent with federal law – the 1,000 feet will be measured in a straight line.

locate. Then, the municipality should be considering the possible secondary land use impacts associated with such uses to perform SEPA on comprehensive plan amendments and development regulations. For example, a large-scale growing operation will likely consume large amounts of water and other environmental impacts. The Proposed Rules issued on September 4, 2013 by the LCB address some environmental concerns, such as pesticide use.

Some local governments may choose to permit recreational marijuana uses in those zones best adapted to the secondary land use impacts. For example, retail uses would be allowed in commercial zones, while processing and production would be allowed in industrial or the most intense commercial zones.

If the municipality intends to raise the appropriateness of the location of the proposed recreational marijuana use to the LCB as “written objections” against the use, the municipality must have zoning in place when the LCB begins issuing licenses. Apparently, the LCB will determine whether the proposed use is within 1,000 feet of the defined sensitive uses and if so, will not issue the license.⁷⁷

IV. Official/Officer/Employee Liability.

Some city/town officials are worried that by adopting regulations that allow marijuana uses under certain limited circumstances, the city/town officials and staff will be subject to federal prosecution under the CSA.⁷⁸ There is immunity for their actions relating to medical marijuana under state law. (RCW 69.51A.130(2): “No civil or criminal liability may be imposed by any court on cities, towns and counties or other municipalities and their officers and employees for actions taken in good faith under [chapter 69.51A RCW] and within the scope of their assigned duties.”) The August 29, 2013 DOJ Memo (discussed on page 9 of this Article) provides some information on the subject of liability under federal law.

V. Frequently Asked Questions about Washington’s laws.

A. Medical Marijuana.

1. *Does Washington’s medical marijuana law conflict with the CSA?* No Washington appellate court has made a decision on this issue.

⁷⁷ Proposed Rule WAC 314-55-050(10).

⁷⁸ See, *County of San Diego v. San Diego NORML*, 165 Cal.App.4th 798, 81 Cal.Rptr.3d 461 (2008). This is a lawsuit brought by several California counties against the State and others, asking the court for a declaration that the counties were not required to comply with the California medical marijuana laws. The court held that “because major portions of the [state’s medical marijuana law] neither impose obligations on nor inflict direct injury to Counties, we reject the Counties’ effort to obtain an advisory opinion declaring the *entirety of the* [state’s medical marijuana law] invalid under preemption principles.” *Id.* 165 Cal. App.4th at 818. Specific portions of the state’s medical marijuana laws, such as the requirements that counties process applications, maintain records and issue identification cards to those persons entitled to obtain medical marijuana. *Id.*, at 825. “Because the CSA law does not compel the states to impose criminal penalties for marijuana possession, the requirement that counties issue cards identifying those against whom California has opted not to impose criminal penalties does not positively conflict with the CSA.” *Id.*, at 826.

2. *Can Washington cities, towns and counties adopt bans on medical marijuana uses?*⁷⁹ The City of Kent adopted a ban on medical marijuana uses, which was challenged and upheld at the superior court level. There has been no decision yet from the Court of Appeals in this case. Any municipality considering a ban on medical marijuana uses should keep in mind that even if Kent's ban on medical marijuana uses is upheld, it will not affect recreational marijuana uses. I-502 allows the Liquor Control Board to license recreational marijuana producers, processors and retailers in cities, towns and counties throughout Washington.

On the subject of a medical marijuana ban, municipalities need to seriously consider the DOJ's August 29, 2013 Memorandum, because the state law on medical marijuana does not address the enforcement priorities that were identified as "particularly important to the federal government." Most of the provisions in the original bill that would correspond with the federal government's priorities were vetoed by the Governor. The contrast between the type of regulations that the State Liquor Control Board is proposing to adopt on recreational marijuana and chapter 69.51A on medical marijuana clearly demonstrates the need for substantial legislative amendments in order to satisfy the priorities of the federal government.

Some local governments adopted ordinances regulating collective gardens in order to ensure that they would not be sited in inappropriate locations and to avoid lawsuits from medical marijuana advocates. The federal government's threat of prosecution⁸⁰ against local governments and/or the fear that federal funding would be lost, also caused many other local governments to either do nothing, or adopt (and renew) moratoria on medical marijuana uses.

At this time, the question is whether the DOJ will seek to challenge the state law or local ordinances on the subject of medical marijuana because they are not "sufficiently robust" (either on paper or in practice) to protect against the harms identified in the priorities. Until the Washington State Legislature addresses the deficiencies in the law, local governments may wish to adopt ordinances similar to the type adopted by the City of Los Angeles (maintaining the status quo without a moratorium, until California's highest courts interpret the medical marijuana laws).⁸¹ (This is described further on page 13-14 of this Article.)

⁷⁹ On the issue of banning medical marijuana uses, consider *Staffin v. County of Shasta*, 2013 WL 1896812 (E.D. Cal. 2013), in which the plaintiffs alleged that the county began a harassment program in furtherance of a de facto policy to ban all types of medical marijuana uses, and later adopted a moratorium on such uses. The plaintiffs opened a collective/dispensary, and the county brought an enforcement action to close it. In a subsequent damage action, the plaintiffs alleged a number of both federal and state law claims (but the court declined to rule on the latter). As to the plaintiffs' claim that the county violated the Contract Clause by using red tape to drive the plaintiffs out of business, the court first identified the contracts at issue as relating to the distribution or cultivation of medical marijuana. Because marijuana is contraband under federal law, the court ruled that "under federal law for the purpose of Contract Clause analysis, no valid agreement exists." The plaintiffs' due process claim that 33 pounds of marijuana had been seized and never returned was dismissed because the court held that "no person can have a legally protected interest in contraband per se," and "marijuana is contraband per se under federal law." Again, keep in mind that the state claims were not addressed in this case.

⁸⁰ See, Section II(A)(3) of this Article, p. 8.

⁸¹ As mentioned earlier, the City of Los Angeles adopted an ordinance prohibiting medical marijuana businesses, granting limited immunity from the enforcement of its prohibition to certain medical marijuana businesses that were legally operating as of a certain date, "until such time as the California Supreme Court

3. *Are Washington cities preempted from adopting zoning or business licensing requirements on medical marijuana (individual cultivation or collective gardens)?*⁸² Not if they are carefully drafted. Here is the authority delegated by the State to local jurisdictions in RCW 69.51A.140:

Cities and towns may adopt and enforce any of the following pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction: Zoning requirements, business licensing requirements, health and safety requirements and business taxes. Nothing in chapter 181, Laws of 2011 is intended to limit the authority of cities and towns to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction. If the jurisdiction has no commercial zones, the jurisdiction is not required to adopt zoning to accommodate licensed dispensers.⁸³

Under Const. art. 11, sec. 11, cities and towns have the right to enact ordinances prohibiting the same acts prohibited by state law so long as the state enactment was not intended to be exclusive and the city ordinance does not conflict with the general law of the state.⁸⁴ As explained by the Washington Supreme Court (in a case in which the plaintiff alleged that a drug loitering law was preempted by RCW 69.50.603 of the Uniform Controlled Substances Act (UCSA)):

An ordinance must yield to a statute on the same subject on either of two grounds: if the statute preempts the field, leaving no room for concurrent jurisdiction, or if a conflict exists between the two that cannot be harmonized. . . .

Preemption occurs when the Legislature states its intention expressly, or by necessary implication, to preempt the field. . . . [Where there is no expressly stated intention to preempt the field]:

[T]he court may look to the purposes of the statute and to the facts and circumstances upon which the statute was intended to operate. If, however, the Legislature ‘affirmatively expresses its intent, either to occupy the field or to accord concurrent jurisdiction, there is no room for doubt.’⁸⁵

rules regarding what cities can and cannot regulate and the City enacts new medical marijuana legislation consistent with that judicial guidance.” Section 45.19.6 of the Los Angeles Municipal Code.

⁸² This Article presumes that medical marijuana dispensaries are prohibited under ESSSB 5073 because all of the regulations central to the operation of such dispensaries, were vetoed by the Governor.

⁸³ There is no definition of “licensed dispensers” in chapter 69.51A RCW, the Governor vetoed many provisions in ESSSB 5073 relating to dispensers, including the definitions.

⁸⁴ *Tacoma v. Luvene*, 118 Wn.2d 826, 833, 827 P.2d 1374 (1992). See also, *Preemptive Effect of Uniform Controlled Substances Act on Local Ordinances*, 33 A.L.R.6th 293.

⁸⁵ *Id.*, 118 Wn.2d at 833.

Challenges may be made to medical marijuana local ordinances based on preemption under RCW 69.50.608 of the USCA.⁸⁶ The Washington Supreme Court has held that RCW 69.50.608 “expressly preempts the field of setting penalties for violations of the [USCA].”⁸⁷ However, the Court interpreted RCW 69.50.608 to “expressly contemplate the existence of ‘ordinances relating to controlled substances that are consistent with the USCA,’ and to “grant concurrent jurisdiction to local governments.”⁸⁸ A direct and irreconcilable conflict with a statute violates Const. art. 11, sec. 11. “In determining whether an ordinance is in conflict with the general laws, the test is whether the ordinance permits or licenses that which the statute forbids and vice versa.”⁸⁹

As an example of a conflict between state law and local ordinance, consider whether cities and towns may ban collective gardens as nuisances, which are allowed under RCW 69.51A.085. Another state law provides that “nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.”⁹⁰

The conflict must be direct and irreconcilable with the statute, and the ordinance must yield to the statute if the two cannot be harmonized.⁹¹ “If the ordinance and statute can be harmonized, then the statute should not be construed as restricting the city or town’s power to enact measures relating to controlled substances.”⁹²

4. *Can a municipality adopt an ordinance allowing medical marijuana uses, and then later, adopt a ban?* Yes, as long as the municipality acknowledges the constitutional restrictions that would accompany such a ban. Under this factual scenario, any existing medical marijuana uses would likely argue that they had attained legal nonconforming status prior adoption of the ban.⁹³

According to the Washington courts, “[i]t is clear that local governments have the authority to preserve, regulate and even, within constitutional limitations, terminate

⁸⁶ See, *John and Jane Does 1-13 v. Seattle*, King County Cause No. 11-2-42621-1SEA.

⁸⁷ *Id.*, 118 Wn.2d at 834. See also, *State v. Fisher*, 132 Wash. App. 26, 31, 130 P.3d 382 (2006) (county code prohibiting possession of drug paraphernalia neither conflicted with nor was preempted by the Uniform Controlled Substances Act).

⁸⁸ *Id.*

⁸⁹ *Bellingham v. Schampera*, 57 Wn.2d 106, 111, 356 P.2d 292, 92 A.L.R.2d (1960).

⁹⁰ RCW 7.48.160. When considering any of the cases involving nuisance and bans on medical marijuana dispensaries in California, keep in mind the differences between the Washington medical marijuana law and California’s. Another obvious problem with the California cases is that many are inconsistent, on appeal and awaiting final decisions. See, *City of Lake Forest v. Evergreen Holistic Collective*, 203 Cal.App.4th 1413 (2012) review granted and opinion superseded 275 P.3d 1266 (5-16-12); *County of Los Angeles v. Hill*, 121 Cal.Rptr.3d 722, 192 Cal.App.4th 861 (2011).

⁹¹ *Brown v. Yakima*, 116 Wn.2d 556, 560, 807 P.2d 353 (1991).

⁹² *Tacoma v. Luvene*, 118 Wn.2d 826, 835.

⁹³ An factual scenario that likely has occurred in many cities, towns and counties in Washington is presented in *City of Corona v. Naulls*, 166 Cal.App.4th 418, 83 Cal.Rptr.3d 1 (2008), in which a medical marijuana dispensary owner applied and received a business license from the city without disclosing that the business was a medical marijuana dispensary. The city later adopted a moratorium on medical marijuana uses, and the business operator claimed that he was “grandfathered” in as a legal nonconforming use because he had been legally operating prior to the moratorium. The court held that because medical marijuana dispensaries were not identified in the municipal code as a permitted use, the business was operating as an illegal use, constituting a nuisance per se.

nonconforming uses.”⁹⁴ While it “would be unconstitutional to subject nonconforming uses to immediate termination,” it is a “valid exercise of police power to terminate nonconforming uses that have been abandoned or by providing a reasonable amortization period.”⁹⁵ “As a general matter, an amortization period is insufficient only if it puts a business in an impossible position due to a shortage of relocation sites.”⁹⁶

Although there is no Washington case on this subject, the California courts have addressed a similar issue – whether a city violated the constitutional rights of a legally operating medical marijuana collective and dispensary, by adopting an ordinance changing the permissible locations for operating dispensaries, and requiring compliance within four years.⁹⁷ Even though the lawsuit for damages against the city was moot (the feds closed the business down), the court went on to decide that the operator had acquired a vested right in the dispensary.⁹⁸ The plaintiff was able to show that his due process rights were violated under the facts of this case, because there were no other available sites for him to relocate.

Another solution was mentioned on page 13-14 of this Article. If a local government has allowed medical marijuana uses, but realizes that the local government’s ordinance (or its enforcement in practice) does not meet the federal government’s priorities, as expressed in the DOJ’s August 29, 2013 memo, it may consider an alternative. This ordinance would contemplate the governing body’s consideration of a revision when the Washington State Legislature adopts amendments to the medical marijuana laws to address the federal government’s enforcement priorities.

B. Recreational Marijuana.

1. *Does Washington’s I-502 allowing recreational marijuana uses conflict with the CSA?* No Washington court has made a decision on this issue. Because the adoption of recreational marijuana initiatives in Washington and Colorado in 2012 were the first, there are no decisions to analyze from other states.

2. *Can Washington cities, towns and counties adopt bans on recreational marijuana uses?* The LCB will soon be issuing licenses for recreational uses in Washington towns, cities and counties under criteria that do not even require consideration of a

⁹⁴ *Rhod-A-Zalea & 35th, Inc. v. Snohomish County*, 136 Wash.2d 1, 8, 959 P.2d 1024 (1998) (as quoted in *Cradduck v. Yakima County*, 166 Wash. App. 435, 448, 271 P.3d 289 (2012)).

⁹⁵ *Rhod-A-Zalea*, 136 Wash.2d at 8, *Cradduck*, 166 Wash. App. at 448. Reasonable amortization provisions have been upheld in a number of cases. See, *World Wide Video of Washington, Inc. v. City of Spokane*, 125 Wash. App. 289, 308, 103 P.3d 1265 (2005); *Northend Cinema, Inc. v. Seattle*, 90 Wash.2d 709, 585 P.2d 1153 (1978). In *Seattle v. Martin*, 54 Wash.2d 541, 544, 342 P.2d 602 (1959), the court adopted a balancing test to determine the reasonableness of the termination period: “whether the harm or hardship to the user outweighs the benefit to the public to be gained from termination of the use.” Applying this test to the termination of the ability of theaters in certain zones to show adult films, the court upheld Seattle’s 90 day amortization period in *Northend Cinema*.

⁹⁶ *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186,1200 (2004).

⁹⁷ *Santa Barbara Patients’ Collective Health Cooperative v. City of Santa Barbara*, 911 F.Supp.2d 884 (C.D. CA 2012).

⁹⁸ Keep in mind that there is a different vested rights doctrine in California, and that this operator obtained a vested rights through issuance of a permit to build the dispensary and by incurring substantial costs in good faith reliance of that permit. *Santa Barbara*, 911 F. Supp.2d at 893.

municipality's local zoning regulations. Under I-502, the LCB may issue a license even if the municipality files written objections to the license. So this question is really whether a municipality will prevail in an action to enforce its ordinance banning a recreational marijuana use, once the operator obtains a license from the LCB.

Again, as a partial recap of the rules applicable to resolve a preemption issue, "a state statute preempts an ordinance on the same subject if the statute occupies the field, leaving no room for concurrent jurisdiction, or if a conflict exists such that the statute and the ordinance may not be harmonized."⁹⁹ "An ordinance is constitutionally invalid if it directly and irreconcilably conflicts with the statute."¹⁰⁰ If the two may be harmonized, however, no conflict may be found.¹⁰¹ The issue here is whether I-502's regulations allowing the LCB to issue licenses to recreational marijuana uses would be inconsistent with a municipality's ban on the same uses.

Municipalities considering such bans should consider a case involving an ordinance involving a ban on motorized personal watercraft on marine waters.¹⁰² The argument was made that the ban was preempted because state law required registration of watercraft as a precondition to use (or permission to engage in an activity), as well as raise tax revenues. However, the court upheld the ban on motorized personal watercraft, finding that:

[T]he Legislature must *expressly* indicate an intent to preempt a particular field. In this case, the registration statute does not contain language preempting the regulation of this activity to the State. *See* RCW 46.08.020. We 'will not interpret a statute to deprive a municipality of the power to legislate on particular subjects unless that clearly is the legislative intent.'¹⁰³

In addition to the preemption analysis, the ordinance banning motorized personal watercraft had to pass muster under the county's "police power" authority, or article XI, section 11 of the state constitution: "A law is a reasonable regulation if it promotes public safety, health or welfare and bears a reasonable and substantial relation to accomplishing the purpose proposed."¹⁰⁴ So, the ordinance had to promote the health, safety, peace, education or welfare of the people.¹⁰⁵ Next, the requirements of the ordinance had to bear some reasonable relationship to accomplishing the purpose underlying the statute. Once an ordinance is found to serve a "legitimate public purpose," the courts will examine whether it uses means that are reasonably necessary to achieve that purpose.¹⁰⁶ Finally, the court determined whether the ordinance violates substantive due process, or whether it is "unduly oppressive."¹⁰⁷

⁹⁹ *Lawson v. City of Pasco*, 168 Wash.2d 675, 679, 230 P.3d 1038 (2010).

¹⁰⁰ *Brown v. Yakima*, 116 Wash.2d 556, 561, 807 P.2d 353 (1991).

¹⁰¹ *Lawson*, 168 Wash.2d at 682.

¹⁰² *Weden II v. San Juan County*, 135 Wash.2d 678, 958 P.2d 273 (1998).

¹⁰³ *Weden II*, 135 Wash.2d at 695 (emphasis in original).

¹⁰⁴ *Id.*, 135 Wash.2d at 700, citing *City of Seattle v. Montana*, 129 Wash.2d 583, 591, 919 P.2d 1218 (1996).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*, at 701.

¹⁰⁷ *Id.* at 706.

If the LCB issues a license to a recreational marijuana producer, processor or retailer, can the town, city or county adopt an ordinance banning such uses or deny a state licensee a city or town business license? Obviously, it will depend on the reason for the denial, but some municipalities may argue that a denial is possible because marijuana is prohibited under federal law.¹⁰⁸ The state licensee, however, will probably argue that the State occupies the field with regard to licensing of recreational marijuana uses, and that a ban prohibits what I-502 allows.

3. Can a town, city or county adopt zoning regulations¹⁰⁹ that further supplement the 1,000 foot distance/separation requirements in I-502, to prohibit recreational marijuana uses in certain zones?¹¹⁰ The first step in determining whether or not recreational marijuana uses can site in a particular municipality is to identify all of the “sensitive uses” that trigger the 1,000 separation requirement in I-502 to determine where these recreational marijuana uses can legally locate.¹¹¹ Then, the municipality should determine whether further regulation is required. The method in the LCB’s proposed rules for measurement of the 1,000 foot rule is unusual, so local governments should consider whether further input should be given to the LCB on this point.¹¹²

4. Should the city, town or county wait until the LCB finishes its rule making, before adopting any comp plan policies/ordinances to address recreational marijuana uses?¹¹³ SEPA must be followed in the adoption of new development regulations, unless the action is categorically exempt.¹¹⁴ Very little information is available on the environmental impacts of the recreational marijuana uses at this time. The SEPA Checklist completed by the LCB on its Proposed Rules provides little information and is based on a draft version of a “white paper” written by the LCB’s consultant that does not consider processing or retailing uses at all.

It appears that once the LCB finishes rule making, it will begin issuing licenses for the recreational marijuana uses. Prospective licensees will be searching for property before they submit their license applications to the LCB. If a municipality waits too long to adopt

¹⁰⁸ Review RCW 35A.82.020 applicable to code cities. It allows the code city to issue business licenses for “all occupations, trades and professions and any other lawful activity: PROVIDED that no license or permit to engage in any such activity or place shall be granted to any who shall not first comply with the general laws of the state.” Also, “no license or excise shall be required where the same shall have been preempted by the state . . .”

¹⁰⁹ Under RCW 69.51A.140, cities and towns can adopt and enforce zoning regulations relating to the production, producing or dispensing of cannabis.

¹¹⁰ Apparently, this 1,000 foot distance/separation requirement proved to be too onerous. HB 2000 proposed to reduce it to 500 feet and to establish the procedures for measurement. This bill did not pass.

¹¹¹ The LCB proposes to measure this distance as follows: “The distance shall be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of the entities listed [in WAC 314-55-050(10)(a) through (h)]. Proposed Rule WAC 314-55-050(10).

¹¹² Proposed Rule WAC 314-55-050(10). “The distance shall be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of the entities listed [in WAC 314-55-050(10)(a) through h].”

¹¹³ This is another reason municipalities should submit comments to the LCB demanding that they follow SEPA in rulemaking and the issuance of recreational marijuana licensing. In addition, the LCB should adopt rules requiring that the applicant for a license submit a SEPA checklist, which should be immediately transmitted to the municipality, to use in the preparation of “written objections” to individual licenses.

¹¹⁴ WAC 197-11-800(19).

regulations, it may not have any in place to guide these prospective licensees. If there are no regulations in place at the time the LCB provides notice to the municipality that it has received an application, the City may not be able to rely upon such regulations as part of its “written objections” to any license.¹¹⁵ Most importantly, if the city has a moratorium in place at the time the LCB issues licenses, a licensee may challenge the moratorium.

5. How can the local government obtain environmental information on recreational uses, if the LCB plans to defer any environmental review until the local permitting stage? Local governments could provide comment to the LCB on the proposed rules to require that licensees complete SEPA checklists as part of the license application. In the alternative, when a local government is notified by the LCB that a recreational marijuana license application has been received, the local government could ask the LCB to require the applicant to complete a SEPA Checklist, so that the environmental impacts can be evaluated before the “written objections” are filed.

6. What should we include in our municipal regulations for marijuana?

Medical Marijuana -- See above. The author of this Article recommends that local jurisdictions carefully consider any ordinances that they have adopted or plan to adopt on the subject of medical marijuana in light of the August 29, 2013 DOJ Memo. Some local jurisdictions may want to consider the option presented on page 13-14 of this Article.

Recreational Marijuana. Before drafting any land use controls for recreational marijuana, the municipality should review all of the LCB’s Proposed Rules. Many land use impacts are addressed by the Proposed Rules, such as location, whether the production will take place indoors or outdoors, fencing, sign requirements, etc. To the extent possible, the municipality should identify the possible remaining impacts, and determine where the recreational marijuana uses (production, processing and retailing) should locate (agricultural, industrial or commercial areas) based on the secondary land use impacts. The local governments also need to amend their codes to provide for recreational marijuana business licenses.

VII. Public Record Requests. One issue that will arise in cities and counties that adopt a business licensing or permit scheme is whether the information requested for a complete application is subject to disclosure under the Public Records Act (chapter 42.56 RCW) or will be provided to law enforcement personnel. (This article will not address the Public Records Act issues.) If there is no permit or business license scheme for collective gardens, it is less likely that people may ask for public records from the city (permit applications, permit application materials, business license applications, as examples) in order to discover the location of collective garden for purposes of joining, theft, vandalism.¹¹⁶

¹¹⁵ See, Proposed Rule WAC 314-55-160 and RCW 69.50.331.

¹¹⁶ Consult chapter 42.56 RCW for more information about whether such documents are disclosable under the Public Records Act.

VIII. Options for Municipalities: Here are the options for municipalities to discuss with their attorneys.¹¹⁷

A. *Do Nothing.*

1. Medical Marijuana. If the municipality does nothing, then medical marijuana collective gardens and individual cultivation may locate and operate throughout the municipality, in any zone, indoors or outdoors. The municipality probably will be able to ban medical marijuana dispensaries without a prohibitory ordinance, based on the lack of authorization under state law. If the municipality does not wish to take any affirmative action (by way of the adoption of any new regulations), it still may have an argument that a particular use is prohibited under the zoning code, based on general language which prohibits anything not specifically allowed.¹¹⁸ However, if a municipality is interested in prohibiting medical marijuana uses, allowing a “default” to such language in the zoning code is by no means foolproof.

2. Recreational Marijuana. At this point in time, the LCB has not issued any licenses for recreational marijuana, so no recreational marijuana business can legally operate. Once the LCB issues the final rules and begins accepting license applications, it will notify the municipality that it has received an application for a license to conduct a recreational marijuana use in the municipality. The municipality may decide to file or not to file any written objections to the use. This would mean that the LCB will issue the license for the recreational marijuana use.

Some municipalities interpret their development regulations to allow the recreational uses without need for additional authorization in the zoning code. For example, if a land use permit for a retailing operation is submitted, the municipality may require that it be located in a commercial zone allowing similar retail uses. No additional zoning regulations are required, even if the use is not specifically identified as permitted in a specific zone, because the municipality may use the interpretation process to determine whether the impacts of an unidentified use are allowed in any zone. However, this procedure will not work if the zoning code has language which provides that any use not identified as a permitted use is prohibited. Depending on the municipality’s business licensing ordinance, the use may or may not have to get a business license to operate locally.

B. *Adopt a moratorium.*

1. Medical Marijuana. Some municipalities may decide to adopt moratoria on medical marijuana uses based on the uncertainty in the law (lack of definitions, the fact that marijuana is prohibited under federal law, the municipality’s decision to wait for new legislation, or to await the court decision on a medical marijuana ban in Kent case). This option is not recommended if the municipality is not planning to take any action, but is merely using the moratorium to ban medical marijuana uses without adopting a prohibitory ordinance. In addition, those municipalities repeatedly renewing moratoria should carefully discuss this course

¹¹⁷ Model ordinances for cities and towns in the AWC-RMSA insurance pool will be posted on the AWC-RMSA website.

¹¹⁸ See, *City of Monterey v. Carrnshimba*, 215 Cal.App.4th 1068, 156 Cal.Rptr.3d 1 (2013).

of action with their attorneys.¹¹⁹ State law (including SEPA) must be followed when adopting and continuing such moratoria.¹²⁰

2. Recreational Marijuana. Because recreational marijuana producers, processors and retailers cannot legally operate until they receive a license from the LCB, no moratorium is necessary. However, some municipalities may decide to adopt moratoria on these recreational marijuana uses now to provide notice and to begin the process of drafting development regulations for such uses. However, if the municipality doesn't lift the moratorium and adopt development regulations before the LCB accepts license applications or issues licenses, prospective applicants will have no information on local zoning when making decisions on property purchase/rental.

During the moratorium, the municipality should be reviewing the zoning ordinance map to determine where the recreational marijuana uses can locate, and to decide whether additional zoning regulations for such uses are needed. Municipalities wishing to adopt or continue a moratorium after this point in time should carefully discuss this course of action with their attorneys. There is a high probability that if a municipality has a moratorium in place when the LCB begins issuing recreational marijuana licenses, and the municipality has no plans to terminate the moratorium, it could be challenged. State law (including SEPA) must be followed when adopting and continuing such moratoria.

C. *Adopt interim zoning.*

1. Medical Marijuana. Given the August 29, 2013 Memo from the DOJ, the municipality should consider the adoption of an ordinance prohibiting any new medical marijuana uses from locating and that allows existing legal medical marijuana uses to continue until the State of Washington revises chapter 69.51A RCW. *See*, page 13 of this Article for more information. This should not be adopted as an interim zoning ordinance unless there is an emergency.

2. Recreational Marijuana. If a municipality will not be able to adopt their development regulations before the LCB begins accepting licenses or issuing them, the municipality should consider the adoption of interim zoning regulations that will provide basic guidance to prospective licensees. This is an option for municipalities that know where in the municipality that recreational marijuana uses will be allowed, but the process for adoption for a "permanent" zoning ordinance would extend beyond December 1, 2013.

D. *Adopt "Permanent" Zoning.*

1. Medical Marijuana. Municipalities should consider the type of ordinance that they could adopt for medical marijuana uses based on the federal government's enforcement priorities in the August 29, 2013 Memo. If the municipality doesn't believe that it could adopt a regulatory system that would be "sufficiently robust" to address these priorities on paper and in

¹¹⁹ *See, Biggers v. Bainbridge Island*, 162 Wn.2d 683, 169 P.3d 14 (2007).

¹²⁰ RCW 35.63.200 (cities and towns governed by Title 35 RCW); RCW 35A.63.220 (code cities governed by Title 35A RCW); and RCW 36.70A.390 (cities, towns and counties planning under GMA).

practice, “permanent” zoning with development regulations authorizing the use may not be appropriate at this time. Consider the alternative described on page 13-14 of this Article. The municipality must follow all of the procedures for adoption of a “permanent” zoning ordinance, including SEPA.

2. Recreational Marijuana. Municipalities may decide to adopt “permanent” zoning regulations allowing recreational marijuana production, processing or retailing, or use existing development standards. All applicable laws must be followed, including SEPA.

E. *Impose a Ban.*

1. Medical Marijuana. Based on the August 29, 2013 DOJ Memorandum, municipalities should consider the alternative described on page 13-14 of this Article. If an ordinance banning medical marijuana is adopted, all the procedures for the adoption of a “permanent” zoning ordinance must be followed, including SEPA.

2. Recreational Marijuana. Municipalities wishing to ban recreation marijuana uses need to discuss this course of action with their attorneys. This type of a ban will likely be challenged.

F. *Adopt Business Licensing Regulations.*

1. Recreational Marijuana. Municipalities need to review their business licensing ordinances to determine whether they can require that a state license for a recreational marijuana producer, processor or retailer obtain a local business license.

2. Both Recreational and Medical. Even if a municipality hasn’t adopted any regulations specific to marijuana uses, it may be that there are existing marijuana uses, and they have obtained a business license by identifying their business as involving something other than the cultivation, production, processing, delivery or sale of marijuana (recreational or medical).

3. Medical Marijuana. Municipalities wishing to adopt business licensing regulations relating to medical marijuana should consider the August 29, 2013 Memo from the DOJ and discuss this course of action with their attorneys. In addition, the City of Seattle will likely have information on this subject, because it is or was involved in litigation with plaintiffs alleging that in order to apply for a business license for a marijuana use, the plaintiffs were required to admit to the operation of a medical marijuana collective garden. According to the plaintiffs, filling out a license application necessarily includes an admission by the plaintiffs that they participate in a crime under Federal law (the possession and distribution of medical marijuana).¹²¹ The plaintiffs argued that providing such information “constitutes an admission of guilt that may be used against that individual in a subsequent criminal prosecution,” violating their right against self-incrimination.¹²²

¹²¹ *John and Jane Does 1-13 v. Seattle*, King County Superior Court Cause No. 11-2-42621-1 SEA, line 14-18, p. 6. Although this lawsuit was dismissed on a technicality, the plaintiffs are pursuing their claims in a second lawsuit.

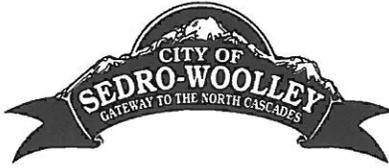
¹²² The plaintiffs cite to *Grosso v. United States*, 88 S.Ct. 709, 390 U.S. 62 (1968).

F. *Adopt a Tax on Marijuana Uses.*

1. Medical Marijuana. Qualified Patients and Designated Providers who cultivate medical marijuana for their individual use or in collective gardens cannot legally sell the medical marijuana. If medical marijuana dispensaries are prohibited, then there are no sales of medical marijuana to tax.

2. Recreational Marijuana. Municipalities seeking to impose additional taxes (other than business license taxes) on recreational marijuana producers, processors and retailers should discuss this issue with their attorneys to determine whether there is a preemption issue.

Conclusion. This memo is not intended to be, nor should it be construed as, legal advice. If you have any questions on this subject, contact your municipality's attorney.



CITY COUNCIL AGENDA
REGULAR MEETING

NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 9

Building and Planning Departments
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

MEMO:

To: City Council
Mayor Anderson

From: John Coleman, AICP 
Planning Director

Date: November 13, 2013

Subject: Proposed modification to Municipal Code regarding parking requirements for new businesses in the CBD – (1st Read)

ISSUE

Should the Council amend SWMC 17.36.020 and to allow new businesses and new buildings in a specified portion of the Central Business District to use city-owned parking lots to meet parking requirements?

PROJECT DESCRIPTION / HISTORY

The City Council Business Development Committee met through the winter of 2013 to look for ways to make the city more attractive to new businesses. The Committee identified several ways to help new businesses open in Sedro-Woolley; one of the possibilities discussed is to reduce parking requirements for new uses in existing structures in the heart of the City's downtown. When new businesses move into an existing structure in the downtown, if that business requires more parking than did the previous tenant, the new business needs to provide additional parking. Because the downtown buildings do not have any off-street parking, the new business may have difficulty finding additional parking.

The Planning Commission held Open Record public hearing on July 16 to gather public testimony on the subject. The Planning Commission recommended adoption of the attached modifications to the off street parking regulations in SWMC 17.36.020. The proposal would allow new businesses or new buildings located in the area bounded on the north and west by the railroad right-of ways, on the south by the alley in between State and Warner Streets, and on the east by Puget Avenue/4th Avenue to use the city-owned parking lots to accommodate the off-street parking requirements.

ATTACHMENTS

Attachment 1 – Proposed Ordinance

Attachment 2 – Planning Commission Findings & Recommendation with map

REQUESTED ACTION

1st Read - no action requested

Attachment 1

Proposed Ordinance

AN ORDINANCE AMENDING THE SEDRO-WOOLLEY MUNICIPAL CODE ALLOW NEW BUSINESSES AND BUILDINGS IN A SPECIFIED AREA OF THE CENTRAL BUSINESS DISTRICT TO USE CITY-OWNED PARKING TO MEET THE PARKING REQUIREMENTS OF CHAPTERS 17.24 AND 17.36 SWMC

WHEREAS, the City Council directed the Planning Commission to explore options to address parking impediments for new businesses that locate in the Central Business District, and

WHEREAS, few existing buildings have on-site parking;

WHEREAS, on-street parking is provided in every block within the downtown portion of the Central Business District;

WHEREAS, the city provides free off-street parking lots for the purpose of accommodating parking to customers and employees of the businesses in the Central Business District;

WHEREAS, the Planning Commission held one public meeting and one public hearing to receive comments on how to accommodate for parking at new businesses and new buildings in the CBD and the Planning Commission recommended amendments to the municipal code; and

WHEREAS, pursuant to RCW 36.70A.106, a 60-day notice of intent to adopt a development regulation was sent to the Washington State Department of Commerce; and

WHEREAS, the City Council finds the proposed amendments to the SWMC to be consistent with and implement the intent of the Sedro-Woolley Comprehensive Plan; and

WHEREAS, it is the intent of the City Council to encourage business opportunities in the downtown business district;

WHEREAS, the City Council has concluded that it is in the best interest of the public health, safety and welfare to adopt this ordinance; and

WHEREAS, the City Council adopts the forgoing as its findings of fact justifying its adoption of this Ordinance;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. SWMC 17.36.020 is amended to, to read as follows (new text underlined):

1. Off-street parking spaces required shall be located off the public right-of-way in an area with appropriate zoning, and within five hundred feet walking distance of a public entrance to the building served. Parking spaces may be located within the required setback areas except that they shall not be located within any required vision clearance triangle.

2. New businesses or new buildings located in the area bounded on the north and west by the railroad right of ways, on the south by the alley in between State and Warner Streets, and on the east by Puget Avenue/4th Avenue may use the city-owned parking lots to accommodate the parking requirements in this chapter and in Chapter 17.24 SWMC. This area is substantially developed on zero setbacks from the right-of-way, making it impractical to provide on-site parking to satisfy the purpose and intent of this chapter.

Section 2. This ordinance shall be effective five (5) days after passage and publication as provided by law.

Section 3. The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held invalid or unconstitutional or if the application of this ordinance to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clause or phrases of this ordinance.

PASSED by majority vote of the members of the Sedro-Woolley City Council this _____ day of _____, 2013, and signed in authentication of its passage this _____ day of _____, 2013.

Mike Anderson, Mayor

Attest:

Patsy Nelson, Finance Director

Approved as to form:

Eron Berg, City Attorney

Published:

Attachment 2

Planning Commission Findings and Recommendation

**CITY OF SEDRO-WOOLLEY PLANNING COMMISSION
STATE OF WASHINGTON**

In the Matter of:

**MODIFYING THE SEDRO-WOOLLEY
MUNICIPAL CODE REGARDING
PARKING IN THE CBD**

**AMENDMENTS TO
CHAPTER 17.36 SWMC –**

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

This matter having come regularly before the City of Sedro-Woolley Planning Commission for a public hearing on **Tuesday, July 16, 2013** under a request by the Planning Director for a public hearing and recommendation from the Planning Commission pursuant to Chapter 2.90 Sedro-Woolley Municipal Code (SWMC).

Recommendation:	The Planning Commission recommends APPROVAL of the request to amend Chapter 17.36 SWMC as shown in Exhibit A of these Findings of Fact, Conclusions and Recommendation.
Hearing Date:	Tuesday, July 16, 2013
Proponent:	City of Sedro-Woolley

Description of proposal

The Planning Commission recommends that the City Council amend Chapter 17.36 SWMC to address new businesses and new buildings in a specified part of the Central Business District (CBD) to use public parking to fulfill the required parking requirements.

Exhibit A: Proposed revisions to SWMC 17.36.020

Exhibit B: Map showing area eligible under proposed amendments

FINDINGS OF FACT

1. Per SWMC 2.90.070(G), this action, which requires changes to the City development regulations and underwent Planning Commission review, is processed as a Type VI action.
2. When new businesses move into an existing structure in the downtown, if that business requires more parking than did the previous tenant, the new business needs to provide additional parking. Because the downtown buildings do not have any off-street parking, the new business may have difficulty finding additional parking.
3. At its regular meeting on June 18, 2013, at the request of the City Council, the Sedro-Woolley Planning Commission held a public meeting to review the possibility of allowing new businesses in the CBD to use existing city-owned parking lots to fulfill the parking requirements for the use. The Chamber of Commerce was invited to the open meeting. Pola Kelley, Executive Director of the Chamber, attended and commented at the meeting. Recommended changes were suggested and a public hearing was scheduled for July 16, 2013 to review the proposed changes. The recommended amendments included an allowance for new buildings as well as new businesses to use the city-owned parking.
4. A Notice of Public Hearing for the proposed code amendment was published on July 6, 2013 in the Skagit Valley Herald. In the notice, a written comment deadline of July 18 at 4:30 PM was set. No written comments were received by the Planning Department.
5. On July 16, 2013 the Planning Commission held an open record public hearing to receive testimony from City Staff and the public. Staff presented proposed text amendments to Chapter 17.36 to allow new businesses and new buildings in a specified portion of the CBD to use existing city parking lots to accommodate the required parking for businesses. The specified area is described as “the area bounded on the north and west by the railroad right-of-ways, on the south by the alley in between State and Warner Streets, and on the east by Puget Avenue/4th Avenue.” No members of the public commented on the proposal during the public hearing.
6. No public comments were made at the hearing. The Planning Commission made a motion to accept the proposed text amendments; the motion carried 4-0 with one abstention.
7. In accordance with State Growth Management Act (GMA), the proposed text amendments were submitted to the Washington State Department of Commerce (COMM) for a 60-day review on June 26, 2013. COMM had no comments on the proposed ordinance by the end of the 60-day comment period ending August 26, 2013.

CONCLUSIONS

The Planning Commission, having reviewed the Planning Department Memorandum and hearing public testimony, makes the following conclusions:

1. Adoption of the proposed amendments to Chapter 17.36 SWMC complies with the State GMA, has been approved by the State Department of Commerce and has been adequately vetted through the public review process; and
2. Adoption of the proposed amendments to Chapter 17.36 SWMC is in conformance with the goals and policies of the Sedro-Woolley Comprehensive Plan.

DECISION

Based upon the foregoing, the Planning Commission recommends approval of the attached amendments to Chapter 17.36 SWMC (Exhibit A) to allow new businesses or new buildings located in the area bounded on the north and west by the railroad tracks, on the south by the alley in between State and Warner Streets, and on the east by Puget Avenue/4th Avenue to use the city-owned parking lots to accommodate the parking requirements in this Chapters 17.36 & 17.24 SWMC.

CERTIFICATION

The City of Sedro-Woolley Planning Commission hereby recommends to the City Council **APPROVAL** of recommended amendments to Chapter 17.36 SWMC to allow new businesses and new buildings in the CBD to use existing city-owned parking lots to fulfill the parking requirements, at a **REGULAR** meeting of the City of Sedro-Woolley Planning Commission held on **Tuesday, July 16, 2013**, at which time a quorum was present and the decision was for approval by a vote of **4 FOR, 0 AGAINST,** and **1 ABSTENTIONS**.



Rick Judd, Planning Commission Chair

10-3-13

Date

Chapter 17.36
OFF-STREET PARKING AND LOADING

Whenever a building is built or moved onto a lot, and whenever and to the extent that a building is enlarged and whenever and to the extent that the use of a building changes and the new use is required to provide more off-street parking or loading than the most recent use, then off-street parking or loading shall be provided in accordance with the following requirements. Furthermore, parking and loading so required shall be maintained in a usable, safe condition so long as the land use they serve continues. (Ord. 1013 § 3.01.01, 1985)

17.36.020 Location—Restrictions.

1. Off-street parking spaces required shall be located off the public right-of-way in an area with appropriate zoning, and within five hundred feet walking distance of a public entrance to the building served. Parking spaces may be located within the required setback areas except that they shall not be located within any required vision clearance triangle.

2. New businesses or new buildings located in the area bounded on the north and west by the railroad right-of-ways, on the south by the alley in between State and Warner Streets, and on the east by Puget Avenue/4th Avenue may use the city-owned parking lots to accommodate the parking requirements in this chapter and in Chapter 17.24 SWMC. This area is substantially developed on zero setbacks from the right-of-way, making it impractical to provide on-site parking to satisfy the purpose and intent of this chapter.

17.36.030 Number of spaces required.

The number of required off-street parking spaces shall be as follows, computed to the nearest whole number:

- A. Housing reserved for persons sixty years of age and older: one per dwelling unit;
- B. Group homes: one per resident between the ages of sixteen and fifty-nine, inclusive, excluding persons unable to drive due to disability, plus .5 per such younger, older or disabled person; except that bed and breakfasts and similar transient guest facilities shall provide one space per transient unit plus two for the residing family;
- C. All housing other than the above: two per dwelling unit;
- D. Offices (excluding health care offices) and banks: One per three hundred square feet gross floor area plus five vehicle storage spaces per drive-through window;
- E. Eating and drinking establishments: one per seventy-five square feet of area open to the public, including outdoor service areas, plus additional as specified by the zoning administrator for drive-through capability;
- F. Low-intensity sales and service (lumber, building supplies, feed and grain, large appliances, furniture, motor vehicles, boats, machinery, dry-cleaning, sign making, shoe and clothing repair, locksmiths,

photography, saw-sharpening, etc.): one per four hundred square feet of gross floor area plus additional as specified by the Zoning Administrator for outdoor sales and activity areas;

G. High intensity sales and service (food, clothing, hardware, household goods, drugs, arts and crafts, auto parts, sporting goods, office equipment, books, plants, jewelry, liquor, musical instruments, barber and beauty shops, laundromats, etc.): one per two hundred fifty square feet of gross floor area open to the public;

H. Churches and funeral homes: one per four occupants at maximum design capacity;

I. Places of public assembly other than the above (auditoriums, stadiums, halls, clubs, theaters, indoor recreation, bus stations, etc.): one per three occupants at maximum design capacity;

J. Hospitals and residential health care facilities: one per three beds;

K. Health care offices and clinics including veterinarians: six per doctor, dentist or other principal personnel;

L. Day care and preschool facilities: one per worker at maximum shift plus adequate loading space.

M. Industry, wholesaling, warehousing, nonpassenger transportation facilities except ministorage: one per 1.5 workers on maximum shift;

N. Open air activities, schools, plant nurseries, public utilities, outdoor recreation, ministorage, drive-through facilities (food, carwash, service stations, etc.) and all other uses not otherwise specified: to be determined by the zoning administrator. (Ord. 1013 § 3.01.03, 1985)

17.36.040 Development standards.

Parking facilities provided in accordance herewith shall:

A. Have access to a public thoroughfare, with ingress and egress designed with respect to intersections, crosswalks and traffic in general so as not to create safety hazards or impedances. Driveways connecting parking spaces to the public thoroughfare shall be at least twelve feet in width if one-way or serving less than ten parking spaces. Otherwise driveway width shall be at least twenty feet;

B. Incorporate maneuvering room so as not to require backing out onto a public street, except that parking spaces serving single-family residences and duplexes may utilize a street for backing out, provided the street is not an arterial and location is at least fifty feet from all street intersections;

C. Be designed so that all vehicles are independently mobile and do not block each other;

D. Be surfaced with a dust-free, durable material, provided that the portion of the driveway lying within the public right-of-way shall be paved with a material matching or superior to that of the public thoroughfare;

E. Incorporate provision for drainage so as not to create on-site or off-site drainage problems;

F. Incorporate adequate traffic control devices to inform users of the designed use of spaces, ingress, egress and maneuvering space. Parking spaces, if more than four, shall be separately identified by striping, wheel-stops or other such means. General use of wheel stops to prevent damage to structures and landscaping is recommended, as is lighting of larger parking lots;

G. Provide for convenient pedestrian movement from parking spaces to building entrance, sufficiently separated from or compatible with vehicular traffic to ensure safety;

H. Incorporate effective and attractive sight-obscuring screening if serving a nonresidential use and located in or abutting a residential zone;

I. Be in accordance with the following dimensional requirements, provided that a maximum of thirty percent of the total required spaces may be designated for compact cars with a width of seven and one-half feet, length of fifteen feet, and correspondingly reduced maneuvering room as set out in Figures one through three of the ordinance codified in this title, on file in the office of the city clerk. (Ord. 1013 § 3.01.04, 1985)

17.36.050 Loading facilities requirement.

Whenever a building is erected, enlarged, or its use changed, and the new use requires that deliveries be made to the building which, unless special provisions are made, will result in significant traffic hazard or impedance, then adequate off-street loading facilities and maneuvering space for delivery vehicles shall be provided to prevent such hazard or impedance. (Ord. 1013 § 3.01.05, 1985)

17.36.060 Cooperative provisions.

Parking and loading facilities may be provided cooperatively, either through private arrangements or by means of a fee-in-lieu public parking program administered by the city. If the uses party to such a cooperative provision generate their peak parking demand at different times, the zoning administrator may reduce the total parking requirement from that which would be required separately to a number representative of the greatest demand likely to occur at any one time. (Ord. 1013 § 3.01.06, 1985)

17.36.070 Third party consents.

If the required parking or loading is to be provided on land not owned or leased by the applicant, proof shall be supplied of the owner's consent provided that such consent shall not be construed to constitute an obligation of any greater permanence than is explicit therein. At such time as such consent is withdrawn, the use by virtue of which such parking or loading has been required shall cease unless alternative arrangements have been made for compliance with these requirements. (Ord. 1013 § 3.01.07, 1985)

17.36.080 Verification.

For verification provisions, see Chapter 17.76. (Ord. 1013 § 3.01.08, 1985)

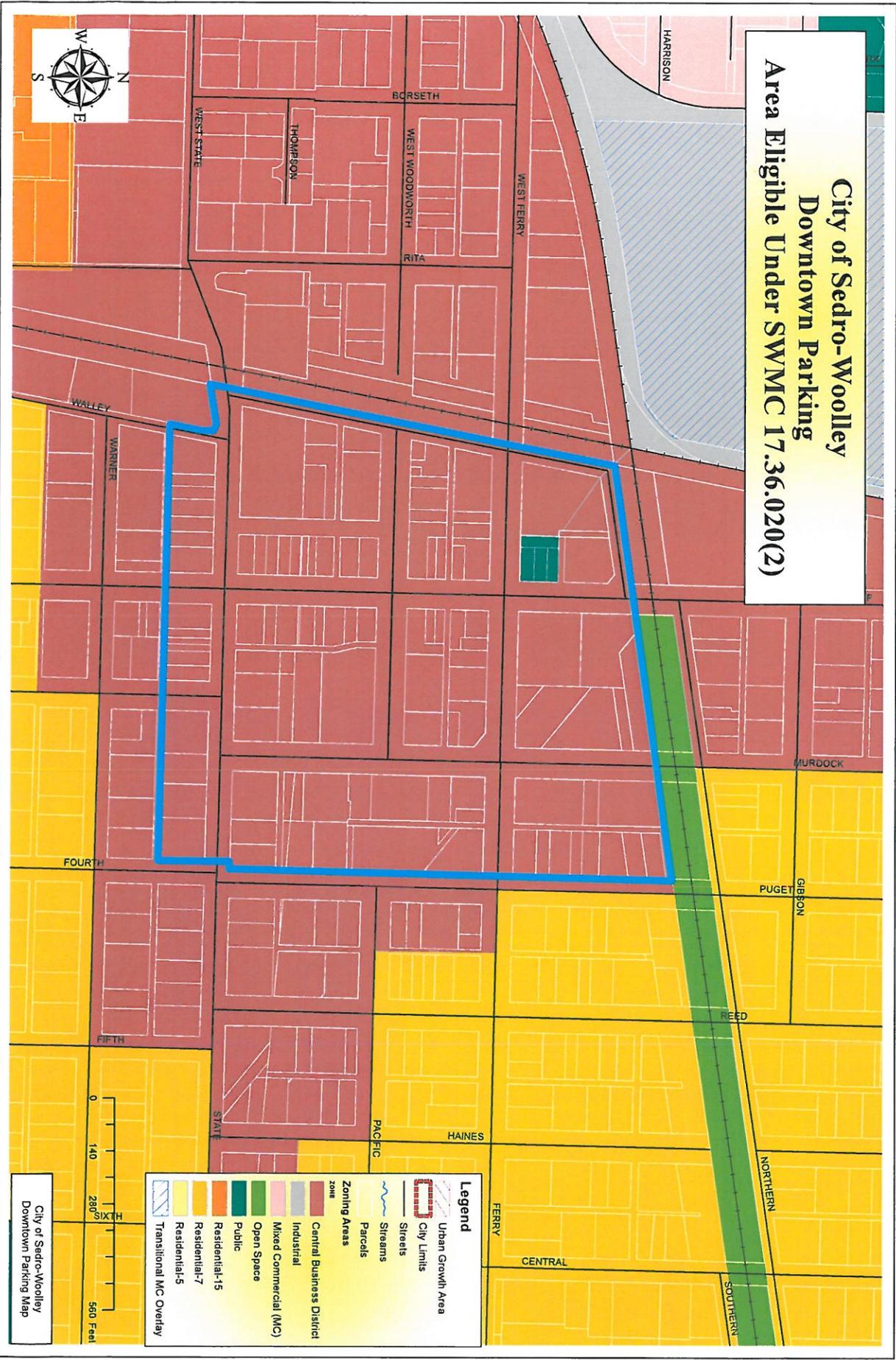
17.36.090 Handicapped parking.

Parking spaces shall be provided for the handicapped and shall be clearly signed or marked with stenciled notation on the pavement designating such use and shall be posted with an approved handicapped parking sign directly in front of the stall. Each space shall be at least eight feet wide and shall have an adjacent access

aisle five feet wide minimum. Two accessible parking spaces may share a common access aisle. Van spaces shall be sixteen feet in width to include the access aisle. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions. Parking spaces shall be located closest to the handicapped accessible entrance with an accessible route provided to that entrance. Parking spaces for the handicapped shall be provided as follows:

Total Parking Provided	Minimum Number Required for the Handicapped
6—25 spaces	1 space
26—50 spaces	2 spaces
51—75 spaces	3 spaces
76—100 spaces	4 spaces
101—150 spaces	5 spaces
151—200 spaces	6 spaces
201—300 spaces	7 spaces
301—400 spaces	8 spaces
401 and over	To be arranged with the zoning administrator

City of Sedro-Woolley Downtown Parking Area Eligible Under SWMC 17.36.020(2)



Legend

- Urban Growth Area
- City Limits
- Streets
- Streams
- Parcels

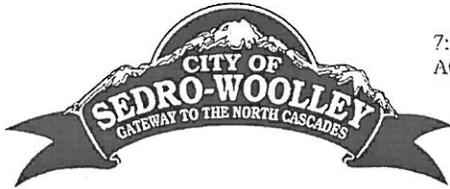
Zoning Areas

- Central Business District
- Industrial
- Mixed Commercial (MC)
- Open Space
- Public
- Residential-7
- Residential-15
- Residential-5
- Transitional MC Overlay

City of Sedro-Woolley
Downtown Parking Map

CITY COUNCIL AGENDA
REGULAR MEETING

NOV 13 2013



7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 10

CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

Eron M. Berg
City Supervisor/City Attorney

MEMO TO: City Council
FROM: Eron Berg
RE: Utility Rate Ordinances
DATE: November 13, 2013

ISSUE: Should the Council adopt the draft ordinances increasing sewer, storm drainage and solid waste utility rates by the amount of the Consumer Price Index?

BACKGROUND: This item was discussed at the City Council's last worksession as part of the 2014 budget. The proposed balanced budget includes revenue assumptions that the utilities' rates be increased by the amount of the Consumer Price Index increase from June 2012 to June 2013 which is 1.4%.

These ordinances are scheduled for public hearing at your November 26, 2013 meeting.

RECOMMENDATION: *First Reading:* Provide direction to staff if any changes are requested to any of these ordinances.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 8.04.075 OF THE SEDRO-WOOLLEY MUNICIPAL CODE TO INCREASE SOLID WASTE UTILITY RATES AND CHARGES BY THE CONSUMER PRICE INDEX

WHEREAS, the cost of doing business continues to increase and one measure of that increase is the Consumer Price Index for Seattle-Bremerton-Tacoma which increased 1.4% from June of 2012 to June of 2013; and

WHEREAS, the City Council desires to balance the financial stability and fiscal sustainability of its utilities with the services needed by the community; and

WHEREAS, notice of this pending rate change was published in the City's newspaper of record on November 11, 2013 and November 18, 2013 and a public hearing was held on November 26, 2013; and

WHEREAS, the City Council finds that adoption of the user fees set forth in this ordinance will support the operation of the refuse collection system with the lowest possible rates; and

WHEREAS, the City Council finds that it is in the interests of the public health, safety and welfare to adopt the fee schedules set forth below, now therefore;

THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY DO HEREBY ORDAIN AS FOLLOWS:

Section 1: SWMC 8.04.075 is amended to read as follows:

8.04.075 Collection charges.

Charges for refuse and garbage collection and disposal shall be compulsory. Charges not paid within twenty-five days of billing date shall be delinquent and the charge may become a lien against the property which is serviced by the garbage collection and disposal system. The city, at its discretion, may also reduce or eliminate service on delinquent accounts.

A. The charges for regular weekly garbage service shall be as follows:

1. Table 1: Residential.

Monthly Charge with One Pickup Per Week

Type of Service	Garbage	Recycling	Total
Residential, 20-gal. can	\$8.56	\$2.56	\$11.12
	\$8.68	\$2.60	\$11.28
Residential, 32-gal. can	16.19	2.56	18.75
	16.42	2.60	19.02
Residential, 68-gal. can	23.48	2.56	26.04
	23.81	2.60	26.41

Residential, 96-gal. can	\$31.36	\$2.56	\$33.92
	\$31.80	\$2.60	\$34.40
Residential, low income	80% of applicable residential rate		

2. Residential includes single-family, duplex, triplex and condominium residences. Each living unit of such residences shall be subject to the rates established in this chapter.

3. Table 2: Commercial and Multifamily.

Commercial, 32-gal. can	\$18.32 <u>\$18.58</u>		
Commercial, 68-gal. can	\$29.10 <u>\$29.51</u>		
Commercial, 95-gal. can	\$39.63 <u>\$40.19</u>		
Commercial, 1-yard container	\$80.31 <u>\$81.44</u>	Each extra pickup	\$72.09 <u>\$73.10</u>
Commercial, 2-yard container	\$106.19 <u>\$107.68</u>	Each extra pickup	\$96.94 <u>\$98.30</u>
Commercial, 3-yard container	\$158.15 <u>\$160.37</u>	Each extra pickup	\$145.83 <u>\$147.88</u>
Commercial, 4-yard container	\$208.27 <u>\$211.19</u>	Each extra pickup	\$191.84 <u>\$194.53</u>
Commercial, 6-yard container	\$307.27 <u>\$311.58</u>	Each extra pickup	\$286.73 <u>\$290.75</u>
Commercial, 8-yard container	\$410.80 <u>\$416.56</u>	Each extra pickup	\$387.17 <u>\$392.59</u>
Commercial, 30-yard container	\$150.00 <u>\$160.00</u> haul fee, actual charges for disposal, and \$50.00–\$50.70 delivery fee, plus rental fee of \$50.00–\$50.70 per month		
Multifamily, apartments, cabin courts and trailer park units, etc.	Applicable commercial rate plus \$2.56 <u>2.60</u> per unit for recycling		

B. If more than one pickup per week is required on a continuing basis and the customer is utilizing a container smaller than eight-yard capacity, a larger container shall be required. The city may at its discretion authorize more than one pickup per week under the following conditions:

1. Where the largest container provided by the city is not adequate for the amount of waste generated;
2. Where more than one pickup per week is required to maintain proper health and sanitation;

3. Where a larger container cannot reasonably be placed on the customer's property due to space limitation.

C. In cases where additional pickups are requested due to the use of container on construction sites or other temporary uses or to accommodate temporary increases in the amount of waste generated, additional pickups shall be made at the rate set forth as follows for both residential and commercial customers:

1-yard container	\$ 26.70 <u>\$27.08</u> for each pickup
2-yard container	\$47.24 <u>\$47.91</u> for each pickup
3-yard container	\$72.91 <u>\$73.93</u> for each pickup
4-yard container	\$83.18 <u>\$84.35</u> for each pickup
6-yard container	\$124.26 <u>\$126.00</u> for each pickup
8-yard container	\$165.34 <u>\$167.66</u> for each pickup

D. 1. A residential or commercial can (up to thirty-two gallons) may not contain in excess of sixty-five pounds per can in weight. The city may, in its discretion, empty a can weighing over sixty-five pounds. In that event, an additional fee of (\$5.00) five dollars shall be charged.

2. If the cost to the city for emptying any container shall exceed the charges therefor, due to excessive weight or content, the city may proceed as set forth in subsection G of this section.

E. Yard Trimmings. Yard trimmings, including but not limited to weeds, grass, sod, trees, shrubs, foliage parts, rocks, cement or other material not generally considered regular household refuse, shall be excluded from sanitation collection services unless special arrangements are made with the sanitation department. Extra charges for such collection shall be determined by the mayor or his designee.

F. Interest Charges. All charges for sanitation services shall be due and payable when rendered. Sanitation service charges shall be delinquent if not paid in full within twenty-five days after the date of billing. Delinquent charges shall bear interest at the rate of eight percent per annum beginning on the first day of the month following delinquency until paid in full. In addition, a late penalty of (\$10.00) ten dollars shall be charged for any solid waste account that is delinquent for more than sixty days.

G. The mayor or his designee may charge any resident or customer such additional service charges when he or she determines that special circumstances make it necessary to do so in order to compensate the city for the actual cost of solid waste collection, disposal and administration, when the foregoing fee schedule is not adequate for this purpose. Any resident or customer may appeal the assessment of this additional charge to the city council. Notice of appeal shall be by written request to the city clerk within ten days of mailing of the bill or receipt of payment for such services by the city, whichever is less. The decision of the city council shall be final.

H. Rates include a three-and-six-tenths-percent state of Washington refuse tax.

Section 2. The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held invalid or unconstitutional or if the application of this ordinance to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clause or phrases of this ordinance.

Section 3. The effective date of this Ordinance shall be January 1, 2014.

Passed and approved this _____ day of _____, 2013.

Mayor

Attest:

Finance Director

Approved as to form:

City Attorney

Filed with the City Clerk:	November 7, 2013
Public Hearing:	November 26, 2013
First Reading:	November 13, 2013
Second Reading:	November 26, 2013
Passed by the City Council:	
Date of Publication:	
Effective Date:	

ORDINANCE NO. _____-13

AN ORDINANCE AMENDING THE FEES AND CHARGES FOR USE OF THE CITY OF SEDRO-WOOLLEY STORM AND SURFACE WATER UTILITY SYSTEM BY THE AMOUNT OF THE CONSUMER PRICE INDEX

WHEREAS, the City has established a Stormwater Utility; and

WHEREAS, the purpose of this utility is to collect funds to regulate and operate a system of collection and treatment of storm and surface water; and

WHEREAS, it is recognized that storm and flood control measures benefit all citizens of Sedro-Woolley; and

WHEREAS, the cost of doing business continues to increase and one measure of that increase is the Consumer Price Index for Seattle-Bremerton-Tacoma which increased 1.4% from June of 2012 to June of 2013; and

WHEREAS, the City Council desires to balance the financial stability and fiscal sustainability of its utilities with the services needed by the community; and

WHEREAS, the City Council finds that it is in the interests of the public health, safety and welfare to adopt the fee schedules set forth below, now therefore,

NOW THEREFORE, THE CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. SWMC 2.46.080 is amended to read as follows:

It is the intention of the city to impose a baseline standard residential storm drainage fee equaling five dollars and ~~thirty nine~~ to five dollars forty seven cents (\$5.47) per month. This equivalent residential unit (ERU) fee is based on the assumption that the average single-family lot equals approximately ten thousand square feet.

The fees for other customer classifications shall use this ten thousand square-foot ERU baseline as the basis for the calculation of the fee.

SECTION 2. SWMC 2.46.090 is amended to read as follows:

The following ERU-derived fees shall apply. The derived ERU-based fees shall be billed in whole units and are billed to the next higher unit (for example, if a parcel has a forty-three thousand five hundred square-foot area, the parcel's owner would be billed for five ERUs; if a parcel has two thousand square-foot area, the parcel's owner would be billed for one ERU) and in no case shall the ERU-based fee be less than five dollars and ~~thirty nine~~ forty seven cents(\$5.47).

Class 1 customers includes all single-family residential units and all multifamily and condominium units with one unit. Class 1 fee: five dollars and ~~thirty nine~~ forty seven cents (\$5.47) per month per unit.

Class 2 customers includes all multifamily units and condominium with two or more units. Class 2 fee: fifty percent of the Class 1 fees on a per-unit basis.

Class 3 customers includes all commercial and industrial customers. Class 3 fee: five dollars and ~~thirty nine~~ forty seven cents (\$5.47) per month for every ten thousand square feet of land area or ten dollars and ~~seventy eight~~ ninety three cents (\$10.93) per month for every ten thousand square feet of impervious surface.

Class 4 customers includes all public-use customers (schools, hospitals, churches, government buildings, etc.). Class 4 fee: five dollars and ~~thirty nine~~ forty seven cents (\$5.47) per month for every ten thousand square feet of land area or ten dollars ~~seventy eight~~ ninety three cents (\$10.93) per month for every ten thousand square feet of impervious surface.

Class 5 customers includes all mixed-use structures. Class 5 fee: five dollars and ~~thirty nine~~ forty seven cents (\$5.47) per month per commercial unit for every ten thousand square feet of land area and five dollars and ~~thirty nine~~ forty seven cents (\$5.47) per month for every residential unit. However, should there be more than three residential units, the fee shall be fifty percent of the Class 1 fees on a per-unit basis.

SECTION 3. These fees shall be imposed and become effective for the billings mailed out by the City in February 2014 for services provided in January 2014.

SECTION 5. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, clause or phrase of this ordinance.

SECTION 6. This ordinance shall be effective five (5) days after passage and publication as provided by law.

PASSED by majority vote of the members of the Sedro-Woolley City Council this _____ day of _____, 2013, and signed in authentication of its passage this _____ day of _____, 2013.

Mike Anderson, Mayor

Attest:

Patsy Nelson, Finance Director

Approved as to form:

Eron Berg, City Attorney

Filed with the City Clerk:	November 7, 2013
Public Hearing:	November 26, 2013
First Reading:	November 13, 2013
Second Reading:	November 26, 2013
Passed by the City Council:	
Date of Publication:	
Effective Date:	

AN ORDINANCE INCREASING THE FEES AND CHARGES FOR USE OF THE CITY OF SEDRO-WOOLLEY SANITARY SEWER SYSTEM BY THE CONSUMER PRICE INDEX

WHEREAS, the City Council of the City of Sedro-Woolley updated its Sanitary Sewer Capital Facilities Plan in 2008, and

WHEREAS, the work identified by the City will cost about \$15,133,000.00; most of which has already been spent to increase capacity and eliminate a long-standing moratorium, and

WHEREAS, the City used PWTF monies to the extent possible, to achieve a lower cost of funds, and

WHEREAS, the City hired consultants who made recommendations concerning the allocation of the cost of construction between connection fees and charges and monthly user fees, and

WHEREAS, the number of connection fees has been substantially less than planned for in the allocation; and

WHEREAS, the cost of doing business continues to increase and one measure of that increase is the Consumer Price Index for Seattle-Bremerton-Tacoma which increased 1.4% from June of 2012 to June of 2013; and

WHEREAS, the City Council desires to balance the financial stability and fiscal sustainability of its utilities with the services needed by the community; and

WHEREAS, the City Council finds that it is in the interests of the public health, safety and welfare to adopt the fee schedules set forth below, now therefore,

THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY DO HEREBY ORDAIN AS FOLLOWS:

Section 1: SWMC Section 13.30.010 is hereby amended to read as follows:

13.30.010 Effective date.

Commencing on January 1, 2014, the sewer service charges specified in this chapter shall take effect. For buildings which have a public sewer available after that date, a sewer service charge shall commence thirty days after such public sewer has been available and notice of such availability is given.

Section 2: SWMC Section 13.30.020 is hereby amended to read as follows:

13.30.020 Residential rates.

Unless exempt from connection to the sewer, there shall be charged to each single residential dwelling unit (including mobile or manufactured homes on individual lots or in a

mobile home park), and to each unit of a residential duplex (two units) or triplex (three units) dwelling, to which sewer service is available a basic monthly sewer service charge as follows:

January 1, 2014 and thereafter: ~~\$54.68~~ \$55.45

The City Council shall review and adjust these rates annually or as needed.

Section 3: SWMC Section 13.30.040 E is hereby amended to read as follows:

13.30.040 Nonresidential schedule and other provisions.

E. The volume rate shall be as follows:

January 1, 2014 and thereafter ~~\$5.13~~ \$5.21
per 100
cubic feet

Section 4. The effective date of this ordinance shall be January 1, 2014, more than 5 days after passage and publication.

Passed and approved this ____ day of November, 2013.

Mayor

Attest:

Finance Director

Approved as to form:

City Attorney

Filed with the City Clerk: November 7, 2013
Public Hearing: November 26, 2013
First Reading: November 13, 2013
Second Reading: November 26, 2013
Passed by the City Council:
Date of Publication:
Effective Date:

NOV 13 2013

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 11

Memorandum

To: Mayor Anderson and City Council

From: Patsy Nelson *Patsy*

Date: 11/05/13

Re: 2014 Budget (first reading)

The attached ordinance summarizes the budget amounts for each fund as detailed in the Mayor's 2014 Preliminary Budget which was presented and discussed at the November Worksession. All funds have been balanced according to Council goals and direction as outlined in the Mayor's 2014 Budget Memo. Staff will be available to answer any additional Council questions.

The attached revenue and expenditures charts are the same as those presented in your preliminary budget notebooks and are provided for citizen information.

AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE CITY OF SEDRO-WOOLLEY, WASHINGTON, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2014.

WHEREAS, the Mayor of the City of Sedro-Woolley, Washington, completed and placed on file with the City Finance Director, a proposed budget and estimate of the amount of the moneys required to meet the public expenses, bond retirement and interest, reserve funds and expenses for the City of Sedro-Woolley for the fiscal year ending December 31, 2014, and a notice was published that the Sedro-Woolley City Council would meet on the 26th day of November, 2013, at the hour of 7:00 P.M., at the Sedro-Woolley City Hall, for the purpose of making and adopting a budget for the year 2014, and giving taxpayers within the city limits of Sedro-Woolley an opportunity to be heard upon said budget; and

WHEREAS, the Sedro-Woolley City Council did meet at said time and place and did then consider the matter of said proposed budget; and

WHEREAS, the proposed budget does not exceed the lawful limit of taxation allowed by law to be levied on the property within the City of Sedro-Woolley for the purposes set forth in said budget, and the estimated expenditures set forth in said budget being all necessary to carry on the government of said City for said year and being sufficient to meet the various needs of said City during said period.

NOW, THEREFORE, the City Council of the City of Sedro-Woolley do ordain as follows:

Section 1. The budget for the City of Sedro-Woolley, Washington, for the year 2014 is hereby adopted at the fund level in its final form and content as set forth in the document entitled City of Sedro-Woolley 2014 Annual Budget, which are on file in the Office of the Finance Director or available on the City's website.

Section 2. Estimated resources, including fund balances or working capital from each separate fund of the City of Sedro-Woolley, and aggregate totals for all such funds combined, for the year 2014 are set forth in summary form below, and are hereby appropriated for expenditure at the fund level during the year 2014 as set forth below:

FUND:	AMOUNT:
001 GENERAL FUND	4,881,504
101 PARKS FUND	621,052
102 CEMETERY FUND	151,370
103 STREET FUND	886,163
104 ARTERIAL STREET FUND	2,819,679
105 LIBRARY FUND	326,747
106 CEMETERY ENDOWMENT FUND	124,346
107 PARKS RESERVE FUND	615
108 LODGING TAX FUND	40,339
109 SPECIAL INVESTIGATIONS FUND	25,923
111 DOG FUND	1,123
112 CODE ENFORCEMENT FUND	29,082
113 PATHS AND TRAILS FUND	40,154
205 G/O BOND REDEMPTION FUND 2008	234,397
206 G/O BOND 2008 RESERVE FUND	150,000
230 G/O BOND 1996 REDEMPTION FUND	270,340
302 CAPITAL PROJECTS RESERVE FUND	231,018
303 BUILDING MAINTENANCE RESERVE FUND	246,957
310 POLICE MITIGATION RESERVE FUND	11,672
311 PARKS IMPACT FEE RESERVE FUND	31,361
312 FIRE IMPACT FEE RESERVE FUND	7,124
401 SEWER OPERATIONS FUND	3,716,423
402 SEWER OPERATIONS RESERVE FUND	692,119
407 98 SEWER REV BOND REDEPTION FUND	813,199
410 SEWER FACILITES RESERVE FUND	2,682,511
411 98 SEWER REV BOND RESERVE FUND	376,482
412 SOLID WASTE OPERATIONS FUND	1,952,924
413 SOLID WASTE RESERVE FUND	202,541
425 STORMWATER FUND	639,440
426 STORMWATER RESERVE FUND	161,060
501 EQUIPMENT REPLACEMENT FUND	673,964
621 SUSPENSE (SWSD)	41,950
TOTAL ALL FUNDS	23,083,579

Section 3. The City Finance Director is directed to transmit a certified copy of the budget hereby adopted to the Washington State Auditor's Office.

Section 4. This ordinance shall be in force and take effect five (5) days after its publication according to law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 11th DAY OF, DECEMBER 2013.

Mike Anderson, Mayor

ATTEST:

Finance Director

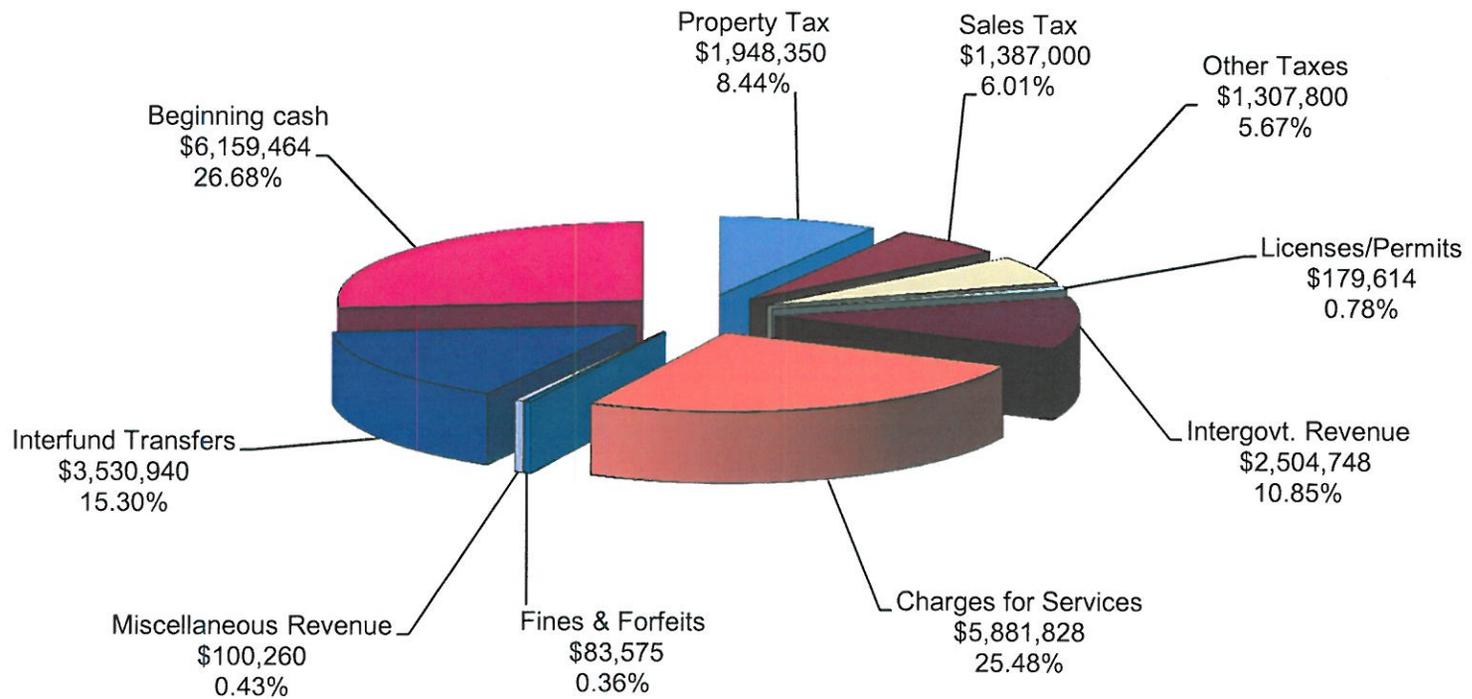
APPROVED AS TO FORM:

City Attorney

**City of Sedro-Woolley 2014 Preliminary Budget
Revenue Projections - All City Funds (by source)**

Fund Name	Property Tax	Sales Tax	Other Taxes	Licenses/ Permits	Intergovt. Revenue	Charges for Services	Fines Forfeits	Misc. Revenue	Interfund Transfers	Beginning Cash	Total
General	867,800	1,065,000	992,800	179,614	203,990	293,230	78,675	6,800	378,000	815,595	4,881,504
Parks	286,925	40,000	-	-	10,000	52,978	-	-	55,500	175,649	621,052
Cemetery	34,800	-	-	-	-	90,000	-	1,900	8,000	16,670	151,370
Streets	251,300	165,000	-	-	215,360	-	-	100	190,000	64,403	886,163
Arterial Streets	-	-	-	-	2,017,348	74,012	-	300	571,400	156,619	2,819,679
Library	253,575	-	-	-	-	5,800	4,900	100	-	62,372	326,747
Cemetery Endowment	-	-	-	-	-	4,000	-	-	-	120,346	124,346
Parks Reserve	-	-	-	-	-	-	-	500	-	115	615
Lodging Tax (Tourism)	-	-	30,000	-	-	-	-	25	-	10,314	40,339
Special Investigations	-	-	-	-	-	-	-	7,550	-	18,373	25,923
Dog Fund	-	-	-	-	-	-	-	500	-	623	1,123
Code Enforcement	-	-	-	-	-	-	-	35	-	29,047	29,082
Paths & Trails	-	-	-	-	1,050	-	-	50	-	39,054	40,154
2008 GO Bond	-	-	185,000	-	-	-	-	350	-	49,047	234,397
2008 GO Bond Reserve	-	-	-	-	-	-	-	-	-	150,000	150,000
1996 GO Bond	205,000	-	-	-	-	-	-	175	-	65,165	270,340
Capital Projects Reserve	-	-	100,000	-	-	-	-	350	-	130,668	231,018
Building Maintenance Reserve	-	-	-	-	-	2,300	-	200	55,000	189,457	246,957
Police Mitigation Reserve	-	-	-	-	-	750	-	20	-	10,902	11,672
Parks Impact Fees	-	-	-	-	-	-	-	20	-	31,341	31,361
Fire Impact Fees	-	-	-	-	-	-	-	30	-	7,094	7,124
Sewer Operations	-	-	-	-	-	3,198,089	-	16,500	-	501,834	3,716,423
Sewer Operations Reserve	-	-	-	-	-	-	-	700	75,000	616,419	692,119
Sewer Debt Service	-	-	-	-	-	4,000	-	950	430,000	378,249	813,199
Sewer Facilities Reserve	-	-	-	-	-	9,225	-	6,700	1,193,580	1,473,006	2,682,511
Sewer Bond Reserve	-	-	-	-	-	-	-	-	-	376,482	376,482
Solid Waste Operations	-	-	-	-	-	1,746,144	-	10,400	-	196,380	1,952,924
Solid Waste Reserve	-	-	-	-	-	-	-	250	27,000	175,291	202,541
Stormwater Operations	48,950	-	-	-	57,000	401,300	-	5,325	-	126,865	639,440
Stormwater Reserve	-	-	-	-	-	-	-	30	80,500	80,530	161,060
Suspense (SWSD)	-	-	-	-	-	-	-	40,000	-	1,950	41,950
Equipment Replacement & Fleet	-	117,000	-	-	-	-	-	400	466,960	89,604	673,964
TOTAL	1,948,350	1,387,000	1,307,800	179,614	2,504,748	5,881,828	83,575	100,260	3,530,940	6,159,464	23,083,579

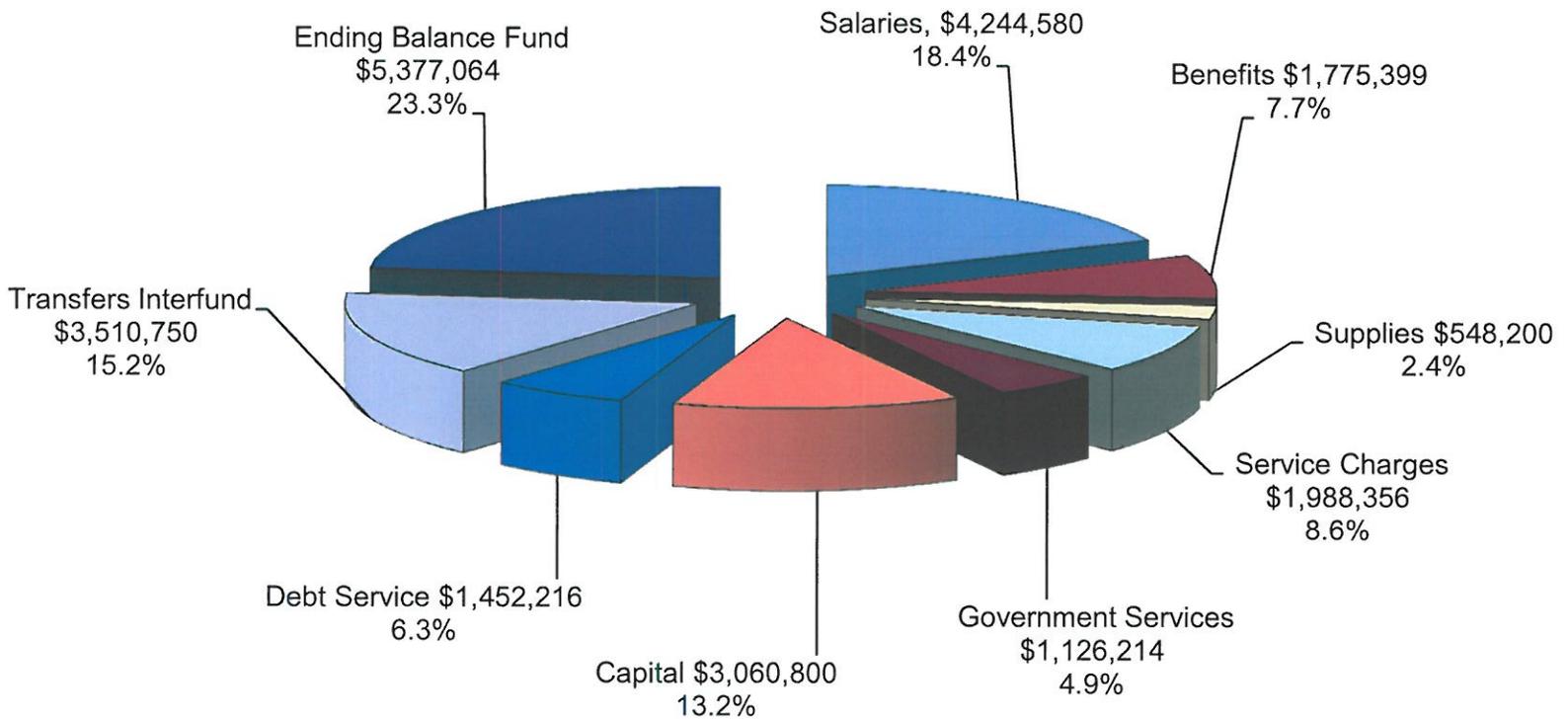
**2014 Preliminary
Revenue Projections
All City Funds by source
\$23,083,579**



**City of Sedro-Woolley 2014 Preliminary Budget
Expenditures by Category - All Funds**

Fund Name	Salaries	Benefits	Supplies	Service Charges	Gov't Services	Capital	Debt Service	Transfers Interfund	End. Fund Balance	Total
General	2,359,960	858,702	154,100	585,746	387,379	37,200	-	103,555	394,862	4,881,504
Parks	182,570	90,770	38,900	185,020	-	51,200	10,000	12,900	49,692	621,052
Cemetery	64,000	28,980	12,800	12,570	-	8,000	-	12,900	12,120	151,370
Streets	191,385	106,052	52,500	231,935	-	80,000	-	153,400	70,891	886,163
Arterial Streets	-	-	-	-	2,935	2,176,900	-	500,000	139,844	2,819,679
Library	185,700	50,185	6,900	40,100	3,700	14,000	-	-	26,162	326,747
Cemetery Endowment	-	-	-	-	-	-	-	8,000	116,346	124,346
Parks Reserve	-	-	-	500	-	-	-	-	115	615
Lodging Tax (Tourism)	-	-	-	34,000	-	-	-	5,500	839	40,339
Special Investigations	-	-	-	3,000	1,000	10,000	-	-	11,923	25,923
Dog Fund	-	-	500	-	-	500	-	-	123	1,123
Code Enforcement	-	-	-	25,000	-	-	-	-	4,082	29,082
Paths & Trails	-	-	-	-	-	5,000	-	-	35,154	40,154
2008 GO Bond	-	-	-	-	-	-	150,555	55,000	28,842	234,397
2008 GO Bond Reserve	-	-	-	-	-	-	-	-	150,000	150,000
1996 GO Bond	-	-	-	-	-	-	225,900	-	44,440	270,340
Capital Projects Reserve	-	-	-	-	-	-	-	220,000	11,018	231,018
Building Maintenance Reserve	-	-	-	-	-	-	-	10,000	236,957	246,957
Police Mitigation Reserve	-	-	-	-	-	-	-	-	11,672	11,672
Parks Impact Fees	-	-	-	-	-	-	-	10,000	21,361	31,361
Fire Impact Fees	-	-	-	-	-	-	-	-	7,124	7,124
Sewer Operations	673,550	345,555	140,000	591,770	19,500	326,000	-	1,316,640	303,408	3,716,423
Sewer Operations Reserve	-	-	-	-	-	75,000	-	-	617,119	692,119
Sewer Debt Service	-	-	-	-	-	-	425,001	-	388,198	813,199
Sewer Facilities Reserve	-	-	-	-	-	-	630,570	715,000	1,336,941	2,682,511
Sewer Bond Reserve	-	-	-	-	-	-	-	-	376,482	376,482
Solid Waste Operations	335,850	166,245	129,500	184,900	662,000	67,500	-	249,490	157,439	1,952,924
Solid Waste Reserve	-	-	-	-	-	-	-	-	202,541	202,541
Stormwater Operations	212,500	113,705	10,000	93,815	9,700	-	10,190	138,365	51,165	639,440
Stormwater Reserve	-	-	-	-	-	-	-	-	161,060	161,060
Suspense (SWSD)	-	-	-	-	40,000	-	-	-	1,950	41,950
Equipment Replacement & Fleet	39,065	15,205	3,000	-	-	209,500	-	-	407,194	673,964
TOTAL	4,244,580	1,775,399	548,200	1,988,356	1,126,214	3,060,800	1,452,216	3,510,750	5,377,064	23,083,579

**2014 Preliminary
All Funds
Expenditures - by Purpose
\$23,083,579**



**City of Sedro-Woolley 2014 Preliminary Budget
Expenditures by Category - General Fund Departments**

Department Name	Salaries	Benefits	Supplies	Service Charges	Gov't Services	Capital	Debt Service	Transfers Interfund	Total	%
Legislative	42,000	3,345	9,350	3,000	20,000	-	-	-	77,695	1.59%
Judicial	39,500	7,175	4,000	49,003	12,676	500	-	-	112,854	2.31%
Executive	58,000	20,295	6,800	61,400	-	-	-	-	146,495	3.00%
Finance	61,000	32,380	10,000	57,288	-	1,000	-	-	161,668	3.31%
Legal	58,550	28,915	6,200	92,370	1,400	-	-	-	187,435	3.84%
Civil Service	-	-	-	3,000	-	-	-	-	3,000	0.06%
Information Technologies	56,200	16,255	2,700	26,400	-	9,000	-	-	110,555	2.26%
Central Services	-	-	3,700	5,000	-	-	-	10,555	19,255	0.39%
Planning	76,650	25,770	2,300	12,225	4,590	600	-	-	122,135	2.50%
Engineering	72,150	29,495	3,500	28,122	1,000	500	-	-	134,767	2.75%
Police	1,393,110	568,095	56,250	120,543	254,332	25,000	-	-	2,417,330	49.52%
Fire	469,800	117,270	47,000	109,120	28,100	-	-	93,000	864,290	17.71%
Building	33,000	9,707	2,300	18,275	-	600	-	-	63,882	1.31%
Emergency Services	-	-	-	-	21,000	-	-	-	21,000	0.43%
Pollution Control	-	-	-	-	3,800	-	-	-	3,800	0.08%
Economic Development	-	-	-	-	7,000	-	-	-	7,000	0.14%
Public Health	-	-	-	-	33,481	-	-	-	33,481	0.69%
Ending Fund Balance									394,862	8.09%
TOTAL	2,359,960	858,702	154,100	585,746	387,379	37,200	-	103,555	4,881,504	100.00%

**2014 Preliminary
Expenditures by Category
General Fund Departments
\$4,881,504**

