



NOTICE OF WORKSHOP MEETING

NOTICE IS HEREBY GIVEN that the Oak Harbor City Council will hold a Workshop Meeting on Wednesday, August 28, 2013, at 3:00 – 5:30 p.m. to discuss the following agenda items. The meeting will be held in the Council Chambers, 865 SE Barrington Drive.

DATED this 20th day August 2013.

Valerie J. Loffler, City Clerk

The City Council may meet informally in workshop sessions (open to the public) to do concentrated strategic planning, to review forthcoming programs of the City, receive progress reports on current programs or projects, or receive other similar information from the City Administrator, provided that all discussions and conclusions thereon shall be informal. Council shall make no disposition of any item at a workshop meeting. Public comment is not normally allowed at workshop meetings, although Council may allow, or request participation.

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WORKSHOP MEETING CITY COUNCIL

August 28, 2013

AGENDA

3:00 p.m. to 5:30 p.m.

Employee Recognition

1. Department of Ecology Wastewater Treatment Plant Outstanding Performance Award

Emerging Issues

1. Joint Marketing Strategy to New NASWI Squadrons

Departmental Briefings

1. Public Works - Staysail Recreational Vehicle Park
2. Police
 - a. Former Element Location
 - b. Armored Vehicle
3. Development Services – Night Club Code
4. Administration - .09 Sales and Use Tax - Public Facilities in Rural Counties
5. Finance – 2013/14 Budget Amendment

Pending Agenda Items

1. City Response to I-502 Implementation – Marijuana (Sept 3)
2. Chamber of Commerce Tourism Services Agreement (Sept 17)
3. Island County Solid Waste Agreement (Sept 3)
4. LEOFF I Disability Board Appointments & Code Revision (Sept 3)



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

June 19, 2013

The Honorable Scott Dudley
Mayor of Oak Harbor
865 SE Barrington Dr.
Oak Harbor, WA 98277

Dear Mayor Dudley:

Congratulations! The City of Oak Harbor Wastewater Treatment Plant is receiving the 2012 "Wastewater Treatment Plant Outstanding Performance" award. The Washington State Department of Ecology (Ecology) will issue a news release recognizing the 2012 award recipients that will include the City of Oak Harbor Wastewater Treatment Plant.

My staff evaluated wastewater treatment plants in Washington for compliance with the effluent limits, monitoring and reporting requirements, spill prevention planning, pretreatment, and overall operational demands of the National Pollutant Discharge Elimination System (NPDES) permit. Of approximately 300 wastewater treatment plants statewide, yours is one of 107 that achieved full compliance with its NPDES permit in 2012.

It takes diligent operators and a strong management team, working effectively together, to achieve this high level of compliance. It's not easy to operate a wastewater treatment plant 24 hours a day, 365 days a year, without violations. Ecology appreciates the extraordinary level of effort your plant operators demonstrated throughout 2012. Talented and proficient operators are critical to successful plant operations and protecting the health of Washington's waters. Your excellent record proves that dedicated operators run the award winning City of Oak Harbor Wastewater Treatment Plant and their combined efforts lead to outstanding compliance.

Please call Amy Jankowiak at (425) 649-7195 if you have any questions or comments about your award.

Thank you for the excellent service you provide. Congratulations!

Sincerely,

A handwritten signature in cursive script, appearing to read "Kelly Susewind".

Kelly Susewind, P.E., P.G.
Water Quality Program Manager

cc: Cathy Rosen
Larry Michaels
Steve Bebee





POLICE DEPARTMENT

Scott Dudley, Mayor
Edgar J. Green, Chief of Police

860 SE Barrington Drive • Oak Harbor WA • (360) 279-4600 • FAX (360) 279-4609

Tim Sterkel
Captain

Martha Folsom
Admin. Assistant

August 28, 2013

City Council
City of Oak Harbor, WA 98277

RE: Replacement of Armored Vehicle

Councilors,

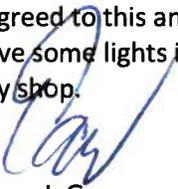
I am writing this as a cover letter to inform each of you of the pending replacement of the police departments' armored vehicle.

Earlier this month I was informed that the armored vehicle, currently being used by the department, was having some mechanical issues; it was last taken out for the National Night Out (August 6, 2013) and upon getting it back to the police station the officer operating it claimed that the steering did not seem responsive and it was running poorly.

We had the vehicle looked at by the City's mechanic and we were informed that the steering mechanism had failed, and the carburetion system needed some work. In all after the analysis was complete we discovered that the cost of repairs was estimated to be \$6,000.00.

This is more than the vehicle is currently worth (it is a 1967 Dodge). I contacted the Defense Reutilization and Marking Office (DRMO) in Tukwila, WA. This vehicle is owned by the military and managed by DRMO. In discussing my dilemma with them they informed me that they would agree to take the vehicle back and replace it with a modern armored vehicle; a Mine Resistant Ambush Protected (MRAP) vehicle. This transaction would cost me nothing but the time necessary to get the vehicle.

I agreed to this and the new vehicle should be arriving in the next few weeks. It will need to be painted and have some lights installed. We will seek the lowest cost for the paint and the lights are already available at the city shop.



Edgar J. Green
Chief of Police

Attachments: Fact Sheet
Photos (Current / New)

Current Armored Vehicle

1967 Dodge

Engine:	318 CI (Gas Combustion) w/Carburetor
Mileage:	10 MPG (average based on statistical data – not observed)
Armor:	Steel Sheet capable of stopping 30 caliber rifle round
HVAC:	Heat/No Air
Tires:	Standard
Repairs Needed:	Engine/Carburetor/Steering
Repair Estimates:	\$6,000.00 (our expense if we keep the vehicle)
Vehicle Value:	\$0
Surplus Value:	Steel has value; vehicle is beyond its life expectancy and will be scrapped
Owner:	US Military (Department of Defense)

Proposed Armor Vehicle

2010 (estimate) International Mine Resistant Ambush Protected (MRAP)

Engine:	9.3 Liter C9 Caterpillar Diesel Inline 6 Cylinder
Mileage:	6 MPG (average based on statistical data – not observed)
Armor:	Steel Sheet capable of stopping all small arms fire/IED's
HVAC:	Heat/Air
Tires:	Run Flat at 30 MPH for 30 miles
Repairs Needed:	None
Cost:	\$0 (Will need painting to match other vehicles in fleet)
Vehicle Value:	\$500,000 - \$1,000,000.00
Owner:	US Military (Department of Defense)



OAK HARBOR

POLICE

107



RCW 82.14.370

Sales and use tax for public facilities in rural counties.

(1) The legislative authority of a rural county may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax may not exceed 0.09 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax, except that for rural counties with population densities between sixty and one hundred persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section must be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section may only be used to finance public facilities serving economic development purposes in rural counties and finance personnel in economic development offices. The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county's comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county's capital facilities plan or the capital facilities plan of a city or town located within the county.

(b) In implementing this section, the county must consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure meets the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Each county collecting money under this section must report, as follows, to the office of the state auditor, within one hundred fifty days after the close of each fiscal year: (i) A list of new projects begun during the fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection; and (ii) expenditures during the fiscal year on projects begun in a previous year. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the tax imposed under subsection (1) of this section has been pledged may not be deemed to be new projects under this subsection. No new projects funded with money collected under this section may be for justice system facilities.

(c) The definitions in this section apply throughout this section.

(i) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, electrical facilities, natural gas facilities, research, testing, training, and incubation facilities in innovation partnership zones designated under RCW 43.330.270, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington.

(ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

(iii) "Economic development office" means an office of a county, port districts, or an associate development organization as defined in RCW 43.330.010, which promotes economic development purposes within the county.

(4) No tax may be collected under this section before July 1, 1998.

(a) Except as provided in (b) of this subsection, no tax may be collected under this section by a county more than twenty-five years after the date that a tax is first imposed under this section.

(b) For counties imposing the tax at the rate of 0.09 percent before August 1, 2009, the tax expires on the date that is twenty-five years after the date that the 0.09 percent tax rate was first imposed by that county.

(5) For purposes of this section, "rural county" means a county with a population density of less than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

[2012 c 225 § 4; 2009 c 511 § 1. Prior: 2007 c 478 § 1; 2007 c 250 § 1; 2004 c 130 § 2; 2002 c 184 § 1; 1999 c 311 § 101; 1998 c 55 § 6; 1997 c 366 § 3.]

Notes:

Effective date -- 2007 c 478: "This act takes effect August 1, 2007." [2007 c 478 § 2.]

Intent -- 2004 c 130: "It is the intent of the legislature in enacting this 2004 act to reaffirm the original goals of the 1997 act which first provided distressed counties with the local option sales and use tax contained in RCW 82.14.370. The local option tax is now available to all rural counties and the continuing legislative goal for RCW 82.14.370 is to promote the creation, attraction, expansion, and retention of businesses and provide for family wage jobs." [2004 c 130 § 1.]

Finding -- Intent -- 1999 c 311: "The legislature finds that while Washington's economy is currently prospering, economic growth continues to be uneven, particularly as between metropolitan and rural areas. This has created in effect two Washingtons: One afflicted by inadequate infrastructure to support and attract investment, another suffering from congestion and soaring housing prices. In order to address these problems, the legislature intends to use resources strategically to build on our state's strengths while addressing threats to our prosperity." [1999 c 311 § 1.]

Part headings and subheadings not law -- 1999 c 311: "Part headings and subheadings used in this act are not any part of the law." [1999 c 311 § 601.]

Effective date -- 1999 c 311: "Sections 1, 101, 201, 301 through 305, 401, 402, 601, and 605 of this act take effect August 1, 1999." [1999 c 311 § 604.]

Severability -- 1999 c 311: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 c 311 § 606.]

Intent -- 1997 c 366: "The legislature recognizes the economic hardship that rural distressed areas throughout the state have undergone in recent years. Numerous rural distressed areas across the state have encountered serious economic downturns resulting in significant job loss and business failure. In 1991 the legislature enacted two major pieces of legislation to promote economic development and job creation, with particular emphasis on worker training, income, and emergency services support, along with community revitalization through planning services and infrastructure assistance. However even though these programs have been of assistance, rural distressed areas still face serious economic problems including: Above-average unemployment rates from job losses and below-average employment growth; low rate of business start-ups; and persistent erosion of vitally important resource-driven industries.

The legislature also recognizes that rural distressed areas in Washington have an abiding ability

and consistent will to overcome these economic obstacles by building upon their historic foundations of business enterprise, local leadership, and outstanding work ethic.

The legislature intends to assist rural distressed areas in their ongoing efforts to address these difficult economic problems by providing a comprehensive and significant array of economic tools, necessary to harness the persistent and undaunted spirit of enterprise that resides in the citizens of rural distressed areas throughout the state.

The further intent of this act is to provide:

(1) A strategically designed plan of assistance, emphasizing state, local, and private sector leadership and partnership;

(2) A comprehensive and significant array of business assistance, services, and tax incentives that are accountable and performance driven;

(3) An array of community assistance including infrastructure development and business retention, attraction, and expansion programs that will provide a competitive advantage to rural distressed areas throughout Washington; and

(4) Regulatory relief to reduce and streamline zoning, permitting, and regulatory requirements in order to enhance the capability of businesses to grow and prosper in rural distressed areas." [1997 c 366 § 1.]

Goals -- 1997 c 366: "The primary goals of chapter 366, Laws of 1997 are to:

(1) Promote the ongoing operation of business in rural distressed areas;

(2) Promote the expansion of existing businesses in rural distressed areas;

(3) Attract new businesses to rural distressed areas;

(4) Assist in the development of new businesses from within rural distressed areas;

(5) Provide family wage jobs to the citizens of rural distressed areas; and

(6) Promote the development of communities of excellence in rural distressed areas." [1997 c 366 § 2.]

Severability -- 1997 c 366: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 366 § 11.]

Captions and part headings not law -- 1997 c 366: "Section captions and part headings used in this act are not any part of the law." [1997 c 366 § 12.]

City of Oak Harbor City Council Agenda Bill

Bill No. _____

Date: September 3, 2013

Subject: Medical Marijuana
Moratorium

FROM: Steve Powers
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

_____ Scott Dudley, Mayor
_____ Larry Cort, City Administrator
_____ Doug Merriman, Finance Director
_____ Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents an ordinance adopting a six month moratorium on the creation of medical marijuana collective gardens.

FISCAL IMPACT DESCRIPTION

Funds Required: N/A

Appropriation Source: N/A

SUMMARY STATEMENT

The Washington State Legislature, during its 2011 Legislative Session, adopted Engrossed Second Substitute Bill 5073 (“E2SSB 5073”), which was adopted with a partial veto of the Governor, became effective July 22, 2011, and amended RCW 69.51A and renamed the Medical Use of Marijuana Act to the “Washington State Medical Use of Cannabis Act.” RCW 69.51A.085 now provides that qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use subject to compliance with specific statutory conditions.

RCW 69.51A.140 provides that pursuant to their general zoning and police powers, cities are authorized to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements and business taxes on the production, processing or dispensing of cannabis or cannabis products. The City’s current zoning and licensing regulations do not adequately address the location, use or regulations of collective gardens, as they are intended to be authorized under RCW 69.51A.085. As part of the process for the adoption of zoning regulations, the land use impacts of medical marijuana or cannabis collective gardens, dispensaries, processing facilities and production facilities must be identified.

City of Oak Harbor City Council Agenda Bill

At this time the City of Oak Harbor does not have specific regulations addressing the facilities or uses allowed under RCW 69.51A, other than the requirement for a general business license. The City needs time to study the secondary land use impacts of these marijuana uses and the various development standards that should be considered to mitigate these impacts before adoption of any regulatory ordinance or issuance of any business license. To respond to this situation, staff recommends the City Council impose a moratorium to preserve the status quo as necessary, until the City can study, draft, hold public hearings and adopt the appropriate land use and/or licensing regulations to address these new uses.

RCW 36.70A.390 allows cities to adopt a moratorium without first conducting a public hearing so long as one is conducted within 60 days of the adoption of the moratorium. Findings of fact justifying the moratorium must be adopted by the City Council. The moratorium may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium may be renewed for one or more six-month periods if a subsequent public hearing is held and additional findings of fact are adopted.

The attached ordinance (Ordinance No. 1666) provides additional detail on issues related to medical marijuana collective gardens and the adoption of moratoria. If adopted by the City Council it would impose a six month moratorium on the establishment and operation of medical marijuana collective gardens, and set the required public hearing date for October 1, 2013.

RECOMMENDED ACTION

Adopt Ordinance No. 1666

ATTACHMENTS

Ordinance No. 1666

**CITY OF OAK HARBOR
OAK HARBOR, WASHINGTON**

ORDINANCE NO. 1666

AN INTERIM ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES, COLLECTIVE GARDENS AND THE LICENSING AND PERMITTING THEREOF; DEFINING “MEDICAL MARIJUANA DISPENSARY”; PROVIDING FOR A PUBLIC HEARING; REFERRING THE MATTER TO THE PLANNING COMMISSION FOR REVIEW; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION.

WHEREAS, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana; and

WHEREAS, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be “construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes”; and

WHEREAS, the Washington State Department of Health opines that it is “not legal to buy or sell” medical marijuana and further opines that “the law [Chapter 69.51.A RCW] does not allow dispensaries”, leaving enforcement to local officials; and

WHEREAS, the City Council finds that the sale of marijuana, no matter how designated by dispensaries, is prohibited by federal and state law; and

WHEREAS, ESSB 5073 – Chapter 181, Laws of 2011 (“the bill”) was adopted with a partial veto of the Governor becomes effective July 22, 2011; and

WHEREAS, Section 404 of the bill effectively eliminates medical marijuana dispensaries as a legally viable model of operation under State law; and

WHEREAS, Section 403 of the bill provides that qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use subject to compliance with specific statutory conditions; and

WHEREAS, the City acknowledges the right of qualified health care professionals to prescribe the medical use of marijuana as well as the right of patients to designate a “designated

provider” who can “provide” rather than sell marijuana to “only one patient at any one time”; and

WHEREAS, the City Council finds that the secondary impacts associated with marijuana dispensaries, and collective gardens include but are not limited to the invasion of the business, burglary and robbery associated with the cash and drugs maintained on the site; and

WHEREAS, pursuant to Section 1102 of the bill and under their general zoning and police powers cities are authorized to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements and business taxes on the production, processing or dispensing of cannabis or cannabis products; and

WHEREAS, a public hearing will be held on October 1, 2013 at 6:00 p.m. before Oak Harbor City Council;

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

Section 1. Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Oak Harbor prohibiting licensing, permitting, establishment, maintenance or continuation of any use consisting of or including the sale, provision and/or dispensing of medical marijuana to more than one person, the establishment of a medical marijuana dispensary or creation of or participation in a “collective garden” as referenced and defined in Section 403 of ESSB 5073 – Chapter 181, Laws of 2011.

Section 2. “Medical marijuana dispensary” is hereby defined as any person, business, corporation, partnership, joint venture, organization, association and/or other entity which: 1) sells, provides and/or otherwise dispenses marijuana to more than one “qualifying patient” in any thirty (30) day period or to any person who does not meet the definition of “qualifying patient” under the terms of Chapter 69.51A RCW , and/or 2) maintains and/or possesses more than one sixty-day supply of marijuana for one qualifying patient at any time. The receipt of cash or other legal tender in exchange for, contemporaneously with or immediately following the delivery of marijuana to a qualifying patient shall be presumed to be a sale. Any person, business, corporation, partnership, joint venture, organization, association and/ or entity which sells, provides and/or otherwise dispenses marijuana to more than one qualifying patient in any sixty (60) day period should be presumed to be a “medical marijuana dispensary.”

Section 3. Medical marijuana dispensaries and collective gardens are hereby designated as prohibited uses in the City of Oak Harbor, in accordance with the provisions of RCW 35A.82.020 and OHMC Title 19, OHMC Chapter 18.20, and/or OHMC Chapter 5.03, no business license, permit, zoning or development approval shall be issued to be a medical marijuana dispensary or collective garden.

Section 4. This ordinance shall be referred to the Oak Harbor Planning Commission for its review and recommendation for potential inclusion in the zoning and/or business and tax ordinances of the City of Oak Harbor.

Section 5. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, a copy of this interim ordinance shall be transmitted to the Washington State Department of Commerce.

Section 6. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title, PROVIDED, HOWEVER, that unless extended by the act of the Oak Harbor City Council, this ordinance shall automatically expire six (6) months following its adoption.

PASSED by the City Council and APPROVED by the Mayor this 3rd day of September 2013.

CITY OF OAK HARBOR

By: _____
Scott Dudley, Mayor

ATTEST/AUTHENTICATED:

By: _____
Valerie J. Loffler, City Clerk

APPROVED AS TO FORM:

By: _____
Grant K. Weed, City Attorney

Date of Publication:

Effective Date:

City of Oak Harbor City Council Agenda Bill

Bill No. _____

Date: September 3, 2013

Subject: Initiative 502 Moratorium

FROM: Steve Powers
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

_____ Scott Dudley, Mayor
_____ Larry Cort, City Administrator
_____ Doug Merriman, Finance Director
_____ Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents an ordinance adopting a six month moratorium on activities purported to be legalized by the approval of Initiative Measure No. 502 (I-502) by the voters of Washington State.

FISCAL IMPACT DESCRIPTION

Funds Required: N/A

Appropriation Source: N/A

SUMMARY STATEMENT

Initiative Measure No. 502 (I-502) was approved by Washington State votes on November 6, 2012. Its passage purported to legalize the production, sale and use of marijuana products purchased from State licensed stores for adults age twenty-one and over. The new law assigns the Washington State Liquor Control Board the responsibility for developing the State rules that will govern these activities. The Board expects to have the rules in place November 16, 2013¹ and to accept license applications from November 18-December 18, 2013.

I-502 establishes certain limitations on the Washington State Liquor Control Board's issuance of licenses for any premises that are within 1,000 feet of the perimeter of the grounds of any elementary school or secondary school, playground, recreation facility, child care center, public park, public transit center or library, or any game arcade, admission to which is not restricted to persons aged twenty-one (21) years or older. The State's licensing regulations however will not address local zoning and other land use related issues.

¹ State law requires the rules be in place by December 1, 2013.

City of Oak Harbor City Council Agenda Bill

At this time the City of Oak Harbor does not have specific regulations addressing the facilities or uses identified in I-502, other than the requirement for a general business license. In fact the uses described in I-502 have never been allowed in any state or city in the United States, and the City needs time to study the secondary land use impacts of these marijuana uses and the various development standards that should be considered to mitigate these impacts before adoption of any regulatory ordinance or issuance of any business license. To respond to this situation, staff recommends the City Council impose a moratorium to preserve the status quo as necessary, until the State Liquor Control Board definitively acts to establish a final and complete set of rules for the licensing of all of the new marijuana facilities and uses identified in I-502, and until the City can study, draft, hold public hearings and adopt the appropriate land use and/or licensing regulations to address these new uses.

RCW 36.70A.390 allows cities to adopt a moratorium without first conducting a public hearing so long as one is conducted within 60 days of the adoption of the moratorium. Findings of fact justifying the moratorium must be adopted by the City Council. The moratorium may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium may be renewed for one or more six-month periods if a subsequent public hearing is held and additional findings of fact are adopted.

The attached ordinance (Ordinance No. 1665) provides additional detail on issues related to I-502 and the adoption of moratoria. If adopted by the City Council it would impose a six month moratorium on the establishment and operation of businesses and other activities related to the sale of marijuana and marijuana products, and set the required public hearing date for October 1, 2013.

RECOMMENDED ACTION

Adopt Ordinance No. 1665

ATTACHMENTS

Ordinance No. 1665



Washington State Liquor Control Board

Published on *Washington State Liquor Control Board* (<http://liq.wa.gov>)
[Home](#) > [FAQs on I-502](#)

FAQs on I-502

Frequently Asked Questions about Implementing Initiative 502

Subtopics (links)

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

Licenses

Q: When can I buy marijuana legally?

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

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

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

Q: How much does a license cost?

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

Q: Can I hold all three license types?

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

Q: How many retail licenses will be issued?

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

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

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

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

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

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

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

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

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

Retail Stores

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

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

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

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

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

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

Q: Can customers smoke in a retail store?

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

Q: Are there any restrictions on advertising?

A: Retailers are limited to one 1,600 square inch sign bearing their business/trade name. They cannot put products on display to the general public such as through window fronts. No licensee can advertise marijuana/infused product in any form or through any medium whatsoever within 1,000 ft. of school grounds, playgrounds, child care, public parks, libraries, or game arcades that allows minors to enter. Also, you can't advertise on public transit vehicles/shelters or on any publicly owned or operated property.

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

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

Public Safety/Criminal

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

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

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

Q: What is the DUI provision?

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

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

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

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

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

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

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

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

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

Federal Government

Q: What is the federal government going to do?

A: How the federal government will respond to Initiative 502 and Colorado's Amendment 64 is presently unknown. Governor Inslee met with Attorney General Eric Holder on Jan. 22 to seek clarification but the Department of Justice is still reviewing both Washington and Colorado's legalization laws and has not made a decision regarding their course of action. The Governor's office is maintaining an open dialogue with the federal government and the WSLCB is moving forward to carry out the expectations of the agency under the new law.

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

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

Q: Can the federal government confiscate my assets?

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

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

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

WSLCB Hiring

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

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

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

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

Q: Does the WSLCB drug test new employees?

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

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

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

Financial

Q: What is retail marijuana going to cost?

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

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

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

Q: How is it going to be taxed?

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

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

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

Medical Marijuana

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

Q: Can medical marijuana patients continue to cooperatively grow?

A: I-502 is silent on medical marijuana.

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

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

Q: Where can I learn more about medical marijuana?

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

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

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

Staff to recommend re-filing proposed marijuana rules to accommodate public input

OLYMPIA – Staff of the Washington State Liquor Control Board (WSLCB) will recommend the Board re-file the rules necessary to implement Initiative 502 to allow time to consider recent input.

Under the current schedule, the Board was expected to adopt the final rules at its regularly scheduled Board meeting tomorrow. Should the Board accept staff's recommendation, staff will come back to the Board on September 4, 2013, with revised proposed rules.

Since filing the proposed rules on July 3, 2013, the Board and WSLCB staff received sufficient input to warrant re-filing the proposed rules. Last week, the Board held five public hearings across the state to solicit input. Under the state Administrative Procedures act, an agency must re-file proposed rules if there are any substantive changes.

Should the Board accept the proposed rules on September 4, 2013, staff will immediately file a new CR 102 (proposed rulemaking) with the Code Reviser's Office and begin a six week schedule of collecting public input and holding at least one public hearing. The agency's published timeline will be adjusted to reflect the new schedule. The WSLCB remains on schedule to meet the I-502 required deadline of having rules in place by December 1, 2013.

Key elements of the rules that will be included in the revised proposed rules include: limiting the amount of total marijuana production, identifying the number of retail locations per county and their locations, identifying the total amount of product that a licensee may have on hand, as well as further clarifying certain definitions and other revisions.

"The process is working exactly as it should," said agency director Rick Garza. "Potential licensees, local governments, law enforcement and the general public all deserve clarity and certainty in the rules. Our stakeholders are not telling us to hurry up. In fact, they are asking us to consider their comments for the proposed rules. Their input now will only help strengthen and improve the rules that will govern Washington's system of legal marijuana."

Revised Proposed Rulemaking Schedule

- September 4, 2013
File Supplemental CR 102 with revised proposed rules
-

- October 9, 2013
Public Hearing (Location TBD)

- October 16, 2013
Board Adoption (CR 103)

- November 16, 2013
Rules become effective

- Nov. 18 - Dec. 18, 2013
WSLCB accepts applications (30-day window)

- *Licenses March / April 2014*

The Board will hear staff's recommendation at its regularly scheduled Board meeting at 10:00 a.m. on Wednesday August 14, 2013. The address is 3000 Pacific Avenue in Olympia.

For more information on the implementation of I-502, including fact sheets, FAQs, a revised timeline, and an opportunity to sign up for email alerts, please visit the WSLCB website at www.liq.wa.gov ⁽¹⁾.

Contact:

Brian Smith, WSLCB Communications, 360-664-1774

Mikhail Carpenter, WSLCB Communications, 360-664-1621

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ORDINANCE _____

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, ADOPTING A SIX (6) MONTH MORATORIUM WITHIN THE CITY OF OAK HARBOR ON THE ESTABLISHMENT, SITING, LOCATION, PERMITTING, LICENSING OR OPERATION OF MARIJUANA CULTIVATION, PRODUCTION OF MARIJUANA DERIVATIVES, AND THE SALE OF MARIJUANA OR MARIJUANA DERIVATIVES OR ANY OTHER ACTIVITIES ASSERTED TO BE AUTHORIZED OR ACTUALLY AUTHORIZED UNDER WASHINGTON STATE INITIATIVE NO. 502 OR ANY OTHER LAWS OF THE STATE OF WASHINGTON AND SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM, ADOPTING A WORK PLAN, PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, RCW 36.70A.390 authorizes the City Council to adopt an immediate moratorium for a period of up to six months if a public hearing on the proposal is held within at least sixty days of its adoption; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 1. Preliminary Findings.

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

Section 2. Moratorium Imposed.

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

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

Section 3. Definition of Marijuana Use.

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

Marijuana Definitions.

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

"Cannabis or Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. For the purposes of this Ordinance, "cannabis" or "marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Marijuana processor" means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

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

"Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana infused products" does not include useable marijuana.

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

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

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

Section 4. No Nonconforming Uses.

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

Section 5. Effective Period for Moratorium.

The moratorium set forth in this ordinance shall be in effect for a period of six (6) months from the date this ordinance is passed and shall automatically expire at the conclusion of that six (6) month period unless the same is extended by the City as provided in State law or unless terminated sooner by ordinance.

Section 6. Public Hearing.

The City Council will hold a public hearing at the regular City Council meeting of October 1, 2013 at 6:00 p.m. or as soon thereafter as the business of the City Council shall permit and which date is no more than sixty (60) days after the date of adoption herein in order to take public testimony and to consider adopting further findings.

Section 7. STUDY OF ISSUES.

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

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

Section 9. Effective Date.

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

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2013.

CITY OF OAK HARBOR

By _____
Scott Dudley, Mayor

ATTEST:

By _____
Valerie Loffler, City Clerk

Approved as to form:

By _____
Grant Weed, City Attorney

Date of Publication: _____

Effective Date : _____

TOURISM SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into in duplicate this 18th day of December, 2012, by and between the City of Oak Harbor, a Washington municipal corporation hereinafter referred to as the "CITY" and the Greater Oak Harbor Chamber of Commerce, hereinafter referred to as the "CHAMBER OF COMMERCE".

Whereas, the CITY desires to have certain services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and,

WHEREAS, the CHAMBER OF COMMERCE represents that the CHAMBER OF COMMERCE is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, the parties hereto agree as follows:

1. Scope of Services

The CHAMBER OF COMMERCE shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as CHAMBER OF COMMERCE responsibilities throughout this Agreement and as detailed in Exhibit "A" attached hereto and incorporated herein.

2. Term.

The tourism service agreement shall begin on January 1, 2013 and, shall end no later than December 31, 2013, unless sooner terminated according to the provisions herein.

3. Compensation and Method of Payment

3.1 Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.

3.2 No payment shall be made for any service rendered by the CHAMBER OF COMMERCE except for services identified and set forth in this Agreement.

3.3 The CITY shall pay the CHAMBER OF COMMERCE for work performed under this Agreement as follows: For tourist information and tourist promotion services - not to exceed \$6,000 per month, based upon actual costs of employee time at the regular hourly wage of such employee(s) and actual cost of promotion materials including employee time.

4. Reports and Inspections.

4.1 The CHAMBER OF COMMERCE at such times and in such form as the CITY may require, shall furnish to the CITY such statements, records, reports, data and information as the CITY may request pertaining to matters covered by this Agreement. The CHAMBER OF COMMERCE reporting responsibilities for this Agreement are as detailed in Exhibit "B" attached hereto and incorporated herein.

4.2 The CHAMBER OF COMMERCE will be requested upon invite to present an annual report to the CITY no later than the last regularly scheduled City Council meeting in April for the prior calendar year's reportable activities.

4.3 The CHAMBER OF COMMERCE shall, with reasonable notice and during reasonable work hours, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The CITY shall receive a copy of all audit reports made by the agency or firm as to the CHAMBER OF COMMERCE'S activities. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the CHAMBER OF COMMERCE'S activities that relate, directly or indirectly, to this Agreement.

5. Independent Contractor Relationship.

5.1 The parties intend that an independent CHAMBER OF COMMERCE/CITY relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the CHAMBER OF COMMERCE. No agent, employee, servant or representative of the CHAMBER OF COMMERCE shall be deemed an employee, agent servant or representative of the CITY for any purpose, and the employees of the CHAMBER OF COMMERCE are not entitled to any of the benefits the CITY provides for its

employees. The CHAMBER OF COMMERCE will be solely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

5.2 In the performance of the services herein contemplated the CHAMBER OF COMMERCE is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

6. Chamber of Commerce Employees/Agents

The CITY may at its sole discretion make recommendation to the CHAMBER OF COMMERCE to remove an employee(s), agent(s), or servant(s) from employment on this project. The CHAMBER OF COMMERCE may, however, employ that (those) individual(s) on other non-CITY related projects. In the event the CHAMBER elects not to remove an employee upon CITY recommendation, the CITY may consider such enact as termination for cause.

7. Hold Harmless/Indemnification

7.1 CHAMBER OF COMMERCE shall defend, indemnify and hold the CITY, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the CHAMBER OF COMMERCE in performance of this Agreement, except for injuries and damages caused by the sole negligence of the CITY. For purposes of this Hold Harmless/Indemnification Agreement, CHAMBER OF COMMERCE hereby waives its immunity under Worker's Compensation (Title 57 RCW) and acknowledges that this waiver has been expressly negotiated.

7.2 No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

8. Insurance

The CHAMBER OF COMMERCE shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which

may arise from or in connection with the performance of the work hereunder by the CHAMBER OF COMMERCE, its agents, representatives or employees.

- 8.1 Minimum scope of insurance. CHAMBER OF COMMERCE shall obtain insurance of the types described below.
 - a. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The CITY shall be named as an additionally insured under the CHAMBER OF COMMERCE'S General Liability insurance policy with respect to the work performed for the CITY.
 - b. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- 8.2 Minimum Amounts of Insurance. CHAMBER OF COMMERCE shall maintain the following insurance limits:
 - a. Commercial General Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate.
- 8.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Commercial General Liability insurance:
 - a. The CHAMBER OF COMMERCE'S insurance coverage shall be primary insurance as respects the CITY. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the CHAMBER OF COMMERCE'S insurance and shall not contribute with it.
 - b. The CHAMBER OF COMMERCE'S insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
- 8.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- 8.5 Verification of Coverage. CHAMBER OF COMMERCE shall furnish the CITY with original certificates and a copy of the amendatory endorsement, including but not necessarily limited to, the additional insured endorsement, evidencing the

insurance requirements of the CHAMBER OF COMMERCE before commencement of the work.

9. Treatment of Assets.

Title to all property furnished by the CITY shall remain in the name of the CITY.

10. Compliance with Laws

10.1 The CHAMBER OF COMMERCE, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of service.

10.2 The CHAMBER OF COMMERCE specifically agrees to pay any applicable business and occupation (B&O) taxes that may be due on account of this Agreement.

11. Nondiscrimination

11.1 The CITY is an equal opportunity employer.

11.2 Nondiscrimination in Employment. In the performance of this Agreement, the CHAMBER OF COMMERCE will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; provided that the prohibition against discrimination in employment because of a disability, or the use of a trained dog guide or service animal by a person with a disability, shall not apply if the particular disability prevents the proper performance of the particular worker involved. The CHAMBER OF COMMERCE shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability. Such action shall include, but not be limited to; employment upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The CHAMBER OF COMMERCE shall take such action with respect to this Agreement as may be required to ensure full

compliance with local, state and federal laws prohibiting discrimination in employment.

- 11.3 Nondiscrimination in Services. The CHAMBER OF COMMERCE will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability.
- 11.4 If any assignment and/or subcontracting have been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The CHAMBER OF COMMERCE shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. Assignment/subcontracting.

12.1 The CHAMBER OF COMMERCE shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the CHAMBER OF COMMERCE not less than thirty (30) days prior to the date of any proposed assignment.

12.2 Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedure where applicable as set forth in local state and/or federal statutes, ordinances and guidelines.

13. Changes.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached and made part of this Agreement.

14. Maintenance and Inspection of Records

14.1 The CHAMBER OF COMMERCE shall maintain all books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit, by the CITY, its authorized

representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement. The CITY anticipates no more than one audit per year.

14.2 The CHAMBER OF COMMERCE shall retain all books, records, documents and other material relevant to this Agreement, for six (6) years after its expiration. The CHAMBER OF COMMERCE agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. Other Provisions.

The following additional terms shall apply: It is agreed between the parties that pursuant to changes in state law necessitating that services hereunder be expanded, the parties shall negotiate an appropriate amendment. If after thirty (30) days of negotiation, agreement cannot be reached, the CITY may terminate this Agreement no sooner than sixty (60) days thereafter.

16. Termination.

16.1 Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time for any reason by giving at least one hundred twenty (120) days' written notice to the CHAMBER OF COMMERCE. Upon such termination for convenience, the CITY shall pay the CHAMBER OF COMMERCE for all services provided under this Agreement through the date of termination.

16.2 Failure of Appropriation. The CITY may terminate this Agreement due to failure of appropriation by giving at least thirty (30) days' written notice to the CHAMBER OF COMMERCE. Upon such termination the CITY shall pay the CHAMBER OF COMMERCE for all services provided under this Agreement through the date of termination.

16.3 Termination for Cause. If the CHAMBER OF COMMERCE fails to perform in the manner called for in this Agreement, or if the CHAMBER OF COMMERCE fails to comply with any provisions of this Agreement and fails to correct such noncompliance within twenty (20) days' written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the CHAMBER OF COMMERCE setting forth the manner in which the CHAMBER OF COMMERCE is in default. The CHAMBER OF COMMERCE will only be paid for services performed in accordance with the manner of performance set forth in this Agreement through the date of termination.

17. Notice.

Notice provided for in this agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

18. Attorney Fees and Costs.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

19. Jurisdiction and Venue.

19.1 This agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington both as to interpretation and performance.

19.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Island County, Washington.

20. Severability.

20.1 If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

20.2 If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision that may be in conflict herewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith. And shall be deemed modified to conform to such statutory provisions.

21. Entire Agreement.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute a material breach of contract and be cause for termination. Both parties recognize time is of the

essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provisions of this Agreement does not constitute a waiver of the provisions of this Agreement.

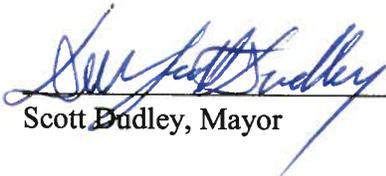
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

CITY OF OAK HARBOR

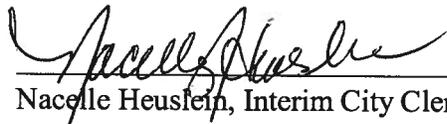
Address:

865 SE Barrington Drive
Oak Harbor, WA 98277



Scott Dudley, Mayor

Attest:



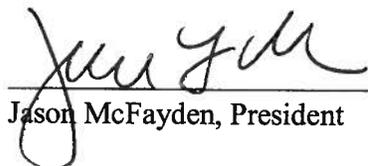
Nacelle Heuslein, Interim City Clerk

CHAMBER OF COMMERCE:

GREATER OAK HARBOR CHAMBER
OF COMMERCE

Address:

32630 SR 20
Oak Harbor, WA 98277



Jason McFayden, President

Tourism Services Agreement
Exhibit “B”
Record Keeping and Reporting

1. No later than the last regularly scheduled City Council meeting of April for the prior calendar year’s reportable activities, Chamber of Commerce will schedule and present a written and oral annual report to the Mayor and City Council consisting of the following items:
 - a) Total revenue received from the City of Oak Harbor for the fiscal year or any partial fiscal year from this agreement.
 - b) The list of festivals, special events, or other non-profit organizations that received funds or services from the Chamber of Commerce under this agreement.
 - c) The list of festivals, special events or tourism facilities sponsored or owned by the Chamber of Commerce that received funds from this agreement.
 - d) The amount of revenue expended on each festival, special event or tourism-related facility owned by the Chamber of Commerce or sponsored by other non-profit organizations that received funds from the Chamber of Commerce under this agreement.
 - e) The estimated number of tourists, persons, traveling over fifty miles to Oak Harbor, persons remaining in Oak Harbor overnight and lodging stays generated per festival or special event.

2. Chamber of Commerce shall schedule and present at a regularly scheduled City Council meeting no later than October 31, an annual budget proposal that includes the following information:
 - a) Those tourism and promotion budget goals and objectives for the upcoming budget year that will require City reimbursement.
 - b) A summary total of all budgeted expenditures that will require City reimbursement.
 - c) A summary total for each proposed tourism or promotion program of all budgeted expenditures requiring City reimbursement.
 - d) A summary total for each proposed festival or planned event of all budgeted expenditures requiring City reimbursement.

Tourism Services Agreement

Exhibit "A"

Scope of Services

1. Maintenance and Operation of Tourist Information Facility. The Chamber of Commerce will maintain and operate a tourist facility for the distribution of tourist-related information as follows:
 - i. **Services:** The Chamber of Commerce will furnish services generally considered to be of an informational and assistance nature to tourists and visitors to the community, including travel directions, directions to points of interest, lodging accommodations and other hospitality services, recreational activities, cultural events, emergency services, and other referral services.
 - ii. **Hours of Operation:** The City anticipates the Chamber of Commerce shall generally maintain minimum hours of operation of the Tourist Information Facility located at 32630 SR 20 in Oak Harbor from 9:00 AM to 5:00 PM, Monday through Friday, on regularly recognized business days. If minimum hours are reduced by the Chamber of Commerce, the City may adjust the payment to the Chamber of Commerce to reflect the reduction on operation hours.
 - iii. **Staffing:** The Chamber of Commerce will provide qualified, trained staff to operate the tourist information facilities in a professional and competent manner.
2. Other Tourist Promotion Activities:
 - i. In addition to the operation of the tourist information facility, the Chamber of Commerce will provide "Tourist Promotion" services as defined by RCW 67.28.080(6), including purchase and distribution of media (print, broadcast or electronic) and the facilitation of special events and festivals designed to attract tourists.
 - ii. The Chamber of Commerce agrees that all tourist promotion funds received from the City will promote tourism within the City of Oak Harbor and not benefit individual members of the Chamber of Commerce.
3. Funding Allocation Outline
 - i. The Chamber of Commerce will perform Tourist Information Facility Services and Tourism Promotion Activities in accordance with Funding Outline set forth herein:

a. Annual Operation Cost of Tourist Information Facility	\$70,000
b. Annual Tourist Promotion Activities Cost	<u>\$ 2,000</u>
 Total Annual Fund Allocation	 \$72,000

Contact	Year	Total Received From City	Total Chamber Budget	Uses of City Money	Sources	Notes
Arlington-Smokey Pt. Chamber of Commerce						
Mary Jane Harmon, Managing Director and Member Sales	2009	Varies, from year to year. See notes	Not available	Events: City BBQ & 4th of July fireworks. Facilities: portion of visitors center	Lodging tax	Receive competitive grant money from City for various events/facilities. Amount per event/item ranges from \$600 - \$7600. Chamber does not have contract with City.
	2010		Not available			
	2011		\$95,000			
	2012		\$98,000			
	2013	\$12,500	\$110,000			
Battle Ground Chamber of Commerce						
Carrie Schulstad, Executive Director	2009	\$0	\$193,610	N/A	N/A	No direct contribution, but City donates \$5,000 worth of police services for annual chamber fundraiser event
	2010	\$0	\$134,670	N/A	N/A	
	2011	\$0	\$124,720	N/A	N/A	
	2012	\$0	\$139,300	N/A	N/A	
	2013	\$0	\$144,090	N/A	N/A	
Bonney Lake Chamber of Commerce						
Lora Butterfield, Director	2009	\$15,000	\$50,000 (approx.)	Printed directory, staffing visitors center.	General fund	Chamber was partially funded by City of Bonney Lake under agreement until 2010, but chamber decided not to renew agreement. "Did not want to be beholden to City." There are no hotel/motels in Bonney Lake, so lodging tax contribution not an option.
	2010	\$15,000	\$50,000 (approx.)	Printed directory, staffing visitors center.	General fund	
	2011	\$0	\$50,000 (approx.)	N/A	N/A	
	2012	\$0	\$50,000 (approx.)	N/A	N/A	
	2013	\$0	\$50,000 (approx.)	N/A	N/A	

Contact	Year	Total Received From City	Total Chamber Budget	Uses of City Money	Sources	Notes
Centralia-Chehalis Chamber of Commerce						
Alicia Bull, Director	2009	\$10,000	Not available	tourism promotion, festival/event guides, Tour of Lewis County brochure, welcome bags for new residents	Lodging tax	
	2010	\$10,000	Not available			
	2011	\$10,000	Not available			
	2012	\$10,000	Not available			
	2013	\$13,000	\$238,000			
Kittitas Chamber of Commerce (Ellensburg)						
Jim Armstrong, Kittitas County Chamber of Commerce	2009	\$233,250	Not available	Visitor Information Center operations and tourism marketing/promotions	4% lodging tax	Listed amounts received are from City of Ellensburg.
	2010	\$247,750	Not available			
	2011	\$238,927	Not available			
	2012	\$314,015	Not available			
	2013	\$376,925	\$1.0 M			
Port Angeles Chamber of Commerce						
Russ Veenema, Executive Director	2009	See notes	Not available	Marketing, event & special project grants, visitor center operations	Lodging tax	Have yearly contract with City to administer from \$200,000-\$400,000, depending on lodging tax receipts in a given year
	2010		Not available			
	2011		Not available			
	2012		Not available			
	2013		Not available			

Contact	Year	Total Received From City	Total Chamber Budget	Uses of City Money	Sources	Notes
Walla Walla Chamber of Commerce						
Jenny Buckley,	2009	\$0	Not available	N/A	N/A	Walla Walla has a tourism promotion association (TPA)
	2010	\$0	Not available	N/A	N/A	
	2011	\$0	Not available	N/A	N/A	
	2012	\$0	Not available	N/A	N/A	
	2013	\$0	Not available	N/A	N/A	
Mt. Vernon Chamber of Commerce						
Lisa Swanberg - Vice President of Operations Mt. Vernon Chamber	2009	\$90,000	Not available	Market and promote "heads in bed" beyond 50 mile radius	2% lodging tax	
	2010	\$90,000	\$289,000			
	2011	\$90,000	\$313,000			
	2012	\$90,000	\$389,000			
	2013	\$90,000	\$388,000			
Anacortes Chamber of Commerce						
Leah Hines, Marketing and Promotions Director for Chamber	2009	\$55,000	Not available	Tourism promotion	2% lodging tax	
	2010	\$60,000	Not available			
	2011	\$60,000	Not available			
Ryan Larsen, Director of Planning & CD	2012	\$65,000	Not available			
	2013	\$67,200	Not available			
			Not available			

City of Oak Harbor City Council Agenda Bill

Bill No. C/A 4.c.
Date: September 3, 2013
Subject: Island County Solid Waste
Management Contract

**FROM: Cathy Rosen, Public Works Director
Joe Stowell, City Engineer**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

_____ Scott Dudley, Mayor
_____ Larry Cort, City Administrator
_____ Doug Merriman, Finance Director
_____ Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to authorize the Mayor to sign a six year agreement with Island County for solid waste management services. In December 2012, the City Council approved a one year agreement with Island County for these services to allow the City time to evaluate the feasibility of constructing our own solid waste transfer station. The feasibility study has been completed and it has been determined that it is not cost effective for the City of Oak Harbor to construct and operate our own solid waste transfer station. The proposal agreement is similar to the one approved in December 2012 with the exception that the term is for six years. This term puts the City of Oak Harbor on the same contract schedule as the Town of Coupeville and the City of Langley in regards to the County's Comprehensive Plan and Solid Waste Management Agreement.

SUMMARY STATEMENT

The City has a contract with Island County to provide long haul transport and permanent disposal of solid waste at a solid waste facility in western Washington. Island County also develops and manages the Solid Waste and Moderate-Risk Waste Management Plan for the County, including the City of Oak Harbor. The contract with Island County expires in December 2013. The proposed contract will extend that arrangement through December 31, 2019.

PREVIOUS COUNCIL ACTIONS

December 18, 2012 – City Council authorized the Mayor to sign a one year solid waste management agreement with Island County.

CITY COUNCIL WORKSHOP

August 28, 2013 – Council was presented a copy of the contract.

RECOMMENDED ACTION

A motion authorizing the Mayor to sign a six year agreement with Island County for solid waste management services.

ATTACHMENTS

- 2014 Solid Waste Management Contract Draft

**AGREEMENT REGARDING
SOLID WASTE MANAGEMENT**

Section 1. **AGREEMENT.** This Agreement Regarding Solid Waste Management (“Agreement”) is among Island County, Washington (“County”) and the cities and towns (“cities”) located in the County that determine pursuant to RCW 70.95.080 to contract with the County for solid waste planning and management. The County and cities entering this Agreement are the “Parties.” The Parties agree as follows.

Section 2. **RECITALS/PURPOSE.**

2.1 Island County and each of the cities executing this Agreement are authorized and directed by Chapter 70.95 RCW to prepare a Comprehensive Solid and Moderate Risk Waste Management Plan (Comprehensive Plan), and are further authorized by RCW 70.95.080, and other authority including but not limited to RCW 36.58.040 and RCW 35.21.152, to contract for the administration and implementation of a Comprehensive Plan.

2.2 Island County has prepared a Comprehensive Plan which has been approved by the Washington State Department of Ecology and adopted by the Board of Island County Commissioners. The adopted Plan includes a Moderate Risk Waste Element and a Recycling element for the County and cities of the County.

2.3 Providing the most effective and efficient management and control of solid waste generated in Island County, including its cities, requires designation and use of the solid waste handling and disposal system established by the County and the County Comprehensive Plan to the fullest extent possible. This Agreement designates and provides for the use of the County System by the cities. The County System will incorporate any mutually approved changes in a city’s operation as part of that system, by separate agreement with any such city.

Section 3. **DEFINITIONS.** For the purposes of this Agreement, and unless the context provides otherwise, the following definitions apply.

3.1 "Agreement" means this Agreement Regarding Solid Waste Management.

3.2 "City" means a city or town located in Island County, Washington, that signs this Agreement.

3.3 "Comprehensive Solid and Moderate Risk Waste Management Plan" or "Comprehensive Plan" means the Island County Comprehensive Solid and Moderate Risk Waste Management Plan, including a recycling element, adopted by Island County on January 28, 2008 and as may be revised or amended from time to time thereafter.

3.4 "County" means Island County, Washington.

3.5 "County System" means all facilities for solid waste handling owned or operated, or contracted for, by the County, and all administrative activities related thereto.

3.6 "Person" means an individual, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation or any other entity whatsoever.

3.7 "Solid Waste" means solid waste as defined by RCW 70.95.030(22) and WAC 173-350-100 with the exception of wastes excluded, by WAC 173-350-020 as now in effect or hereafter amended.

3.8 "Solid waste handling" means, the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms, or combinations thereof; and as the term "solid waste handling" may be modified by amendments to RCW 70.95.030(23).

Section 4. **RESPONSIBILITY FOR SOLID WASTE DISPOSAL.** For the duration of this Agreement, the County shall be responsible for the disposal of all Solid Waste generated within unincorporated areas of the County and within each of the cities, consistent with the Comprehensive Plan. The County shall not be responsible for disposal of, and this Agreement does not apply to, Solid Waste that has been eliminated through waste reduction or waste recycling activities in conformity with the Comprehensive Plan.

Section 5. **COMPREHENSIVE PLAN.** For the duration of this Agreement, each city shall participate in the Comprehensive Plan prepared and periodically reviewed and revised every five years pursuant to chapter 70.95 RCW. By this Agreement, each city authorizes the County to include in the Comprehensive Plan provisions for the management and handling of solid waste generated in each City.

Section 6. **CITY DESIGNATION OF COUNTY SYSTEM FOR SOLID WASTE DISPOSAL.** By this Agreement each City hereby designates the County System for the disposal of all Solid Waste generated within the corporate limits of that City. And, within the scope of the Comprehensive Plan, each city authorizes the County to designate a disposal site or sites for the disposal of all Solid Waste generated within the corporate limits of that City, except for (1) recyclable and other materials removed from solid waste by reduction or waste recycling activities under the Comprehensive Plan, and (2) those wastes including hazardous or hard-to-handle wastes either prohibited by law or required by the County Solid Waste Department to be specially handled. This designation of the County System shall continue in full force and effect for a period of ~~sixseven~~ (76) years beginning January 1, 2014 after the effective date of this Agreement except as provided in Agreement Section 12. The designation of the County System in this Agreement shall not reduce or otherwise affect each city's control over Solid Waste collection as permitted or required by applicable state law.

Section 7. **FINANCE AND BUDGETING.**

7.1 The County will prepare and submit to a City or its contract-hauler on a monthly basis an invoice listing the weight in tons of Solid Waste delivered by a City or contract-hauler to the County's Coupeville Transfer Station (or, as provided by separate contract, the City of Oak Harbor's Transfer Station). The City of Oak Harbor, the Town of Coupeville and the City of Langley will reimburse Island County for processing and disposing of the delivered Solid Waste at the current disposal rate duly adopted by the Board of Island County Commissioners. (Note: any "billing charge" for the disposal of delivered Solid Waste is included in the adopted rate). ~~The City of Oak Harbor will reimburse the County the invoiced amount for the cost of transport, disposal of Solid Waste, moderate risk waste handling and disposal, post-closure care costs, and other specific, mutually agreed charges for which the City is responsible as detailed in Island County's adopted Solid Waste and Septage Rate Study and any other applicable agreement(s) between County and City of Oak Harbor.~~

7.2 If hazardous or dangerous waste of any origin, as defined in Chapter 173-303 WAC is found to be in a container of solid waste originating in a city (whether from municipal collector or

contract-hauler), city will reimburse County the actual cost incurred in disposing of the hazardous waste at a permitted hazardous waste landfill.

7.3 Each party shall be responsible for budgeting and financing its own obligations under this Agreement.

Section 8. **WASTE REDUCTION AND RECYCLING.** The cities and the County hereby agree to cooperate to achieve the priorities for waste reduction and waste recycling set forth in the Comprehensive Plan or subsequent adopted revisions of the Comprehensive Plan.

Section 9. **HAZARDOUS WASTE ELIMINATION.** To extent required by Federal and State law, each city will establish operating procedures for elimination and management of hazardous waste for municipal collectors and contract collectors, and will prevent hazardous waste from either municipal collectors and/or contract collectors from being transferred or delivered to the County System.

Section 10. **DURATION – EFFECTIVE DATE.** This Agreement shall take effect and be in force following execution by a duly authorized representative of the County and of a city (as to that city) – the “Effective Date.” The Agreement shall continue to be in full force and effect for ~~sixseven (67)~~ years ~~beginning January 1, 2014~~ from the Effective Date, unless terminated as described in Agreement Section 12.

Section 11. **NO SEPARATE LEGAL AGENCY OR PROPERTY.**

11.1 No separate legal or administrative agency is created by this Agreement. Administration of this agreement shall be by the County, working through the below-identified city representatives.

County
Island County Solid Waste Manager
P.O. Box 5000
Coupeville, WA 98239

City of Langley
See Agreement with Langley

Town of Coupeville
See Agreement with Coupeville

City of Oak Harbor
Director of Operations, City of Oak Harbor Public Works
865 SE Barrington Drive, Oak Harbor, WA 98277

11.2 Each party will be responsible for acquiring, holding and disposing of property, real and/or personal, to carry out the terms of this Agreement. This Agreement does not provide for or authorize the joint acquisition, holding or disposition of any property.

Section 12. **REVISION, AMENDMENT, SUPPLEMENTATION OR TERMINATION.** This Agreement shall be reviewed by the parties ~~every 5 years in 2013~~. At that time the terms of the Agreement may be revised, amended or supplemented upon written agreement of participating parties. No revision, amendment or supplementation shall be adopted or put into effect if it impairs any contractual obligation of the County. This Agreement may be terminated by either party prior to the expiration date in conjunction with the revision of the Comprehensive Plan as described in Agreement

Section 5.

Section 13. **MISCELLANEOUS.**

13.1 No waiver by any party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach whether of the same or of a different provision of this Agreement.

13.2 No other person or entity shall be entitled to be treated as third party beneficiary of this Agreement.

13.3 Passage of this Agreement replaces, rescinds and supersedes any prior contract or agreement between any of the contracting parties dealing with or relating to solid waste handling in Island County.

13.4 This Agreement shall be construed pursuant to the laws of the State of Washington. The venue for any dispute arising out of or relating to this Agreement shall be the Superior Court of the State of Washington for Island County.

13.5 No provision or provisions of this Agreement or any authority granted by this Agreement is intended to create or result in any personal liability for any public official or employee or agent of the County or a city, nor shall any provision or provisions of this Agreement be construed to create any such liability.

13.6 This Agreement has been freely and fairly negotiated by the Parties hereto and has been reviewed and discussed by legal counsel for each of the Parties, each of whom has had the full opportunity to modify the draftsmanship hereof and, therefore, the terms of this Agreement shall be construed and interpreted without any presumption or other rule requiring constructional interpretation against the Party causing the drafting of the Agreement.

13.7 This Agreement contains the complete statement of the understanding of the Parties with respect to the subject matter of this Agreement. There are no other representations, agreements, or understandings, oral or written, by the Parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. Each Party acknowledges and represents to the other Party that it is executing this Agreement solely in reliance upon its own judgment and knowledge and that it is not executing this Agreement based upon the representation or covenant of the other Party, or anyone acting on such Party's behalf, except as expressly stated herein.

13.8. 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 to the fullest extent required by law, and further agrees to save, indemnify, defend and hold the other party harmless from any such liability.

[Remainder of this page blank. Signature page follows.]

AGREEMENT REGARDING SOLID WASTE MANAGEMENT

Board of Island County Commissioners

City of Oak Harbor

Helen Price Johnson, Chair

Scott Dudley, Mayor

Date:

Date: _____

See Agreement with Town of Coupeville

See Agreement with City of Langley



August 26, 2013

TO: Mayor Scott Dudley and Councilmembers
FROM: Doug Merriman, Finance Director
RE: LEOFF I Disability Board Members and Ordinance 1667

The 2013 Legislature amended RCW 41.26.110 relating to membership on city disability boards. Proposed Ordinance 1667, which is scheduled for action at the September 3rd regular meeting, provides language clarifying composition of the board if there are either no firefighters or law enforcement officers under the jurisdiction of the board eligible to vote. This amendment will bring the municipal code into conformance with state law. The ordinance also contains some housekeeping language.

The City's LEOFF I Disability Board hasn't met on a consistent basis since late 2011, and the terms of the current board expired in May of this year. The board is composed of five members as listed below:

1. Two members of the City Council to be appointed by the Mayor;
2. One active or retired firefighter employed by or retired from the city to be elected by the LEOFF I firefighters; and
3. One active or retired law enforcement officer employed by or retired from the city to be elected by LEOFF I law enforcement officers; and
4. One member from the public at large who resides within the City to be appointed by the other four members.

On August 8th, nominations were requested for the two active or retired law enforcement positions on the board. (See attached.) The election will be conducted within two weeks and a meeting scheduled soon afterward.

Staff is requesting the Mayor to appoint two Councilmembers to serve on the LEOFF I Disability Board for two-year terms to expire September 2015. The board will resume a regular meeting schedule to approve claims and to review the City's current Disability Board Rules and Regulations.

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Attachments – LEOFF I Disability Board Nomination Packet

City of Oak Harbor
LEOFF I Disability Board
865 SE Barrington Dr • Oak Harbor WA 98277

August 8, 2013

Gary West
776 SE 4th Ave
Oak Harbor WA 98277

Raymond D Heltsley
336 W Rhodena Drive
Coupeville WA 98239

Tony Barge
PO Box 2642
Oak Harbor WA 98277

Richard W. Wallace
1233 Liberty Lane
Oak Harbor WA 98277

Tim Sterkel
Oak Harbor Police Depart
Oak Harbor WA 98277

Re: LEOFF I Disability Board Election

Enclosed is a nomination form for board positions on the City's LEOFF I Disability Board. RCW 41.26.110 relating to the composition of the board is provided on the reverse side for your information. The board is composed of five members as listed below:

1. Two members of the City Council to be appointed by the Mayor;
2. One active or retired firefighter employed by or retired from the city to be elected by the LEOFF I firefighters¹; and
3. One active or retired law enforcement officer employed by or retired from the city to be elected by LEOFF I law enforcement officers; and
4. One member from the public at large who resides within the city to be appointed by the other four members.

All LEOFF I and LEOFF II active or retired employees are eligible to serve on the Board. However, only LEOFF I members can nominate and vote. Enclosed is a current list of active LEOFF personnel who are eligible to serve in addition to you. Please make nominations for two (2) board positions by entering their names on the nomination form and returning to the City Clerk's office at City Hall by 5:00 p.m. August 23, 2013. Ballots will then be prepared and distributed.

The Mayor will discuss the appointment of two Council member positions during the August 28th workshop meeting. A brief preliminary meeting with the newly appointed board members will be scheduled to select the member from the public at large.

If you have any questions, give me a call at 279-4539.

Sincerely,

Valerie J. Loffler
City Clerk/Disability Board Secretary

Encl – List of LEOFF Personnel
Ballot Form

¹ There are no firefighters under the jurisdiction of the board eligible to vote. Therefore, a second eligible employee representative shall be elected by the law enforcement officers eligible to vote.

RCW 41.26.110 City and county disability boards authorized - Composition – Terms – Reimbursement for travel expenses – Duties.

(1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board authorized to be created in this section.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by those cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor; one active or retired firefighter employed by or retired from the city to be elected by the firefighters employed by or retired from the city who are subject to the jurisdiction of the board; one active or retired law enforcement officer employed by or retired from the city to be elected by the law enforcement officers employed by or retired from the city who are subject to the jurisdiction of the board; and one member from the public at large who resides within the city to be appointed by the other four members designated in this subsection. Only those active or retired firefighters and law enforcement officers who are subject to the jurisdiction of the board have the right to elect under this section. All firefighters and law enforcement officers employed by or retired from the city are eligible for election. Each of the elected members shall serve a two year term. If there are either no firefighters or law enforcement officers under the jurisdiction of the board eligible to vote, a second eligible employee representative shall be elected by the law enforcement officers or firefighters eligible to vote. The members appointed pursuant to this subsection shall serve for two year terms: PROVIDED, That cities of the first class only, shall retain existing firefighters' pension boards established pursuant to RCW [41.16.020](#) and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by firefighters or law enforcement officers as provided under the Washington law enforcement officers' and firefighters' retirement system act.

City of Oak Harbor
LEOFF I Disability Board
865 SE Barrington Dr • Oak Harbor WA 98277

 **NOMINATION FORM 2013** 

Please nominate two (2) eligible representatives, one for each position. All LEOFF I and LEOFF II active or retired employees are eligible to serve on the Board. Only LEOFF I members can nominate and elect.

Return this nomination form to the City Clerk at City Hall by 5:00 p.m. August 23, 2013.

Position #1

I nominate _____ to serve on the LEOFF I Disability Board. I have contacted this candidate and he/she has agreed to serve.

Signed _____ Date _____

Position #2

I nominate _____ to serve on the LEOFF I Disability Board. I have contacted this candidate and he/she has agreed to serve.

Signed _____ Date _____

ACTIVE LEOFF PERSONNEL

All LEOFF II, except as designated

POLICE DEPARTMENT

1. Ed Green
2. **Tim Sterkel (LEOFF I)**
3. Bill Wilkie
4. Larry Ferguson
5. Teri Gardner
6. Mike Bailey
7. Cedric Niiro
8. Steven Nordstrand
9. John Little
10. Ron Hofkamp
11. Mike Clements
12. Pat Horn
13. Carl Seim
14. Mel Lolmaugh
15. Dennis Dickinson
16. Jim Hoagland
17. Tony Slowik
18. Jennifer Yzaguirre
19. Jon Valenzuela
20. Loyd Carter
21. Manny Silveira
22. Jenn Gravel
23. Lisa Powers-Rang
24. Ron Esparza
25. Chris Peabody

RETIRED LEOFF PERSONNEL

26. **Gary West (LEOFF I)**
776 SE 4th Avenue
Oak Harbor WA 98277
360-675-6824
27. **Raymond D. Heltsley (LEOFF I)**
336 W Rhodena Drive
Coupeville WA 98239
360-678-5008
28. **Tony Barge (LEOFF I)**
P.O. Box 2642 (2115 N. Fairway Lane)
Oak Harbor WA 98277
(360) 675-9494
29. **Richard W. Wallace (LEOFF I)**
1233 Liberty Lane
Oak Harbor WA 98277
360-675-1414

ACTIVE LEOFF PERSONNEL

All LEOFF II

FIRE DEPARTMENT

1. Ray Merrill
2. Mike Buxton
3. Craig Anderson
4. Donald Baer
5. Emory Bridgeford
6. Mike Engle
7. Otto Haffner
8. Cameron Hopkins
9. Ed Klaszky
10. Steve McCalmont