



PLANNING COMMISSION

AGENDA

June 23, 2015

CITY OF OAK HARBOR
PLANNING COMMISSION
REGULAR MEETING
CITY HALL

AGENDA
June 23, 2015
7:30 P.M.

ROLL CALL: WASINGER _____ FREEMAN _____
 PETERSON _____ SCHLECHT _____
 PICCONE _____ PIERCE _____
 WALKER-WYSE _____

1. **Approval of Minutes – May 26, 2015**
2. **Public Comment** – Planning Commission will accept public comment for items not otherwise on the agenda for the first 15 minutes of the Planning Commission meeting.
3. **SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM (TIP) – Public Hearing**
The Planning Commission will conduct a public hearing to finalize the agenda for the Six-Year Transportation Improvement Program for the years 2016-2021. The Planning Commission will forward a recommendation to the City Council at the conclusion of the hearing.
Item rescheduled to July
4. *Page 12*
HOMELESS ENCAMPMENT CODE AMENDMENT – Public Hearing
The Municipal Code does not contain any regulations relating to how or where an organized, sponsored homeless encampment may be established. The Planning Commission will discuss and review the draft homeless encampment regulations. Planning Commission may forward a recommendation to the City Council at the conclusion of the hearing.
5. *Page 35*
ZONING CODE AMENDMENT – Public Hearing
Minor amendments to the Zoning Code are necessary for the topics of reasonable accommodation, definition of family and home daycare. Staff will present a housekeeping ordinance to address these topics. The Planning Commission will conduct a public hearing and forward a recommendation to the City Council at the conclusion of the hearing.
6. *Page 42*
MEDICAL MARIJUANA CODE – Public Meeting
A moratorium is presently in place prohibiting the establishment of medical marijuana collective gardens and marijuana dispensaries in Oak Harbor. Recently adopted State law replaces the use categories with a different regulatory scheme. Staff will present preliminary research to the Planning Commission that will begin the process of determining what permanent regulations should govern these uses.
7. *Page 139*
2016 COMPREHENSIVE PLAN UPDATE – Public Meeting
Staff will provide an update on the major scope of the 2016 Comprehensive Plan Update including updates to the Land Use Element, Housing Element and the Transportation Element.

MINUTES

May 26, 2015

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
May 26, 2015**

ROLL CALL: Present: Bruce Freeman, Sandi Peterson, Mike Piccone, Cecil Pierce
Absent: Greg Wasinger, Jes Walker-Wyse and Ana Schlecht
Staff Present: Development Services Director, Steve Powers; Senior Planners, Cac Kamak and Dennis Lefevre; Associate Planner Ray Lindenburg

Vice Chairman Freeman called the meeting to order at 7:30 p.m.

MINUTES: MS. PETERSON MOVED, MR. PIERCE SECONDED, MOTION CARRIED TO APPROVE THE APRIL 28, 2015 MINUTES AS PRESENTED.

PUBLIC COMMENT

None.

SITE CODE AMENDMENT – Public Hearing

Mr. Freeman opened the public hearing.

Mr. Powers displayed a graphic (Attachment 1) to help illustrate the difference between the traditional (design, bid, build process) site plan approval process and the alternative process known as General Contractor Construction Management (GC/CM) construction process which we have chosen for the construction of the new Wastewater Treatment Facility. Mr. Powers explained that Oak Harbor Municipal Code Chapter 19.48, Site Plan Review Procedures, establishes the sequence of issuance for certain development permits and the existing process does match the GC/CM process. Staff proposes an amendment to this section that allows the permits to be issued in a different sequence. Draft Ordinance 1720 provided in the Planning Commission packet highlights the added language that amends the code to allow for the GC/CM process. Mr. Powers stressed that the proposed amendment does not relieve the city from the responsibility to obtain all necessary development permits.

Mr. Powers concluded stating that staff's recommendation is to conclude the public hearing and make a recommendation to the City Council to approve Ordinance 1720.

Mr. Freeman asked for public comment seeing none the public hearing was closed.

Planning Commission Discussion

Planning Commission discussed how the sequencing would affect the current public process for the Wastewater Treatment Facility. Mr. Powers explained that starting the excavation early in the process helps understand what our risks are and provides cost surety.

There was also discussion about other contractors that may want to use this method instead of the traditional site plan process. Mr. Powers explained that the new sequencing could only be utilized for those alternative contracting procedures set forth in Chapter 39.10 RCW - Alternative Public Works Contracting Procedures.

MOTION: MR. PIERCE MOVED, MR. PICCONE SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE ORDINACE 1720.

HOMELESS ENCAMPMENT CODE AMENDMENT – Public Meeting

Mr. Lefevre displayed a PowerPoint presentation (Attachment 2) which provided the background, progress to-date and the additional review that has taken place since the last meeting. Mr. Lefevre stated that the next steps will be a City Council workshop on June 17th, the Planning Commissions public hearing on June 23rd and the City Council may adopt the ordinance at their July 21st meeting.

Planning Commission Discussion

Planning Commission discussed concern about the possibility of a “storefront church” sponsoring a camp in the parking lot in the front of a shopping center e.g. vacant K-Mart shopping center. Mr. Powers said staff would take the concern under advisement and see if any other city has dealt with the issue.

Planning Commission asked about the sex offender language. Mr. Powers indicated that there are nuances to the sexual offender laws and the City Attorney and Police Chief have recommended this language.

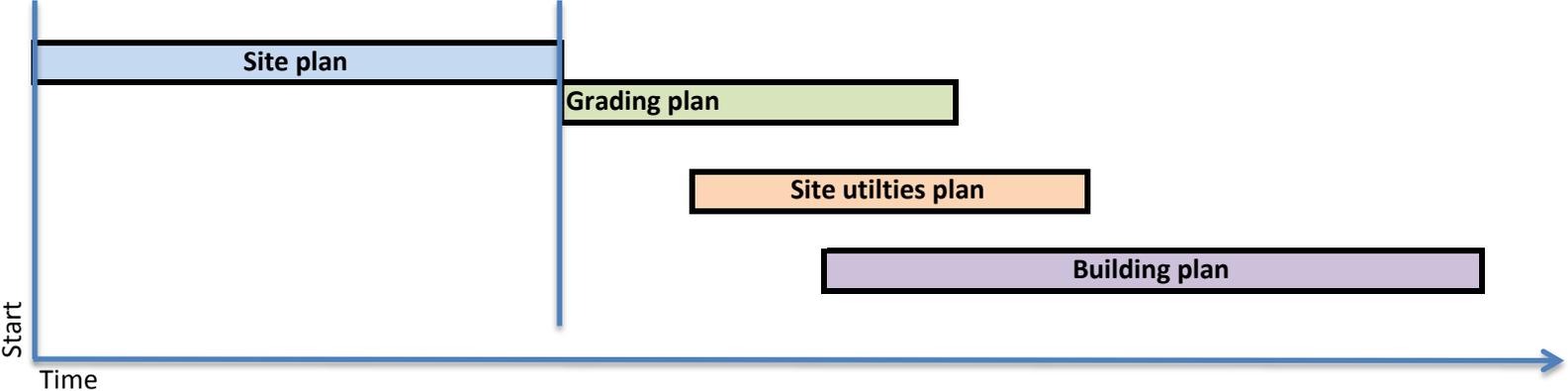
2016 COMPREHENSIVE PLAN UPDATE – Public Meeting

Mr. Kamak displayed a PowerPoint presentation (Attachment 3) which listed the elements of the Comprehensive Plan, summarized the purpose of the Land Use Element, reviewed the existing structure of the current Land Use Element and provided some guidelines for reviewing the current Land Use Element. Mr. Kamak stated that he would like to schedule a couple of workshops for the Land Use Element review and would email dates to the Planning Commission to select the dates fit their schedule.

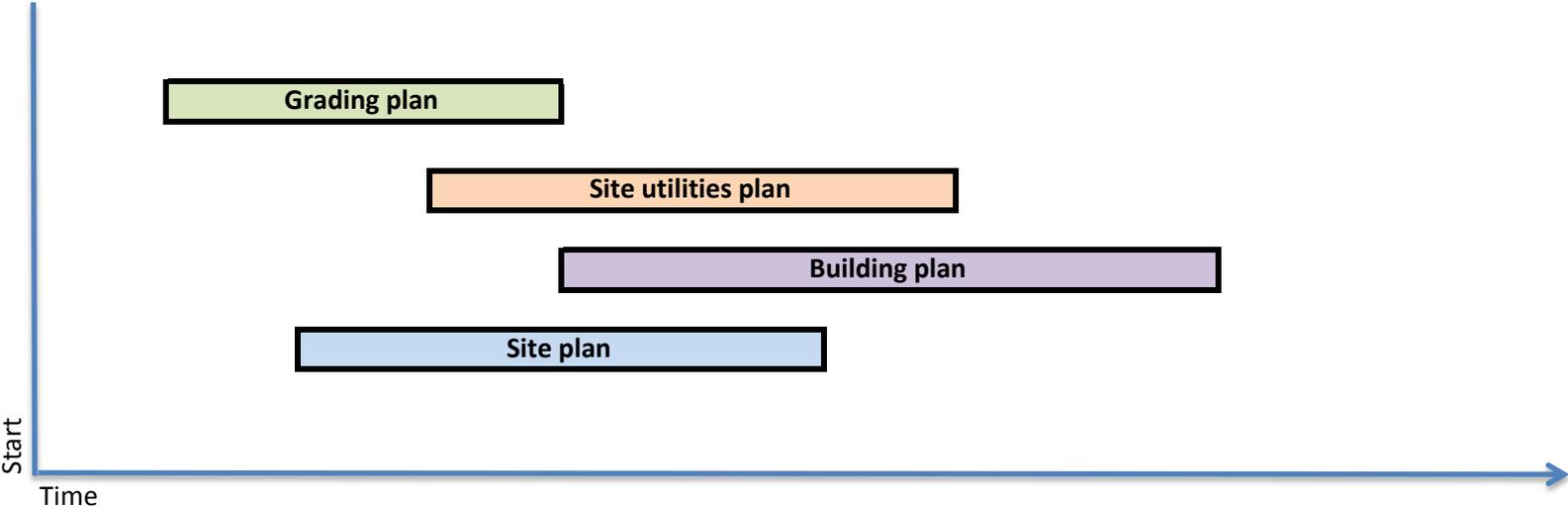
ADJOURN: 8:41 p.m.

Minutes submitted by: Katherine Gifford

Plan approval - Traditional design-permit-bid-build process



Plan approval - Alternative contracting procedures (GC/CM)



Homeless Encampment Regulations

Code Amendment



Planning Commission
5/26/2015

Homeless Encampment Regulations

- Background:
 - WCIA land use audit noted lack of regulations
 - Recommended City revise code to include



Planning Commission 5/26/2015 2

Homeless Encampment Regulations

- Process to Date:
 - PC Review 2/24 & 3/24
 - Additional Review



Planning Commission 5/26/2015 3

Homeless Encampment Regulations

- Discussion:
 - *Why adopt regulations now?*
 - Put in place before needed
 - Not aware of any proposed encampments
 - Process easier without a specific application to address
 - Eliminates inconsistent decisionmaking



Planning Commission 5/26/2015 4

Homeless Encampment Regulations

- Discussion:
 - *Why adopt regulations now?*
 - Federal/State constitutions and laws protect religious organizations rights
 - Many encampments are sponsored by such groups
 - Tackling this issue now helps protect all parties



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Homeless Encampment Regulations

- Discussion:
 - *Initial Draft Code*
 - Draft is based on Mercer Island code, which has been court-tested.
 - Amends OHMC 19.35, Temporary Use Permits
 - Creates a new temporary use permit & process



Planning Commission 5/26/2015 6

Homeless Encampment Regulations

- Discussion:
 - *Initial Draft Code*
 - Establishes a connection between temporary encampment and places of worship
 - Requires sponsoring & managing organization
 - May be the same
 - Only one camp in city, 90-day time limit, max. 50 people
 - Requires notice to the community & meeting



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Homeless Encampment Regulations

- Discussion:
 - *Initial Draft Code*
 - Establishes site layout and operational standards to protect the community and the encampment residents
 - Compliance with other City/County health, safety and welfare rules
 - Background checks required by managing organization
 - No children



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Homeless Encampment Regulations

- Additional Review:
 - *Oak Harbor: Police Chief & Prosecuting Attorney*
 - *Oak Harbor City Council: Two workshops*
 - *Island County Public Health Director*
 - *Senior Services & Opportunity Council*



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Homeless Encampment Regulations

- Recommendation:
 - *Provide feedback*
 - *Revise draft (if necessary)*
 - *SEPA Determination*
 - *City Council workshop 6/17*
 - *Planning Commission public hearing 6/23*
 - *City Council PH/Adoption 7/21*
 - *Questions?*



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2016 Comprehensive Plan Update

Land Use Element



Meeting Title
5/28/2015

Oak Harbor's Comprehensive Plan

- Land Use Element
- Parks, Recreation and Open Space Element
- Housing Element
- Utilities Element
- Transportation Element
- Economic Development
- Urban Growth Areas
- Environment Element
- Capital Facilities
- Government Services Element
- Community Coordination



Meeting Title 5/28/2015 2

A typical Land Use Element

- Establish the future growth of the City through population projections and demographic needs
- Systematic assessment of land potential – need for various districts and the basis for Land Use designations and zoning regulations
- Goals and Policies to regulate the physical development of land, neighborhoods and planning areas



Meeting Title 5/28/2015 3

A typical Land Use Element

- The [Journal of the American Planning Association](#) offers a definition that land-use planning means the scientific, aesthetic, and orderly disposition of land, resources, facilities and services with a view to securing the physical, economic and social efficiency, health and well-being of urban and rural communities
- The [American Planning Association](#) states that the goal of land-use planning is to further the welfare of people and their communities by creating convenient, equitable, healthful, efficient, and attractive environments for present and future generations



Meeting Title 5/28/2015 4

Land Use Element

A quick review of the existing element



Meeting Title 5/28/2015 5

Existing Structure

- Introduction
- Relationship to other Elements
- Distribution, Location and Extent of Land Uses
- Existing Conditions
 - Land Use Mix
 - Residential Uses
 - Commercial Uses
 - Industrial Uses
 - Public/Institutional uses
 - Military Uses



Meeting Title 5/28/2015 6

Existing Structure

- Economic and Demographic Projection
 - Population
 - Existing and projected employment
 - Housing need projection
- Future
- Land Use needs
 - Land Uses – All existing land use categories and special planning areas



Meeting Title 5/28/2015 7

Existing Structure

- Goals and Policies
 - CWPP
 - JPA
 - Potential
 - City of Oak Harbor Goals and Policies
 - Community Identity
 - Residential Development
 - Industrial Development
 - Commercial Development
 - Public Facilities
 - Parks and Recreation
 - Essential Public Facilities
 - Property Rights
 - Built Environment



Meeting Title 5/28/2015 8

Existing Structure

- Goals and Policies
 - CWPP
 - JPA
 - Potential
 - City of Oak Harbor Goals and Policies
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 - Residential Development
 - Industrial Development
 - Commercial Development
 - Public Facilities
 - Parks and Recreation
 - Essential Public Facilities
 - Property Rights
 - Built Environment



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Existing Element

<ul style="list-style-type: none"> + Good description of the trend + Snapshot statistics on population and employment + Delineated 6 neighborhoods + Land use comparisons to similar communities + Description of general land uses + Some projections + Description of land use categories + Goals are general 	<ul style="list-style-type: none"> - Lack of overall direction - No connecting statements to the vision - No statement of findings with existing conditions - Neighborhoods did not serve an extended function – no goals or defining direction - Not clear why general land use categories and Future Land Use map categories - Not clear how the broad categories for land use goals were selected - Intent of the goals do not seem clear - Policies don't seem to be furthering the goal as stated
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Meeting Title 5/28/2015 10

2016 Update

- Some guidelines for review
 - Address the requirements of the GMA
 - Establish a strong connection to the Vision
 - Categorization of the goals
 - City-wide vs area specific
 - Strong connections to the Vision statement
 - Simplify the language and make clear statements
 - Organize the goals to further the Vision
 - Relevant to the Element
 - Avoid redundancy
 - Policies
 - Support existing code
 - Bridge gap between existing codes and expecting goal
 - Policies to promote the goal.



Meeting Title 5/28/2015 11

Workshop

Day?
Dates?
Time?



Meeting Title 5/28/2015 12

HOMELESS
ENCAMPMENT
CODE
AMENDMENT

Public Hearing

City of Oak Harbor Planning Commission Report

Date: June 23, 2015
Subject: Homeless Encampment Regulations

FROM: Dennis Lefevre, AICP, Senior Planner

PURPOSE

This report continues the Planning Commission review of the draft ordinance and will allow opportunity for public comment during the public hearing.

BACKGROUND

In 2014, the City's land use code and procedures were reviewed by the Washington Cities Insurance Authority (WCIA). WCIA made note of the lack of regulations pertaining to homeless encampments and recommended the City revise its Municipal Code to include such regulations.

DISCUSSION

Staff presented the proposed ordinance at the May 26th Planning Commission meeting and consistent with the notification requirements as set forth in Section 18.20.380, OHMC, have properly advertised for this public hearing. A State Environmental Policy Act (SEPA) determination of non-significance is proposed for this code amendment. SEPA checklist (No. SEP-15-00003) is included as Attachment 1 of this packet.

Draft Ordinance 1712 (Attachment 2) reflects proposed revisions recommended during the Planning Commission discussions held in February, March and May. Internal staff review has been provided by the Police, Law, and Development Services Departments as well as the Senior Activity Center Director. Review by external agencies include: Island County Public Health, Opportunity Council, and the North Whidbey Homeless Project.

Oak Harbor Municipal Code amendments require a public hearing before the Planning Commission. All actions taken by the Planning Commission take the form of a recommendation to the City Council (18.20.270(1), OHMC). This amendment is scheduled for the August 5th City Council meeting.

RECOMMENDATION

1. Conduct the public hearing and invite comments from the public and interested citizens on this code amendment.
2. Revise proposed amendment, as necessary.
3. Forward a recommendation to the City Council for approval of draft Ordinance 1712, Homeless Encampment regulations.

ATTACHMENTS

1. SEPA checklist (No. SEP-15-00003)
2. Draft Ordinance 1712

WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable: [Homeless Encampment Regulations](#)
2. Name of applicant: [City of Oak Harbor](#)
3. Address and phone number of applicant and contact person:
[Dennis Lefevre, Senior Planner, 865 SE Barrington Drive, Oak Harbor, WA 98277. Phone: 360-279-4513](#)
4. Date checklist prepared: [May 20, 2015](#)
5. Agency requesting checklist: [City of Oak Harbor](#)
6. Proposed timing or schedule (including phasing, if applicable): [A public hearing before the Planning Commission in June 2015 followed by City Council action in July 2015.](#)
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
[This set of regulations represents new requirements guiding the siting of homeless encampments within the city. As the regulations are tested through activity, additions, expansions, or revisions may occur.](#)
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
[No environmental studies are expected to be prepared for this project.](#)

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

No

10. List any government approvals or permits that will be needed for your proposal, if known.

The City Council of Oak Harbor will take action to adopt the proposed regulations.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The proposed regulations provide guidance for the potential siting of a homeless encampment within the city. The regulations link this use to properties owned by places of worship. Parcel size may vary but encampment capacity is established at a maximum of 50 persons. The proposed regulations restrict encampment locations and create site requirements for sanitation, litter control, parking, buffering, etc.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The Homeless Encampment regulations limits the location to property owned by a place of worship not more than 1/2 mile from a public transit stop and may not be located on a site within 1/2 mile of a parcel that contained a homeless encampment within the last 18 months.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other

Does not apply.

b. What is the steepest slope on the site (approximate percent slope)?

Does not apply.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Does not apply.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Does not apply.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

No filling or grading will occur as a result of these regulations.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

The adoption of the regulations will not result in any clearing or construction.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

It is unknown what percent of the individual site will be covered by impervious surfaces. It is unlikely the activity will create new impervious surface on any parcel use for this purpose.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Does not apply. The proposed regulation will not create earth impacts.

2. Air

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

Insignificant impacts to air quality may result from the vehicles used by residents of the homeless encampment. It is unknown what percentage of residents own vehicles.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Does not apply. The proposed regulation will not create air impacts.

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

The proposed regulations would be in effect citywide which may include a site in the vicinity of a water body. The permitting process would be used to address any potential concerns to nearby water bodies.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

It is unlikely that a homeless encampment would be located within 200' of any water body.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Does not apply.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Does not apply.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

It is unlikely that a homeless encampment will be located within a 100-year floodplain.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Does not apply.

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

Does not apply.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

All Washington State, County Health and City codes will be complied with for the proper disposal of domestic sewage. Each encampment will limited to not more than 50 residents. Proper servicing of the portable toilets will be required on a regular schedule.

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Does not apply.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.

Does not apply.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Does not apply. The proposed regulation will not create water runoff impacts.

4. **Plants**

- a. Check or circle types of vegetation found on the site: Does not apply.

- _____ deciduous tree: alder, maple, aspen, other
- _____ evergreen tree: fir, cedar, pine, other
- _____ shrubs
- _____ grass
- _____ pasture
- _____ crop or grain
- _____ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- _____ water plants: water lily, eelgrass, milfoil, other
- _____ other types of vegetation

- b. What kind and amount of vegetation will be removed or altered?

Vegetative screening and/or fencing will be required for vision buffering. Plant type and amount will be determined at the time of permit review.

- c. List threatened or endangered species known to be on or near the site.

Any threatened or endangered species known to be on or near the site will identified during the permit review process.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Native vegetation will be maintained and used as vision buffering as appropriate.

5. **Animals**

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

Does not apply.

birds: hawk, heron, eagle, songbirds, other:

mammals: deer, bear, elk, beaver, other:

fish: bass, salmon, trout, herring, shellfish, other:

- b. List any threatened or endangered species known to be on or near the site.
Any threatened or endangered species known to be on or near the site will identified during the permit review process.
- c. Is the site part of a migration route? If so, explain.
No.
- d. Proposed measures to preserve or enhance wildlife, if any:
Does not apply. The proposed regulation will not create wildlife impacts.

6. Energy and natural resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
Small amounts of propane may be used for cooking and heating.
- b. Would your project affect the potential use of solar energy by adjacent properties?
If so, generally describe.
No.
- c. What kinds of energy conservation features are included in the plans of this proposal?
List other proposed measures to reduce or control energy impacts, if any:
There is a negligible amount of energy impacts anticipated from this proposed regulation. The proposed regulation does not include measures to reduce or control energy impacts.

7. Environmental health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal?
If so, describe.
All Washington State, County Health and City codes will be complied with concerning, but not limited to, drinking water connections, human waste, solid waste disposal, electrical systems, cooking and food handling and fire resistant materials.

1) Describe special emergency services that might be required.
No special emergency services will be provided.

2) Proposed measures to reduce or control environmental health hazards, if any:
All Washington State, County Health and City codes will be complied with concerning, but not limited to, drinking water connections, human waste, solid waste disposal, electrical systems, cooking and food handling and fire resistant materials.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
Traffic noise from adjacent streets may impact encampment residents. Aircraft noise from the Naval Air Station Whidbey Island may also impact residents.
- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
Normal vehicle and human conversation is the only noise anticipated from the encampments.
- 3) Proposed measures to reduce or control noise impacts, if any:
The proposed regulation requires conformance with all city codes including Chapter 6.56 OHMC (Public Nuisance Noises).

8. Land and shoreline use

- a. What is the current use of the site and adjacent properties?
The proposed regulation requires all homeless encampments to be located on parcels owned by a place of worship.
- b. Has the site been used for agriculture? If so, describe.
All sites will be within an urban setting.
- c. Describe any structures on the site.
Does not apply.
- d. Will any structures be demolished? If so, what?
No structures will be demolished as a result of this regulation.
- e. What is the current zoning classification of the site?
Places of worship may be located in any zoning district.
- f. What is the current comprehensive plan designation of the site?
Places of worship may be located in any comprehensive plan designation.
- g. If applicable, what is the current shoreline master program designation of the site?
Does not apply.
- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.
Does not apply.
- i. Approximately how many people would reside or work in the completed project?
A homeless encampment site is limited to no more than 50 persons.
- j. Approximately how many people would the completed project displace?
None.
- k. Proposed measures to avoid or reduce displacement impacts, if any:
Does not apply.
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
The proposed regulation was created to provide guidance and compatibility with existing plans and codes.

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
The proposed homeless encampments would provide temporary housing for the homeless segment of our population. No permanent housing would be provided.
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
No housing units would be eliminated.
- c. Proposed measures to reduce or control housing impacts, if any:
The proposed regulation provides opportunity for temporary housing for the homeless.

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
No structure will exceed the height limitation in the underlying zoning district.
- b. What views in the immediate vicinity would be altered or obstructed?
No views will be altered by these encampments. Placement of screening fencing will be assessed at the time of permit review to ensure off-site views are not obstructed.
- c. Proposed measures to reduce or control aesthetic impacts, if any:
Each proposed project will be assessed for the individual impacts, if any, to aesthetics and view.

11. Light and glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
The proposed regulation requires conformance with all city codes including light and glare.
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
Any safety hazard or view obstruction will be addressed during project review.
- c. What existing off-site sources of light or glare may affect your proposal?
None anticipated.
- d. Proposed measures to reduce or control light and glare impacts, if any:
Each proposed project will be assessed for the individual impacts, if any, to light and glare.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?
Unknown at this time.
- b. Would the proposed project displace any existing recreational uses? If so, describe.
No existing recreational use will be displaced.
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:
Does not apply. The proposed regulation will not create impacts on recreation.

13. Historic and cultural preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
Unknown at this time.
- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.
Unknown at this time.
- c. Proposed measures to reduce or control impacts, if any:
Projects will be required to meet all state and local requirements regarding historic and cultural preservation.

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.
The proposed regulation is citywide and may involve any city street a place of worship is located.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?
The proposed regulation requires that an encampment be located within ½ mile of a public transit stop.
- c. How many parking spaces would the completed project have? How many would the project eliminate?
The adoption of the proposed regulations will not impact the number of parking spaces in the area. The proposed regulation does take into account the limitation on parking and does not require new uses to provide parking similar to the Central Business District regulations.
- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).
No new streets or improvements to existing streets are anticipated by these regulations.
- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
Unknown at this time.
- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.
Unknown or not determined at this time.
- g. Proposed measures to reduce or control transportation impacts, if any:
The proposed regulations require the siting of a homeless encampment within ½ mile of a public transit stop.

15. Public services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.
The proposed regulations require conformance with all public service requirements. Temporary encampment sponsor and managing organization will be required to conduct a public meeting to identify location, timing, site plan, code of conduct, security measures, and address other community concerns. The managing organization will take all reasonable and legal steps to obtain verifiable identification to obtain sex offender and warrant checks from the appropriate agency. All requirements by the Oak Harbor Police Department related to identified sex offenders or prospective residents with warrants shall be met.
- b. Proposed measures to reduce or control direct impacts on public services, if any.
A Code of Conduct will be prepared by the managing organization addressing: possession and use of illegal drugs; alcohol and weapons prohibition; prohibiting violence, open flames, trespassing on adjacent properties, littering, and restricting excessive noise.

16. Utilities

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.
The regulation is affective citywide with most potential locations for a temporary encampment able to provide electricity, water, refuse service, and portable toilets.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR
AGENCY USE ONLY

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

All systems required for the operation of these encampments will meet state, county, and city health, safety and land use codes.

Proposed measures to avoid or reduce such increases are:

Individual projects will be prohibited from increasing the impact to stormwater, air emissions, or release of toxic or hazardous substances.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The proposed regulation is not likely to affect plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

The proposed regulation is require to conform to Oak Harbor's Municipal Code which provides protection to plant, animals, fish, and marine life.

3. How would the proposal be likely to deplete energy or natural resources?

The proposed energy usage for each encampment will primarily be electricity. The temporary encampments will not deplete or degrade the resource.

Proposed measures to protect or conserve energy and natural resources are:

The proposed regulation does not include measures to protect or conserve energy or natural resources for the temporary encampments.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The proposed regulation will not negatively affect environmentally sensitive areas, parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands.

Proposed measures to protect such resources or to avoid or reduce impacts are:

All temporary encampments will be required to be in conformance with all City of Oak Harbor codes and ordinances providing protection to all of the above areas.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The proposed regulation will create specific guidance for siting temporary encampments. All encampments will be required to be in conformance with all City of Oak Harbor plans and ordinances.

ATTACHMENT 1

Proposed measures to avoid or reduce shoreline and land use impacts are:

Projects proposed in the area will be required to provide a SEPA checklist (if not exempt) and will be required to meet all permit requirements of the state and local regulations for their proposals.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The proposed regulation requires siting of a temporary encampment within ½ mile of a public transit stop. No other demands on the transportation services or utilities are anticipated.

Proposed measures to reduce or respond to such demand(s) are:

No other requirements are included in the proposed regulation.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The proposed regulation will require all temporary encampments to meet all local, state, and federal environmental laws.

ORDINANCE NO. 1712

AN ORDINANCE OF THE CITY OF OAK HARBOR ADDING A NEW SECTION 19.35.060 ENTITLED "HOMELESS ENCAMPMENT REGULATIONS" TO CHAPTER 19.35 ENTITLED "TEMPORARY USE PERMITS" OF THE OAK HARBOR MUNICIPAL CODE

WHEREAS, there are an estimated 115 homeless people in the greater Oak Harbor area each night; and

WHEREAS, the City of Oak Harbor neither promotes nor disapproves of tent cities. Rather it acknowledges that tent cities are an emergency response to a greater problem of homelessness in Oak Harbor and a safer alternative to life on the streets; and

WHEREAS, both the First Amendment to the United States Constitution and Article 1, Section 11 of the Washington State Constitution protect the free exercise of religion; further, the Religious Land Use and Institutionalized Persons Act of 2000 prohibits governments from imposing a land use regulation that unreasonably limits religious assemblies, institutions or structures. Court decisions hold that a church sponsoring a temporary homeless encampment on its own property constitutes protected religious expression; and

WHEREAS, RCW 35A.21.360 expressly authorizes religious organizations to host temporary encampments for homeless persons on property owned or controlled by religious organizations, and likewise authorizes cities to establish permit or other regulatory conditions necessary to protect public health and safety, provided, however, that they do not substantially burden the decisions or actions of religious organizations providing housing or shelter for homeless persons on property owned or controlled by religious organizations; and

WHEREAS, the City of Oak Harbor and its elected and appointed officials are committed to protecting the health, safety and well-being of its citizens, as mandated by the State Constitution; and

WHEREAS, in keeping with the duties and responsibilities of municipal government, temporary encampments and the hosting facility are also protected by all public safety, health and welfare regulations routinely provided to Oak Harbor citizens and visitors; and

WHEREAS, City staff prepared draft changes to the Oak Harbor Municipal Code to address safety, health and welfare issues related to temporary encampments and on December 17, 2014, a City Council workshop was held to introduce the proposed code changes to the public; and

WHEREAS, the Oak Harbor Planning Commission was briefed on the temporary encampment issues and began its review of the proposed code changes on January 27, 2015, and;

WHEREAS, the Oak Harbor Planning Commission held additional review meetings on the proposed amendment on February 24, 2015; March 24, 2015; and, May 26, 2015, and;

WHEREAS, a SEPA determination of _____ was issued on _____; and

WHEREAS, notice of the proposed amendment was provided to the Department of Commerce on May 28, 2015; and

WHEREAS, the Planning Commission held a properly noticed public hearing on the proposed changes on June 23, 2015; and

WHEREAS, on _____, the Oak Harbor Planning Commission made its final recommendations on proposed temporary encampment regulations; and

WHEREAS, the Oak Harbor City Council was again briefed on the proposed amendment at their regular workshop on June 17, 2015; and

WHEREAS, the Oak Harbor City Council considered the Planning Commission's recommendations on _____, held an open record public hearing on; and

WHEREAS, after considering testimony by staff and all public comments submitted to the Council; and

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. There is hereby added a new Section 19.35.060 entitled "Homeless Encampment Regulations" to Chapter 19.35 of the Oak Harbor Municipal Code to read as follows:

**19.35.060
HOMELESS ENCAMPMENT REGULATIONS**

- (1) Definitions.
- (a) Place of Worship. An establishment, the principal purpose of which is religious worship and for which the principal building or structure contains the sanctuary or principal place of worship and which includes related accessory uses in the principal building or in other separate structures.
 - (b) Temporary Encampment. A group of persons temporarily residing in one or more temporary structures except for recreational purposes, and located at a place of worship.
 - (c) Temporary Encampment Sponsor. A place of worship which owns the property or has an ownership interest in the property, for which a temporary encampment is to be located, and that has an agreement with the temporary encampment managing organization to provide basic services and support for the residents of a temporary encampment and liaison with the surrounding community and joins with the managing organization in an application for a temporary encampment permit. A "sponsor" may be the same entity as the managing organization.

- (d) Temporary Encampment Managing Organization. A group or organization that has the capacity to organize and manage a temporary encampment. A temporary encampment "managing organization" may be the same entity as the temporary encampment sponsor.

(2) Temporary Encampment Permit.

- (a) General Conditions. Temporary encampments are allowed only pursuant to a permit issued in accordance with the following conditions:
- (i) A temporary encampment shall be located at a place of worship. If the place of worship is not actively practicing on the site proposed for a temporary encampment, then the place of worship must comply with all other permit requirements for the underlying zone required for siting a new place of worship and temporary encampment.
 - (ii) Each lot occupied by a temporary encampment must provide or have available off-street parking and vehicular maneuvering area.
 - (iii) The temporary encampment and the parking of any vehicles associated with a temporary encampment application shall not displace the host site's parking lot in such a way that the host site no longer meets the minimum or required parking of the principle use as required by code or previous approvals unless an alternative parking plan has been approved by the director or his/her designee.
 - (iv) The temporary encampment shall be located within three-quarter (3/4) mile of a public transit stop.
 - (v) No temporary encampment shall operate within the city of Oak Harbor for more than ninety (90) consecutive days, except that the director or his/her designee may allow up to five (5) additional days to accommodate moving on a weekend.
 - (vi) Not more than one (1) temporary encampment may operate at a given time in the city so as to ensure adequate resources and support services.
 - (vii) The city shall not grant a permit for a temporary encampment that is proposed to commence on a lot or lots within one-half (1/2) mile of any lot(s) that contained a temporary encampment within the last eighteen (18) months. For the purposes of this subsection, the eighteen (18) months shall be calculated from the last day of the prior temporary encampment within the one-half mile (1/2) radius.
 - (viii) All temporary encampments shall obtain, prior to occupancy of the lots, all applicable city of Oak Harbor permits, licenses and other approvals.

- (ix) Each site occupied by a temporary encampment shall be left free of debris, litter, or other evidence of the temporary encampment upon completion of removal of the use.
- (x) The applicant shall submit a complete application for a temporary encampment permit at least seventy-five (75) days before or any occupancy by the temporary encampment.
- (xi) The encampment shall be limited to a maximum of fifty (50) persons. After the encampment reaches its fifty (50) person capacity, any individual(s) who arrive after sundown (and meet all screening criteria) will be allowed to stay for one (1) night, after which the individual(s) will not be permitted entry until a vacancy is available. Such occurrences shall be logged and reported to the director or his/her designee on a weekly basis.
- (xii) Because of their temporary nature, temporary structures within temporary encampments shall not be required to meet the site plan review procedures of OHMC 19.48 nor the commercial and industrial design guidelines criteria of OHMC 19.48.969. Any permanent structures, as determined by the director or his/her designee, shall meet all applicable Design Review criteria, and receive any necessary Design Review permits. All temporary structures for temporary encampments shall comply with the following design criteria:
 - A. Temporary encampment structures shall be located a minimum of twenty (20) feet from any property line that abuts a property that has a residential use, unless otherwise approved by the director or his/her designee. All other setbacks and yards applicable to permanent structures shall apply to temporary structures related to temporary encampments;
 - B. A six (6) foot high sight obscuring fence, vegetative screen or other visual buffering consistent with the provisions of OHMC 19.46.030, as applicable, shall be provided between the temporary encampment and any abutting residential property and the right-of-way. The fence shall provide a privacy and a visual buffering among neighboring properties in a manner and material approved by the director or his/her designee. The director or his/her designee shall consider existing vegetation, fencing, topographic variations and other site conditions in determining compliance with this requirement; and
 - C. Exterior lighting shall be shaded and directed so as not to be visible from any residentially classified property or property

designated for residential uses and contained within the temporary encampment.

- (xiii) No children under the age of eighteen (18) are allowed to stay overnight in a temporary encampment unless accompanied by a parent or legal guardian. If any other child under the age of eighteen (18) attempts to stay overnight at the temporary encampment, the temporary encampment managing organization shall immediately contact the Washington State Department of Social and Health Services Child Protective Services, or its successor.
- (xiv) The temporary encampment shall comply with all applicable standards of the Island County Health Department, or its successor.
- (xv) The temporary encampment shall comply with all Washington State and City codes concerning, but not limited to, drinking water connections, human waste, solid waste disposal, electrical systems, cooking and food handling and fire resistant materials. Servicing of portable toilets and trash dumpsters is prohibited between the hours of 9:00 pm and 7:00 am on Mondays through Fridays, excluding legal holidays, and between the hours of 9:00 pm and 9:00 am on Saturdays, Sundays and legal holidays, except in the case of bona fide emergency or under permit from the director or his/her designee in case of demonstrated necessity.
- (xvi) The temporary encampment shall permit regular inspections by the city, including the police department, and Island County Health Department to check compliance with the standards for temporary encampments. Nothing in this ordinance shall require inspections by the Island County Health Department. The Oak Harbor Fire Department shall do an initial fire inspection and safety meeting at the inception of the temporary encampment.
- (xvii) All temporary encampments shall have services, such as food, water, and waste disposal, provided by a temporary encampment sponsor and supervised by a temporary encampment managing organization.
- (xviii) The managing organization and temporary encampment sponsor shall sign a hold harmless agreement for the temporary encampment.
- (xix) The temporary encampment managing organization shall maintain a resident log for all who are residing at the temporary encampment. Such log shall be kept onsite at the temporary encampment. Prospective encampment residents shall provide a verifiable form of identification when signing the log.

- (xx) The temporary encampment sponsor and encampment managing organization shall ensure enforcement of a code of conduct at the temporary encampment site. The code of conduct shall be in substantially the following form or address the following issues:
- A. Possession or use of illegal drugs is not permitted;
 - B. No alcohol is permitted;
 - C. No weapons are permitted;
 - D. No violence is permitted;
 - E. No open flames are permitted;
 - F. No trespassing into private property in the surrounding neighborhood is permitted;
 - G. No littering on the temporary encampment site or in the surrounding neighborhood is permitted; and
 - H. Excessive noise shall be limited to the restrictions identified in OHMC 6.56.
- (xxi) The temporary encampment managing organization shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. All requirements by the Oak Harbor Police Department related to identified sex offenders or prospective residents with warrants shall be met. The temporary encampment sponsor shall be responsible for verifying that the warrant and sex offender checks occur, that the log of persons residing at the temporary encampment is kept and that verifiable forms of identification are being provided.
- (xxii) Upon determination that there has been a violation of any condition of approval, the director or his/her designee may give written notice to the permit holder describing the alleged violation. Within seven (7) days of the mailing of notice of violation, the permit holder shall show cause why the permit should not be revoked. At the end of the seven (7) day period, the director or his/her designee shall sustain or revoke the permit. When a temporary encampment permit is revoked, the director or his/her designee shall notify the permit holder by certified mail of the revocation and the findings upon which revocation is based. Appeals of decisions to revoke a temporary encampment permit will be processed pursuant to RCW

36.70C. The availability of this procedure shall be in addition to the procedures set out in OHMC 18.20.510-550.

(xxiii) The director or his/her designee may require any other condition as necessary to mitigate impacts from temporary encampments.

(b) Permit Application. The applicant for a temporary encampment shall submit all of the following, unless waived by the director or his/her designee:

- (i) General application form;
- (ii) A site plan, which extends fifty (50) feet beyond the proposed site's property boundaries, drawn to scale showing all of the following:
 - A. all existing and proposed temporary structures;
 - B. Existing and proposed ingress and egress and existing or proposed parking stalls available for the temporary encampment use;
 - C. location of trash receptacles, including trash dumpsters;
 - D. location of toilets and other sanitary facilities;
 - E. location and details of any proposed connection to wastewater, potable water, stormwater, electrical supply, or other public or private utility systems;
 - F. proposed and existing location of site lighting;
 - G. any permanent alterations on the lot, to the site, or structures; and
 - H. designated smoking area;
- (iii) Proposed fencing detail or typical section;
- (iv) Written authorization from a temporary encampment sponsor on which the temporary encampment is located;
- (v) A hold harmless agreement, on a form approved by the City Attorney, with a signature of the temporary encampment sponsor;
- (vi) A copy of any agreements with other parties regarding use of parking, either on-site or off-site;

- (vii) A copy of any agreement between the temporary encampment sponsor, temporary encampment managing organization, and any schools and/or child care services;
 - (viii) A copy of the code of conduct;
 - (ix) The applicant shall provide:
 - A. The date, time, and location of the required informal public meeting;
 - B. The name of persons representing the temporary encampment managing organization and sponsor at the informal public meeting;
 - C. A summary of comments provided; and
 - D. Copies of any documents submitted at the informal public meeting;
 - (x) Any other information deemed necessary by the director or his/her designee for the processing of a temporary encampment permit; and
 - (xi) All applicable application filing fees in an amount established annually by resolution.
- (c) Application Process. A temporary encampment permit is a form of temporary use permit and is an administrative action. In addition to the requirements for the processing of administrative actions specified in OHMC Chapter 18.20, the following additional procedures shall apply:
- (i) Informal Public Meeting Required. The director or his/her designee shall require an applicant to conduct an informal public meeting to inform citizens about a proposed temporary encampment prior to submittal of an application. Notice of the informal public meeting shall be provided in the same manner as required by OHMC Section 18.20.380(2), at least ten (10) days prior to the informal public meeting. Prior to the informal public meeting, the temporary encampment sponsor and managing organization shall meet and confer with the Oak Harbor Police Department regarding any proposed security measures. At the informal public meeting, a representative of the temporary encampment sponsor and managing organization shall present in writing and describe the proposed temporary encampment location, timing, site plan, code of conduct, encampment concerns, management security measures, and any input or comment received on the plan, including any comment or input from the Oak Harbor Police Department, or comment or input from schools and/or child care services under subsection (ii) of this section. Copies of the agenda

and other materials shall be provided by the applicant at the meeting. The meeting shall be conducted on the subject property whenever feasible.

- (ii) Additional Mailed Notice. The requirements for mailing the notice of application set forth in OHMC Section 18.20.380(2) shall be expanded to include owners of real property within six hundred (600) feet of the lot(s) containing the proposed temporary encampment. Prior to any application for a temporary encampment permit, the temporary encampment sponsor, or temporary encampment managing organization shall meet and confer with the administration of any public or private elementary, middle, junior high or high school within six hundred (600) feet of the boundaries of the lot(s) proposed to contain the temporary encampment. The temporary encampment sponsor and the school administration and/or child care service operator shall make a good faith effort to agree upon any additional conditions that may be appropriate or necessary to address school and/or child care concerns regarding the location of a temporary encampment within six hundred (600) feet of such a facility. Any such conditions agreed upon between the parties shall be submitted to the director or his/her designee for consideration, for inclusion within the temporary encampment permit. In the event the parties fail to agree on any conditions, either party may provide the director or his/her designee with a written summary of the parties' discussions, which the director or his/her designee may consider in evaluating whether the conditions for the temporary encampment permit are met, or the need for additional conditions upon the temporary encampment permit, without violating the legal rights of the temporary encampments sponsor.
- (d) Emergencies. The director or his/her designee may waive these requirements when a catastrophic event necessitates the immediate establishment of a temporary encampment.

Section Two. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder or the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Three. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication.

PASSED by the City Council this _____ day of _____, 2015.

Veto ()
Approve ()

THE CITY OF OAK HARBOR

By _____
Scott Dudley, Mayor

Dated: _____

Attest:

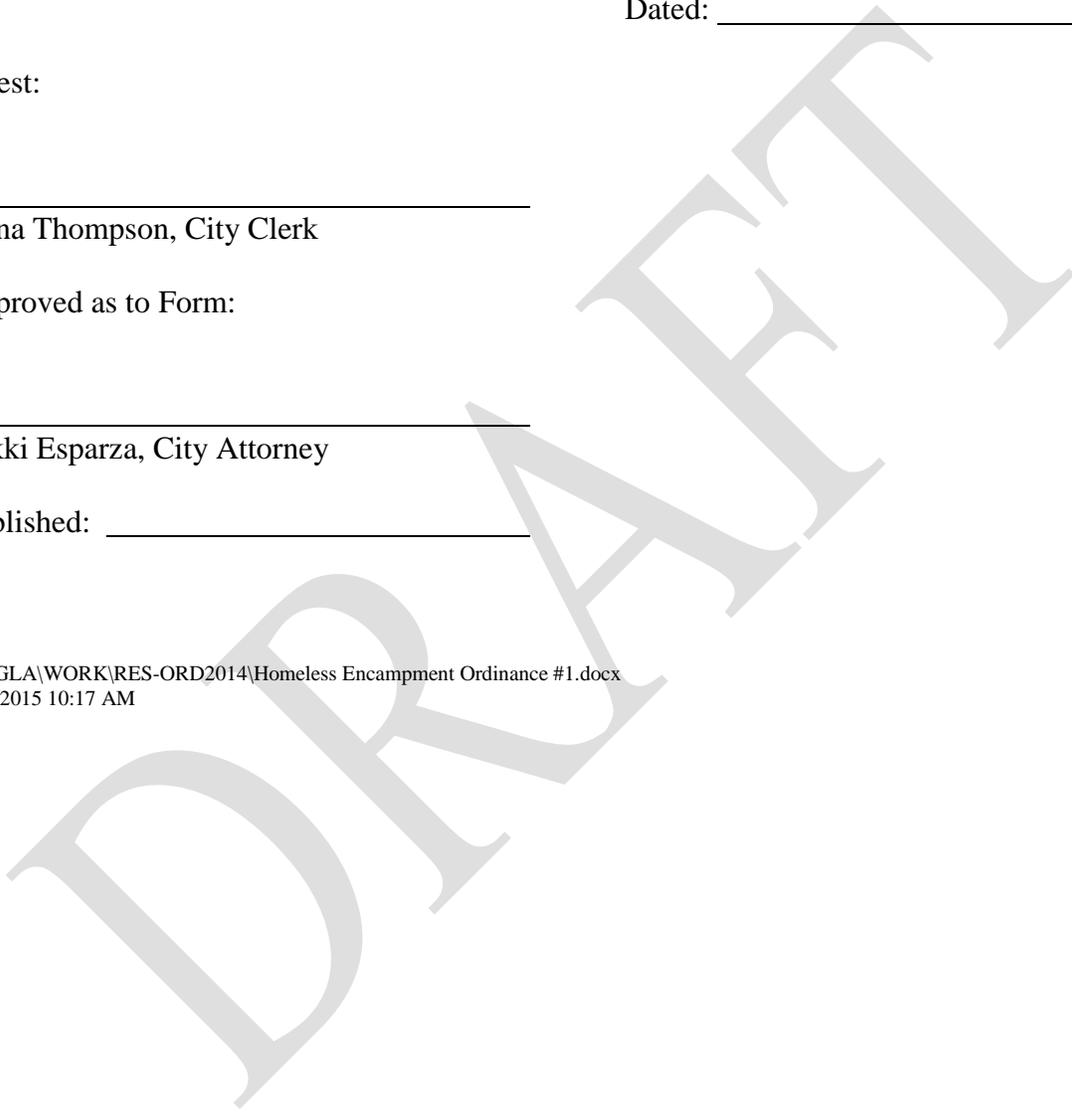
Anna Thompson, City Clerk

Approved as to Form:

Nikki Esparza, City Attorney

Published: _____

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ZONING CODE
AMENDMENT

Public Hearing

**City of Oak Harbor
Report to the Planning
Commission**

Date: May 26, 2015
Subject: Zoning Code Amendment – Definitions

FROM: Steve Powers, AICP
Development Services Dept. Director

PURPOSE

This staff report presents a draft ordinance that amends portions of the Oak Harbor Municipal Code to bring the definition of ‘child day care center’ and ‘family day care provider’ current with state law. It also updates the definition of ‘family’ and adds a ‘reasonable accommodation’ section to the code.

DISCUSSION

In 2014, the City’s land use code and procedures were reviewed by the Washington Cities Insurance Authority (WCIA). As a result of that review, WCIA recommended the City revise its Municipal Code to update the definitions of ‘child day care center’ and ‘family day care provider’ to be consistent with current state law. They also recommended the definition of ‘family’ be updated and a ‘reasonable accommodation’ section to be added to the code. The updated definition of family allows for a variety of housekeeping units and is consistent with case law. The reasonable accommodation provisions allow the City to waive or vary city code regulations when necessary to reasonably accommodate the statutory rights of the disabled under the American with Disabilities Act (ADA). Ordinance No. 1739 (Attachment 1) accomplishes the above.

RECOMMENDATION

- Conduct public hearing
- Recommend approval of Ordinance No. 1739

ATTACHMENTS

Attachment 1: Draft Ordinance No. 1739

ORDINANCE NO. 1739

AN ORDINANCE AMENDING CHAPTER 19.08 “DEFINITIONS” OF THE OAK HARBOR MUNICIPAL CODE, UPDATING THE DEFINITION OF ‘CHILD DAY CARE CENTER’ AND ‘FAMILY DAY CARE PROVIDER’ TO BE CURRENT WITH STATE LAW; AMENDING THE DEFINITION OF ‘FAMILY’ AND AMENDING CHAPTER 19.04 BY CREATING A NEW SECTION 19.04.050 “REASONABLE ACCOMMODATION”

WHEREAS, Chapter 19.08 of the Oak Harbor Municipal Code defines certain terms necessary for the orderly regulation of land uses; and

WHEREAS, many of those definitions find their origins in Washington State Law; and

WHEREAS, from time to time it is necessary to amend the Oak Harbor Municipal Code definitions so that they are consistent with those found in State law; and

WHEREAS, amendments are necessary to certain terms related to families and child care; and

WHEREAS, on June 23, 2015 the Planning Commission conducted a properly noticed public hearing, reviewing the proposed amendments against the criteria found in OHMC 19.80; and

WHEREAS, at the conclusion on the hearing the Planning Commission recommended approval of the proposed amendments; and

WHEREAS, on August 5, 2015 the City Council conducted a properly noticed public meeting, for the purposes of reviewing and acting upon the Planning Commission’s recommendation; and

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

Section One. Oak Harbor Municipal Code Section 19.08.165, Child day care center, last adopted by §4 of Ordinance 1555 in 2009 is hereby amended to read as follows:

19.08.165 Child day care center.

“Child day care center” means ~~a facility providing regularly scheduled care for a group of children one month of age through 12 years of age for periods less than 24 hours; except, a program meeting the definition of a family child day care home shall not be licensed as a day care center without meeting the requirements of WAC 388-150-020(5)(a).~~ an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than twenty-four hours. In this context, ‘agency’ shall be defined as found in RCW 43.215.010.

Section Two. Oak Harbor Municipal Code Section 19.08.305, Family, last adopted by §4 of Ordinance 1555 in 2009 is hereby amended to read as follows:

19.08.305 Family.

~~“Family” means one or more persons related by blood, marriage, adoption or a group of not more than five persons (excluding servants) not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit. Not more than four adult persons, unless all are related by blood, marriage, or legal adoption, living together as a single housekeeping unit. A group of related persons living in a household shall be considered a single housekeeping unit. Provided: a group of more than four unrelated adult persons living together in a dwelling unit may also be included within the definition of “family” if they demonstrate to the Director that they operate in a manner that is functionally equivalent to a family.~~

~~(1) Factors that shall be considered by the Director include whether the group of more than four unrelated persons:~~

- ~~(a) Shares the entire dwelling unit or acts as separate roomers;~~
- ~~(b) Includes minor, dependent children regularly residing in the household;~~
- ~~(c) Can produce proof of sharing expenses for food, rent, or ownership costs, utilities, and other household expenses;~~
- ~~(d) Shares common ownership of furniture and appliances among the members of the household;~~
- ~~(e) Constitutes a permanent living arrangement, and is not a framework for transient living;~~
- ~~(f) Maintains a stable composition that does not change from year to year or within the year;~~
- ~~(g) Is not a society, fraternity, sorority, lodge, organization or other group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary; or~~
- ~~(h) Can demonstrate any other factors reasonably related to whether or not the group of persons is the functional equivalent of a family.~~

~~(2) The Director shall issue a written determination of whether a group of more than four unrelated adult persons are operating in a manner that is functionally equivalent to a family.~~

~~(3) For purposes of this definition and notwithstanding any other provision of this Code, children with familial status within the meaning of Title 42 United States Code, Section~~

3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h) will not be counted as unrelated persons.

Section Three. Oak Harbor Municipal Code Section 19.08.360, Home, family child day care, last adopted by §4 of Ordinance 1555 in 2009 is hereby repealed.

Section Four. A new section of the Oak Harbor Municipal Code, Section 19.08.308, Family day care provider, is hereby adopted as follows:

19.08.308 Family day care provider

“Family day care provider” means a child care provider who regularly provides early childhood education and early learning services for not more than twelve children in the provider’s home in the family living quarters.

Section Five. A new section of the Oak Harbor Municipal Code, Section 19.04.050, Reasonable accommodation, is hereby adopted as follows:

19.04.050 Reasonable accommodation.

(1) Eligibility. Any person claiming to have a handicap or disability, within the meaning of the Fair Housing Amendments Act (FHAA), 42 U.S.C. 3602(h) or the Washington Law Against Discrimination (WLAD), Chapter 49.60 RCW, or someone acting on his or her behalf, who wishes to be excused from an otherwise applicable requirement of this development code pursuant to the requirement of the FHAA, or the WLAD, that reasonable accommodations be made in rules, policies, practices, or services when such accommodations may be necessary to afford persons with handicaps or disabilities equal opportunity to use and enjoy a dwelling, shall make such request for reasonable accommodation to the code official.

(2) Procedure.

(a) An applicant for reasonable accommodation must provide verifiable documentation of handicap or disability eligibility to the code official and describe the need for and proposed accommodation.

(b) The code official shall determine what adverse land use impacts, including cumulative impacts, if any, would result from granting the proposed accommodation. This determination shall take into account the size, shape and location of the dwelling unit and lot; the traffic and parking conditions on adjoining and neighboring streets; vehicle usage to be expected from the residents, staff and visitors; and any other circumstances determined to be relevant.

(c) The applicant's need for accommodation shall be considered in light of the anticipated land use impacts, and conditions may be imposed in order to make the accommodation reasonable in light of those impacts.

(d) A grant of reasonable accommodation permits a dwelling to be inhabited only according to the terms and conditions of the applicant's proposal and the code official's decision. If it is determined that the accommodation has become unreasonable because circumstances have changed or adverse land use impacts have occurred that were not anticipated, the code official shall rescind or modify the decision to grant reasonable accommodation.

(e) The code official shall act promptly on the request for accommodation and shall not charge any fee for responding to a request for accommodation.

(f) Nothing herein shall prevent the code official from granting reasonable accommodation to the full extent required by federal or state law.

(g) The code official's decision shall constitute final action by the city on a request for accommodation, and review of the decision will be available only in superior court. Any appeal must be filed not more than 21 days after the issuance of the code official's decision.

Section Six. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Seven. Effective Date. This Ordinance shall be in full force and effect five days after publishing.

PASSED by the City Council this 5th day of August 2015.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Approved as to Form:

Anna Thompson, City Clerk

Nikki Esparza, City Attorney

Published: _____

DRAFT

MEDICAL
MARIJUANA
CODE

Public Meeting

City of Oak Harbor Planning Commission Report

Date: June 23, 2015
Subject: 2SSB 5052 – Medical Marijuana

FROM: Dennis Lefevre, AICP, Senior Planner

PURPOSE

This report initiates the discussion on the repercussions of the recently passed 2SSB 5052 which establishes state regulations regarding producing, processing, and retailing medical marijuana.

BACKGROUND

- In November 1998, WA voters approved Initiative 692. The intent of I-692 was that “qualifying patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law.” WA State Legislature adopts chapter 69.51A RCW, *Medical Use of Marijuana Act*.¹
- In 2011, the WA State Legislature passed E2SSB 5073 which amended RCW 69.51A (changed *Medical Use of Marijuana Act* to *Medical Use of Cannabis Act*). The bill states “qualifying patients or their designated care providers are presumed to be in compliance with the medical use of marijuana, and not subject to criminal or civil sanctions, penalties, and/or consequences, if they possess no more than 15 cannabis plants, no more than 24 ounces of usable cannabis, and as long as they meet certain other qualifications identified in RCW 69.51A.040.”¹
- E2SSB 5073 would have created a comprehensive regulatory scheme under which all patients, physicians, processors, producers, and dispensers could be securely and confidentially registered in a database maintained by the WA State Department of Health (DOH). Registration would have been optional. In addition to the registration system, collective gardens were authorized, and, local governments retained authority to regulate the production, processing, or dispensing of medical marijuana through zoning, business licensing, health and safety requirements, and business taxes.²

Note: collective gardens may be formed by up to ten qualifying patients who share responsibility for acquiring and supplying the resources required to produce, process, transport, and deliver marijuana for the medical use of its members. Collective gardens may contain up to 45 plants and 72 ounces of useable marijuana and no marijuana from the collective garden may be delivered to anyone other than

¹ Morris, Carol A., September 2013, *Medical and Recreational Marijuana Uses, Local Regulation*, Municipal Research Service Center, Accessed June 2015.

² Washington State Supreme Court, *Cannabis Action Coalition v. City of Kent*, May 2015.

one of the qualifying patients participating in the collective garden.¹ Collective gardens are presently prohibited in Oak Harbor by virtue of a moratorium.

- Prior to Governor Gregoire’s signing of E2SSB 5073 the US Department of Justice (Eastern and Western Districts of Washington), in a letter, warned that the legislature’s bill authorized conduct illegal under federal law, and noted that WA State employees who administered the registry would not be immune from federal prosecution, and threatened such prosecution. Governor Gregoire vetoed all of the bill’s sections (including definitions) that could have subjected state employees to federal charges, most importantly the establishment of the bill’s centerpiece, the registration system. She did not veto the provision concerning collective gardens or the provision concerning local zoning requirements.
- In November 2012, WA voters approved Initiative 502. I-502 legalized the possession of specified amounts of marijuana and legalized private recreational use of marijuana. I-502 also established a regulatory system for the production, processing, and distribution of limited amounts of marijuana for non-medical purposes. Under this system, the Liquor Control Board (LCB) issues licenses to marijuana producers, processors, and retailers, and adopts standards for the regulation of these operations. Under I-502, minimum distance requirements for marijuana retail locations are established and the stores must comply with existing land use and zoning regulations.

Note: It appears that federal authorities will not intervene to enforce the federal controlled substances act on implementation of this Initiative. The Department of Justice (DOJ) issued a response (Cole Memo) to I-502 in August 2013. In this memo the DOJ advised “that as long as states adopting laws governing marijuana have “sufficiently robust” regulatory and enforcement systems (on paper and in practice) to address the federal government’s identified enforcement priorities, then enforcement of state laws by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity.” The full memo is Attachment 1.

- In April 2015, Governor Inslee signed 2SSB 5052 (Cannabis Patient Protection Act - CPPA) which overhauls regulation of the medical marijuana industry. 2SSB 5052 (see Attachment 2 for the complete bill and Attachment 3 for an Association of Washington Cities overview) brings medical marijuana into the same regulatory scheme that the Liquor Cannabis Board (formerly Liquor Control Board) had established for recreational marijuana under I-502. Under 2SSB 5052:
 - 1) A medical marijuana database is created. Patients and providers who are entered into the database are provided protection from arrest. Database members may grow up to 15 plants and may possess three times the amount than what is permitted for the recreational user. Patients and providers who do not sign up may grow marijuana for their medical use but are limited to four plants and six ounces of useable marijuana and are provided an affirmative defense to charges of violating the law.

¹ Washington State Legislature, Final Bill Report 2SSB 5052.

- 2) A medical marijuana endorsement is established for recreational retail license holders who opt to include the sale of medical marijuana. Marijuana-endorsed stores must carry products identified by DOH as beneficial to medical marijuana patients. These stores must also meet handling and employee training requirements.
- 3) Collective gardens, authorized under E2SSB 5073, are not permitted effective July 1, 2016. Four-member cooperatives are permitted (effective July 1, 2016). The qualifying member patients or designated providers share responsibility for the production and processing of marijuana for the medical use of its members. The location of the cooperative “must be the domicile of one of the participants”. Only one cooperative may be located per property tax parcel. Cooperatives may not be located within one mile of a marijuana retailer and must be registered with the LCB.

DISCUSSION

According to the LCB database, three licenses have been issued for marijuana production within the city’s urban growth area. One active license is for a Tier 1 producer (up to 2000 square feet of plant canopy) the remaining two active licenses are for Tier 2 producers (2,001 to 10,000 square feet of plant canopy). All three license recipients are located north of the city. There is one license recipient for a retail marijuana operation, also located on the north side of the city (within city limits).

Physical restrictions were identified in I-502 and 2SSB 5052 for the siting of both, recreational (I-502) and medical (2SSB 5052) production, processing and retail facilities. No license will be granted for any premises within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older. Map 1 shows a 1,000 foot radius around all known facilities within the City of Oak Harbor. Map 2 shows the remaining areas not encompassed within the buffers.

The CPPA provides the opportunity for existing recreational marijuana producers, processors and retailers to be endorsed by the LCB to produce, process or sell in licensed facilities, medical marijuana. The CPPA also allows the LCB, in consultation with the Office of Financial Management, to re-assess the number of medical marijuana retail outlets and possibly increase the maximum number of retail outlets to accommodate the medical needs of qualifying patients and designated providers.

Additional restrictions were placed on the potential siting of recreational marijuana production, processing and retail facilities through the adoption of Ordinance 1685 (February 2014). This ordinance (Attachment 4) created Chapter 19.22 (Marijuana Related Uses) in the Oak Harbor Municipal Code (OHMC) and only addresses recreational marijuana.

Section 19.22.030(1)(b), OHMC, limits locating a marijuana producer and marijuana processor to only the Planned Industrial Park (PIP) or Industrial (I) zoning district. Marijuana retailers are limited to the Highway Service Commercial (C-4) or Industrial (I) districts. By design, Section

19.22, OHMC does not address medical marijuana production, processing, retailing, or the creation of “collective gardens” as authorized under RCW 69.51A.085.

Section 19.22.030(1)(d) & 19.22.030(2)(d) further classifies marijuana producers, processors and retailers as uses that shall not be considered accessory uses to a primary use or as a home occupation. Licensed production, processing and retail facilities shall be located fully within a permanent structure designed to comply with the city building code and constructed under a building and/or tenant improvement permit from the city regardless of the size or configuration of the structure. Production facilities must also be in nonrigid greenhouses, other structures, or an expanse of open or clear ground fully exposed by a physical barrier enclosed by a sight obscuring wall or fence eight feet high.

Section 19.22.040(1)(d)(vi) also requires licensed retail facilities to be more than 1,000 feet from the perimeter of a parcel on which a licensed production or processing facility is located.

ANALYSIS

As noted earlier, collective gardens will be replaced (July 1, 2016) with cooperatives which are not allowed within one mile of a licensed marijuana retailer. Registered cooperatives must be in the domicile of one of the participants. Domicile is defined as “a dwelling place, place of residence, or home”. The OHMC (Section 19.08.270) defines dwelling unit as a building or portion thereof providing complete housekeeping facilities for one family, but does not include motel, tourist court, rooming house, or tourist home. Dwelling units can be constructed as single-family, two-family, multi-family, condominiums, apartments, studios, or accessory dwelling units.

The following zoning districts permit one of these forms of dwelling units: Planned Residential Estates (PRE); single-family residential (R-1); limited multi-family residential (R-2); multiple-family residential (R-3); multiple-family residential (R-4); residential office (RO); neighborhood commercial (C-1); central business district (CBD); community commercial (C-3); highway corridor commercial (C-5); and, open space, recreation and agriculture (OS).

It appears cooperatives may be established in any dwelling unit as long as it is one mile from a licensed retailer. The production nor processing of marijuana or marijuana-infused products nor the storage or growing of plants may occur if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit. Table 1 creates a matrix combining the aforementioned restrictions.

Recreational marijuana producers, processors and retailers are adequately addressed through the land use restrictions established in Chapter 19.22. Licensed medical marijuana producers, processors and retailers are currently only restricted (2SSB 5052) by the 1,000-foot buffer from public places and schools.

Some questions we can ask ourselves:

- Do we want to place additional restrictions (zoning district) on licensed medical marijuana facilities as we did with recreational facilities?
- Other than the one-mile buffer around a licensed marijuana retailer, are there any restrictions we may consider for cooperatives?
- Are there parameters or measurables we can utilize to determine what “readily smelled” is when referring to cooperatives and potential nuisances?
- Should we address medical marijuana in the same Municipal Code chapter we created for recreational marijuana or should we create a separate chapter?

Table 1
**LAND USE RESTRICTIONS & BUFFER REQUIREMENTS
 CREATED BY LEGISLATIVE ACTION**

Legislation	Recreational¹	Medical
I-502 (2012)	1,000 feet from public places ²	Does not apply
19.22, OHMC (2014)	1,000 feet from public places ² ; only in PIP & I zones (production & process); C-4 & I zones (retailers). Retailers must be 1,000 feet from producers & processors.	Does not apply
2SSB 5052 (2015)	Does not apply	1,000 feet from public places ^{2,3} Cooperatives must be 1 mile from licensed retailer.

RECOMMENDATION

While no action is required, staff is seeking input on next steps. The current moratorium established under Ordinance 1692 expires on September 2, 2015. To meet the goal of adopting an ordinance by this date staff is proposing the following schedule:

- June 23 – Planning Commission (Discussion)
- June 24 – SEPA checklist complete
- June 30 – Send DNS to WNT
- July 8 – DNS published
- July 22 – 14-day comment period ends
- July 22 – City Council (workshop)
- July 28 – Planning Commission (public hearing)
- August 5 – 14-day appeal period ends
- August 5 – City Council (public hearing/adoption)
- September 1 – City Council (public hearing/adoption – if necessary)

¹ Includes marijuana producers, processors, and retailers.

² Perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

³ Pertains to collective gardens which will be prohibited beginning July 1, 2016

ATTACHMENTS

Attachment 1 – Department of Justice, Cole Memorandum

Attachment 2 – 2SSB 5052 (Cannabis Patient Protection Act)

Attachment 3 – 2SSB 5052 Overview (Association of Washington Cities)

Attachment 4 – Chapter 19.22, Marijuana Related Uses, OHMC

Map 1 – Public Facility 1,000 Foot Buffer

Map 2 – Areas Not Affected by 1,000 Foot Buffer



The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

Page 2

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

Page 3

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

Page 4

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5052

Chapter 70, Laws of 2015
(partial veto)

64th Legislature
2015 Regular Session

MEDICAL MARIJUANA--REGULATION

EFFECTIVE DATE: 7/24/2015 - Except for sections 12, 19, 20, 23 through 26, 31, 35, 40, and 49, which become effective 7/1/2016; and sections 21, 22, 32, and 33, which become effective 4/24/2015.

Passed by the Senate April 14, 2015
Yeas 41 Nays 8

BRAD OWEN

President of the Senate

Passed by the House April 10, 2015
Yeas 60 Nays 36

FRANK CHOPP

Speaker of the House of Representatives

Approved April 24, 2015 2:53 PM, with the exception of Sections 36, 42, 43, 44, 45, 46, and 52 which are vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5052** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

April 25, 2015

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5052

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington **64th Legislature** **2015 Regular Session****By** Senate Ways & Means (originally sponsored by Senators Rivers, Hatfield, and Conway)

READ FIRST TIME 02/10/15.

1 AN ACT Relating to establishing the cannabis patient protection
2 act; amending RCW 66.08.012, 69.50.101, 69.50.325, 69.50.331,
3 69.50.342, 69.50.345, 69.50.354, 69.50.357, 69.50.360, 69.50.4013,
4 69.51A.005, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.043,
5 69.51A.045, 69.51A.055, 69.51A.060, 69.51A.085, 69.51A.100,
6 43.70.320, 69.50.203, 69.50.204, and 9.94A.518; adding new sections
7 to chapter 69.50 RCW; adding new sections to chapter 69.51A RCW;
8 adding a new section to chapter 42.56 RCW; adding a new section to
9 chapter 82.04 RCW; creating new sections; repealing RCW 69.51A.020,
10 69.51A.025, 69.51A.047, 69.51A.070, 69.51A.090, 69.51A.140,
11 69.51A.200, and 69.51A.085; prescribing penalties; providing an
12 effective date; providing a contingent effective date; and declaring
13 an emergency.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

15 NEW SECTION. **Sec. 1.** This act may be known and cited as the
16 cannabis patient protection act.

17 NEW SECTION. **Sec. 2.** The legislature finds that since voters
18 approved Initiative Measure No. 692 in 1998, it has been the public
19 policy of the state to permit the medical use of marijuana. Between
20 1998 and the present day, there have been multiple legislative

1 attempts to clarify what is meant by the medical use of marijuana and
2 to ensure qualifying patients have a safe, consistent, and adequate
3 source of marijuana for their medical needs.

4 The legislature further finds that qualifying patients are people
5 with serious medical conditions and have been responsible for finding
6 their own source of marijuana for their own personal medical use.
7 Either by growing it themselves, designating someone to grow for
8 them, or participating in collective gardens, patients have developed
9 methods of access in spite of continued federal opposition to the
10 medical use of marijuana. In a time when access itself was an issue
11 and no safe, consistent source of marijuana was available, this
12 unregulated system was permitted by the state to ensure some, albeit
13 limited, access to marijuana for medical use. Also permitted were
14 personal possession limits of fifteen plants and twenty-four ounces
15 of useable marijuana, which was deemed to be the amount of marijuana
16 needed for a sixty-day supply. In a time when supply was not
17 consistent, this amount of marijuana was necessary to ensure patients
18 would be able to address their immediate medical needs.

19 The legislature further finds that while possession amounts are
20 provided in statute, these do not amount to protection from arrest
21 and prosecution for patients. In fact, patients in compliance with
22 state law are not provided arrest protection. They may be arrested
23 and their only remedy is to assert an affirmative defense at trial
24 that they are in compliance with the law and have a medical need. Too
25 many patients using marijuana for medical purposes today do not know
26 this; many falsely believe they cannot be arrested so long as their
27 health care provider has authorized them for the medical use of
28 marijuana.

29 The legislature further finds that in 2012 voters passed
30 Initiative Measure No. 502 which permitted the recreational use of
31 marijuana. For the first time in our nation's history, marijuana
32 would be regulated, taxed, and sold for recreational consumption.
33 Initiative Measure No. 502 provides for strict regulation on the
34 production, processing, and distribution of marijuana. Under
35 Initiative Measure No. 502, marijuana is trackable from seed to sale
36 and may only be sold or grown under license. Marijuana must be tested
37 for impurities and purchasers of marijuana must be informed of the
38 THC level in the marijuana. Since its passage, two hundred fifty
39 producer/processor licenses and sixty-three retail licenses have been
40 issued, covering the majority of the state. With the current product

1 canopy exceeding 2.9 million square feet, and retailers in place, the
2 state now has a system of safe, consistent, and adequate access to
3 marijuana; the marketplace is not the same marketplace envisioned by
4 the voters in 1998. While medical needs remain, the state is in the
5 untenable position of having a recreational product that is tested
6 and subject to production standards that ensure safe access for
7 recreational users. No such standards exist for medical users and,
8 consequently, the very people originally meant to be helped through
9 the medical use of marijuana do not know if their product has been
10 tested for molds, do not know where their marijuana has been grown,
11 have no certainty in the level of THC or CBD in their products, and
12 have no assurances that their products have been handled through
13 quality assurance measures. It is not the public policy of the state
14 to allow qualifying patients to only have access to products that may
15 be endangering their health.

16 The legislature, therefore, intends to adopt a comprehensive act
17 that uses the regulations in place for the recreational market to
18 provide regulation for the medical use of marijuana. It intends to
19 ensure that patients retain their ability to grow their own marijuana
20 for their own medical use and it intends to ensure that patients have
21 the ability to possess more marijuana-infused products, useable
22 marijuana, and marijuana concentrates than what is available to a
23 nonmedical user. It further intends that medical specific regulations
24 be adopted as needed and under consultation of the departments of
25 health and agriculture so that safe handling practices will be
26 adopted and so that testing standards for medical products meet or
27 exceed those standards in use in the recreational market.

28 The legislature further intends that the costs associated with
29 implementing and administering the medical marijuana authorization
30 database shall be financed from the health professions account and
31 that these funds shall be restored to the health professions account
32 through future appropriations using funds derived from the dedicated
33 marijuana account.

34 **Sec. 3.** RCW 66.08.012 and 2012 c 117 s 265 are each amended to
35 read as follows:

36 There shall be a board, known as the "Washington state liquor
37 (~~and cannabis~~) and cannabis board," consisting of three members, to be
38 appointed by the governor, with the consent of the senate, who shall
39 each be paid an annual salary to be fixed by the governor in

1 accordance with the provisions of RCW 43.03.040. The governor may, in
2 his or her discretion, appoint one of the members as chair of the
3 board, and a majority of the members shall constitute a quorum of the
4 board.

5 **Sec. 4.** RCW 69.50.101 and 2014 c 192 s 1 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, definitions of
8 terms shall be as indicated where used in this chapter:

9 (a) "Administer" means to apply a controlled substance, whether
10 by injection, inhalation, ingestion, or any other means, directly to
11 the body of a patient or research subject by:

12 (1) a practitioner authorized to prescribe (or, by the
13 practitioner's authorized agent); or

14 (2) the patient or research subject at the direction and in the
15 presence of the practitioner.

16 (b) "Agent" means an authorized person who acts on behalf of or
17 at the direction of a manufacturer, distributor, or dispenser. It
18 does not include a common or contract carrier, public
19 warehouseperson, or employee of the carrier or warehouseperson.

20 (c) "Commission" means the pharmacy quality assurance commission.

21 (d) "Controlled substance" means a drug, substance, or immediate
22 precursor included in Schedules I through V as set forth in federal
23 or state laws, or federal or commission rules.

24 (e)(1) "Controlled substance analog" means a substance the
25 chemical structure of which is substantially similar to the chemical
26 structure of a controlled substance in Schedule I or II and:

27 (i) that has a stimulant, depressant, or hallucinogenic effect on
28 the central nervous system substantially similar to the stimulant,
29 depressant, or hallucinogenic effect on the central nervous system of
30 a controlled substance included in Schedule I or II; or

31 (ii) with respect to a particular individual, that the individual
32 represents or intends to have a stimulant, depressant, or
33 hallucinogenic effect on the central nervous system substantially
34 similar to the stimulant, depressant, or hallucinogenic effect on the
35 central nervous system of a controlled substance included in Schedule
36 I or II.

37 (2) The term does not include:

38 (i) a controlled substance;

1 (ii) a substance for which there is an approved new drug
2 application;

3 (iii) a substance with respect to which an exemption is in effect
4 for investigational use by a particular person under Section 505 of
5 the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the
6 extent conduct with respect to the substance is pursuant to the
7 exemption; or

8 (iv) any substance to the extent not intended for human
9 consumption before an exemption takes effect with respect to the
10 substance.

11 (f) "Deliver" or "delivery," means the actual or constructive
12 transfer from one person to another of a substance, whether or not
13 there is an agency relationship.

14 (g) "Department" means the department of health.

15 (h) "Dispense" means the interpretation of a prescription or
16 order for a controlled substance and, pursuant to that prescription
17 or order, the proper selection, measuring, compounding, labeling, or
18 packaging necessary to prepare that prescription or order for
19 delivery.

20 (i) "Dispenser" means a practitioner who dispenses.

21 (j) "Distribute" means to deliver other than by administering or
22 dispensing a controlled substance.

23 (k) "Distributor" means a person who distributes.

24 (l) "Drug" means (1) a controlled substance recognized as a drug
25 in the official United States pharmacopoeia/national formulary or the
26 official homeopathic pharmacopoeia of the United States, or any
27 supplement to them; (2) controlled substances intended for use in the
28 diagnosis, cure, mitigation, treatment, or prevention of disease in
29 individuals or animals; (3) controlled substances (other than food)
30 intended to affect the structure or any function of the body of
31 individuals or animals; and (4) controlled substances intended for
32 use as a component of any article specified in (1), (2), or (3) of
33 this subsection. The term does not include devices or their
34 components, parts, or accessories.

35 (m) "Drug enforcement administration" means the drug enforcement
36 administration in the United States Department of Justice, or its
37 successor agency.

38 (n) "Electronic communication of prescription information" means
39 the transmission of a prescription or refill authorization for a drug
40 of a practitioner using computer systems. The term does not include a

1 prescription or refill authorization verbally transmitted by
2 telephone nor a facsimile manually signed by the practitioner.

3 (o) "Immediate precursor" means a substance:

4 (1) that the commission has found to be and by rule designates as
5 being the principal compound commonly used, or produced primarily for
6 use, in the manufacture of a controlled substance;

7 (2) that is an immediate chemical intermediary used or likely to
8 be used in the manufacture of a controlled substance; and

9 (3) the control of which is necessary to prevent, curtail, or
10 limit the manufacture of the controlled substance.

11 (p) "Isomer" means an optical isomer, but in subsection (z)(5) of
12 this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4),
13 the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and
14 (42), and 69.50.210(c) the term includes any positional isomer; and
15 in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term
16 includes any positional or geometric isomer.

17 (q) "Lot" means a definite quantity of marijuana, marijuana
18 concentrates, useable marijuana, or marijuana-infused product
19 identified by a lot number, every portion or package of which is
20 uniform within recognized tolerances for the factors that appear in
21 the labeling.

22 (r) "Lot number" shall identify the licensee by business or trade
23 name and Washington state unified business identifier number, and the
24 date of harvest or processing for each lot of marijuana, marijuana
25 concentrates, useable marijuana, or marijuana-infused product.

26 (s) "Manufacture" means the production, preparation, propagation,
27 compounding, conversion, or processing of a controlled substance,
28 either directly or indirectly or by extraction from substances of
29 natural origin, or independently by means of chemical synthesis, or
30 by a combination of extraction and chemical synthesis, and includes
31 any packaging or repackaging of the substance or labeling or
32 relabeling of its container. The term does not include the
33 preparation, compounding, packaging, repackaging, labeling, or
34 relabeling of a controlled substance:

35 (1) by a practitioner as an incident to the practitioner's
36 administering or dispensing of a controlled substance in the course
37 of the practitioner's professional practice; or

38 (2) by a practitioner, or by the practitioner's authorized agent
39 under the practitioner's supervision, for the purpose of, or as an

1 incident to, research, teaching, or chemical analysis and not for
2 sale.

3 (t) "Marijuana" or "marihuana" means all parts of the plant
4 *Cannabis*, whether growing or not, with a THC concentration greater
5 than 0.3 percent on a dry weight basis; the seeds thereof; the resin
6 extracted from any part of the plant; and every compound,
7 manufacture, salt, derivative, mixture, or preparation of the plant,
8 its seeds or resin. The term does not include the mature stalks of
9 the plant, fiber produced from the stalks, oil or cake made from the
10 seeds of the plant, any other compound, manufacture, salt,
11 derivative, mixture, or preparation of the mature stalks (except the
12 resin extracted therefrom), fiber, oil, or cake, or the sterilized
13 seed of the plant which is incapable of germination.

14 (u) "Marijuana concentrates" means products consisting wholly or
15 in part of the resin extracted from any part of the plant *Cannabis*
16 and having a THC concentration greater than sixty percent.

17 (v) "Marijuana processor" means a person licensed by the state
18 liquor (~~control~~) and cannabis board to process marijuana into
19 marijuana concentrates, useable marijuana, and marijuana-infused
20 products, package and label marijuana concentrates, useable
21 marijuana, and marijuana-infused products for sale in retail outlets,
22 and sell marijuana concentrates, useable marijuana, and marijuana-
23 infused products at wholesale to marijuana retailers.

24 (w) "Marijuana producer" means a person licensed by the state
25 liquor (~~control~~) and cannabis board to produce and sell marijuana
26 at wholesale to marijuana processors and other marijuana producers.

27 (x) "Marijuana-infused products" means products that contain
28 marijuana or marijuana extracts, are intended for human use, and have
29 a THC concentration greater than 0.3 percent and no greater than
30 sixty percent. The term "marijuana-infused products" does not include
31 either useable marijuana or marijuana concentrates.

32 (y) "Marijuana retailer" means a person licensed by the state
33 liquor (~~control~~) and cannabis board to sell marijuana concentrates,
34 useable marijuana, and marijuana-infused products in a retail outlet.

35 (z) "Narcotic drug" means any of the following, whether produced
36 directly or indirectly by extraction from substances of vegetable
37 origin, or independently by means of chemical synthesis, or by a
38 combination of extraction and chemical synthesis:

39 (1) Opium, opium derivative, and any derivative of opium or opium
40 derivative, including their salts, isomers, and salts of isomers,

1 whenever the existence of the salts, isomers, and salts of isomers is
2 possible within the specific chemical designation. The term does not
3 include the isoquinoline alkaloids of opium.

4 (2) Synthetic opiate and any derivative of synthetic opiate,
5 including their isomers, esters, ethers, salts, and salts of isomers,
6 esters, and ethers, whenever the existence of the isomers, esters,
7 ethers, and salts is possible within the specific chemical
8 designation.

9 (3) Poppy straw and concentrate of poppy straw.

10 (4) Coca leaves, except coca leaves and extracts of coca leaves
11 from which cocaine, ecgonine, and derivatives or ecgonine or their
12 salts have been removed.

13 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

14 (6) Cocaine base.

15 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
16 thereof.

17 (8) Any compound, mixture, or preparation containing any quantity
18 of any substance referred to in subparagraphs (1) through (7).

19 (aa) "Opiate" means any substance having an addiction-forming or
20 addiction-sustaining liability similar to morphine or being capable
21 of conversion into a drug having addiction-forming or addiction-
22 sustaining liability. The term includes opium, substances derived
23 from opium (opium derivatives), and synthetic opiates. The term does
24 not include, unless specifically designated as controlled under RCW
25 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
26 and its salts (dextromethorphan). The term includes the racemic and
27 levorotatory forms of dextromethorphan.

28 (bb) "Opium poppy" means the plant of the species *Papaver*
29 *somniferum* L., except its seeds.

30 (cc) "Person" means individual, corporation, business trust,
31 estate, trust, partnership, association, joint venture, government,
32 governmental subdivision or agency, or any other legal or commercial
33 entity.

34 (dd) "Poppy straw" means all parts, except the seeds, of the
35 opium poppy, after mowing.

36 (ee) "Practitioner" means:

37 (1) A physician under chapter 18.71 RCW; a physician assistant
38 under chapter 18.71A RCW; an osteopathic physician and surgeon under
39 chapter 18.57 RCW; an osteopathic physician assistant under chapter
40 18.57A RCW who is licensed under RCW 18.57A.020 subject to any

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1 limitations in RCW 18.57A.040; an optometrist licensed under chapter
2 18.53 RCW who is certified by the optometry board under RCW 18.53.010
3 subject to any limitations in RCW 18.53.010; a dentist under chapter
4 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
5 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
6 registered nurse practitioner, or licensed practical nurse under
7 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
8 who is licensed under RCW 18.36A.030 subject to any limitations in
9 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
10 investigator under this chapter, licensed, registered or otherwise
11 permitted insofar as is consistent with those licensing laws to
12 distribute, dispense, conduct research with respect to or administer
13 a controlled substance in the course of their professional practice
14 or research in this state.

15 (2) A pharmacy, hospital or other institution licensed,
16 registered, or otherwise permitted to distribute, dispense, conduct
17 research with respect to or to administer a controlled substance in
18 the course of professional practice or research in this state.

19 (3) A physician licensed to practice medicine and surgery, a
20 physician licensed to practice osteopathic medicine and surgery, a
21 dentist licensed to practice dentistry, a podiatric physician and
22 surgeon licensed to practice podiatric medicine and surgery, a
23 licensed physician assistant or a licensed osteopathic physician
24 assistant specifically approved to prescribe controlled substances by
25 his or her state's medical quality assurance commission or equivalent
26 and his or her supervising physician, an advanced registered nurse
27 practitioner licensed to prescribe controlled substances, or a
28 veterinarian licensed to practice veterinary medicine in any state of
29 the United States.

30 (ff) "Prescription" means an order for controlled substances
31 issued by a practitioner duly authorized by law or rule in the state
32 of Washington to prescribe controlled substances within the scope of
33 his or her professional practice for a legitimate medical purpose.

34 (gg) "Production" includes the manufacturing, planting,
35 cultivating, growing, or harvesting of a controlled substance.

36 (hh) "Retail outlet" means a location licensed by the state
37 liquor ~~((control))~~ and cannabis board for the retail sale of
38 marijuana concentrates, useable marijuana, and marijuana-infused
39 products.

1 (ii) "Secretary" means the secretary of health or the secretary's
2 designee.

3 (jj) "State," unless the context otherwise requires, means a
4 state of the United States, the District of Columbia, the
5 Commonwealth of Puerto Rico, or a territory or insular possession
6 subject to the jurisdiction of the United States.

7 (kk) "THC concentration" means percent of delta-9
8 tetrahydrocannabinol content per dry weight of any part of the plant
9 *Cannabis*, or per volume or weight of marijuana product, or the
10 combined percent of delta-9 tetrahydrocannabinol and
11 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
12 regardless of moisture content.

13 (ll) "Ultimate user" means an individual who lawfully possesses a
14 controlled substance for the individual's own use or for the use of a
15 member of the individual's household or for administering to an
16 animal owned by the individual or by a member of the individual's
17 household.

18 (mm) "Useable marijuana" means dried marijuana flowers. The term
19 "useable marijuana" does not include either marijuana-infused
20 products or marijuana concentrates.

21 (nn) "Designated provider" has the meaning provided in RCW
22 69.51A.010.

23 (oo) "Qualifying patient" has the meaning provided in RCW
24 69.51A.010.

25 (pp) "CBD concentration" has the meaning provided in RCW
26 69.51A.010.

27 (qq) "Plant" has the meaning provided in RCW 69.51A.010.

28 (rr) "Recognition card" has the meaning provided in RCW
29 69.51A.010.

30 **Sec. 5.** RCW 69.50.325 and 2014 c 192 s 2 are each amended to
31 read as follows:

32 (1) There shall be a marijuana producer's license to produce
33 marijuana for sale at wholesale to marijuana processors and other
34 marijuana producers, regulated by the state liquor ~~((control))~~ and
35 cannabis board and subject to annual renewal. The production,
36 possession, delivery, distribution, and sale of marijuana in
37 accordance with the provisions of this chapter ~~((3, Laws of 2013))~~
38 and the rules adopted to implement and enforce it, by a validly
39 licensed marijuana producer, shall not be a criminal or civil offense

1 under Washington state law. Every marijuana producer's license shall
2 be issued in the name of the applicant, shall specify the location at
3 which the marijuana producer intends to operate, which must be within
4 the state of Washington, and the holder thereof shall not allow any
5 other person to use the license. The application fee for a marijuana
6 producer's license shall be two hundred fifty dollars. The annual fee
7 for issuance and renewal of a marijuana producer's license shall be
8 one thousand dollars. A separate license shall be required for each
9 location at which a marijuana producer intends to produce marijuana.

10 (2) There shall be a marijuana processor's license to process,
11 package, and label marijuana concentrates, useable marijuana, and
12 marijuana-infused products for sale at wholesale to marijuana
13 processors and marijuana retailers, regulated by the state liquor
14 ~~((control))~~ and cannabis board and subject to annual renewal. The
15 processing, packaging, possession, delivery, distribution, and sale
16 of marijuana, useable marijuana, marijuana-infused products, and
17 marijuana concentrates in accordance with the provisions of this
18 chapter ~~((3, Laws of 2013))~~ and chapter 69.51A RCW and the rules
19 adopted to implement and enforce ~~((it))~~ these chapters, by a validly
20 licensed marijuana processor, shall not be a criminal or civil
21 offense under Washington state law. Every marijuana processor's
22 license shall be issued in the name of the applicant, shall specify
23 the location at which the licensee intends to operate, which must be
24 within the state of Washington, and the holder thereof shall not
25 allow any other person to use the license. The application fee for a
26 marijuana processor's license shall be two hundred fifty dollars. The
27 annual fee for issuance and renewal of a marijuana processor's
28 license shall be one thousand dollars. A separate license shall be
29 required for each location at which a marijuana processor intends to
30 process marijuana.

31 (3) There shall be a marijuana retailer's license to sell
32 marijuana concentrates, useable marijuana, and marijuana-infused
33 products at retail in retail outlets, regulated by the state liquor
34 ~~((control))~~ and cannabis board and subject to annual renewal. The
35 possession, delivery, distribution, and sale of marijuana
36 concentrates, useable marijuana, and marijuana-infused products in
37 accordance with the provisions of this chapter ~~((3, Laws of 2013))~~
38 and the rules adopted to implement and enforce it, by a validly
39 licensed marijuana retailer, shall not be a criminal or civil offense
40 under Washington state law. Every marijuana retailer's license shall

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1 be issued in the name of the applicant, shall specify the location of
2 the retail outlet the licensee intends to operate, which must be
3 within the state of Washington, and the holder thereof shall not
4 allow any other person to use the license. The application fee for a
5 marijuana retailer's license shall be two hundred fifty dollars. The
6 annual fee for issuance and renewal of a marijuana retailer's license
7 shall be one thousand dollars. A separate license shall be required
8 for each location at which a marijuana retailer intends to sell
9 marijuana concentrates, useable marijuana, and marijuana-infused
10 products.

11 **Sec. 6.** RCW 69.50.331 and 2013 c 3 s 6 are each amended to read
12 as follows:

13 (1) For the purpose of considering any application for a license
14 to produce, process, or sell marijuana, or for the renewal of a
15 license to produce, process, or sell marijuana, the state liquor
16 ~~((control))~~ and cannabis board must conduct a comprehensive, fair,
17 and impartial evaluation of the applications timely received.

18 (a) The state liquor and cannabis board must develop a
19 competitive, merit-based application process that includes, at a
20 minimum, the opportunity for an applicant to demonstrate experience
21 and qualifications in the marijuana industry. The state liquor and
22 cannabis board shall give preference between competing applications
23 in the licensing process to applicants that have the following
24 experience and qualifications, in the following order of priority:

25 (i) First priority is given to applicants who:

26 (A) Applied to the state liquor and cannabis board for a
27 marijuana retailer license prior to July 1, 2014;

28 (B) Operated or were employed by a collective garden before
29 January 1, 2013;

30 (C) Have maintained a state business license and a municipal
31 business license, as applicable in the relevant jurisdiction; and

32 (D) Have had a history of paying all applicable state taxes and
33 fees;

34 (ii) Second priority shall be given to applicants who:

35 (A) Operated or were employed by a collective garden before
36 January 1, 2013;

37 (B) Have maintained a state business license and a municipal
38 business license, as applicable in the relevant jurisdiction; and

1 (C) Have had a history of paying all applicable state taxes and
 2 fees; and

3 (iii) Third priority shall be given to all other applicants who
 4 do not have the experience and qualifications identified in (a)(i)
 5 and (ii) of this subsection.

6 (b) The state liquor and cannabis board may cause an inspection
 7 of the premises to be made, and may inquire into all matters in
 8 connection with the construction and operation of the premises. For
 9 the purpose of reviewing any application for a license and for
 10 considering the denial, suspension, revocation, or renewal or denial
 11 thereof, of any license, the state liquor (~~((control))~~) and cannabis
 12 board may consider any prior criminal conduct of the applicant
 13 including an administrative violation history record with the state
 14 liquor (~~((control))~~) and cannabis board and a criminal history record
 15 information check. The state liquor (~~((control))~~) and cannabis board
 16 may submit the criminal history record information check to the
 17 Washington state patrol and to the identification division of the
 18 federal bureau of investigation in order that these agencies may
 19 search their records for prior arrests and convictions of the
 20 individual or individuals who filled out the forms. The state liquor
 21 (~~((control))~~) and cannabis board shall require fingerprinting of any
 22 applicant whose criminal history record information check is
 23 submitted to the federal bureau of investigation. The provisions of
 24 RCW 9.95.240 and of chapter 9.96A RCW shall not apply to these cases.
 25 Subject to the provisions of this section, the state liquor
 26 (~~((control))~~) and cannabis board may, in its discretion, grant or deny
 27 the renewal or license applied for. Denial may be based on, without
 28 limitation, the existence of chronic illegal activity documented in
 29 objections submitted pursuant to subsections (7)(c) and (9) of this
 30 section. Authority to approve an uncontested or unopposed license may
 31 be granted by the state liquor (~~((control))~~) and cannabis board to any
 32 staff member the board designates in writing. Conditions for granting
 33 this authority shall be adopted by rule.

34 (c) No license of any kind may be issued to:

35 ~~((a))~~ (i) A person under the age of twenty-one years;

36 ~~((b))~~ (ii) A person doing business as a sole proprietor who has
 37 not lawfully resided in the state for at least three months prior to
 38 applying to receive a license;

39 ~~((c))~~ (iii) A partnership, employee cooperative, association,
 40 nonprofit corporation, or corporation unless formed under the laws of

1 this state, and unless all of the members thereof are qualified to
2 obtain a license as provided in this section; or

3 ~~((d))~~ (iv) A person whose place of business is conducted by a
4 manager or agent, unless the manager or agent possesses the same
5 qualifications required of the licensee.

6 (2)(a) The state liquor ~~((control))~~ and cannabis board may, in
7 its discretion, subject to the provisions of RCW 69.50.334, suspend
8 or cancel any license; and all protections of the licensee from
9 criminal or civil sanctions under state law for producing,
10 processing, or selling marijuana, useable marijuana, or marijuana-
11 infused products thereunder shall be suspended or terminated, as the
12 case may be.

13 (b) The state liquor ~~((control))~~ and cannabis board shall
14 immediately suspend the license of a person who has been certified
15 pursuant to RCW 74.20A.320 by the department of social and health
16 services as a person who is not in compliance with a support order.
17 If the person has continued to meet all other requirements for
18 reinstatement during the suspension, reissuance of the license shall
19 be automatic upon the state liquor ~~((control))~~ and cannabis board's
20 receipt of a release issued by the department of social and health
21 services stating that the licensee is in compliance with the order.

22 (c) The state liquor ~~((control))~~ and cannabis board may request
23 the appointment of administrative law judges under chapter 34.12 RCW
24 who shall have power to administer oaths, issue subpoenas for the
25 attendance of witnesses and the production of papers, books,
26 accounts, documents, and testimony, examine witnesses, and to receive
27 testimony in any inquiry, investigation, hearing, or proceeding in
28 any part of the state, under rules and regulations the state liquor
29 ~~((control))~~ and cannabis board may adopt.

30 (d) Witnesses shall be allowed fees and mileage each way to and
31 from any inquiry, investigation, hearing, or proceeding at the rate
32 authorized by RCW 34.05.446. Fees need not be paid in advance of
33 appearance of witnesses to testify or to produce books, records, or
34 other legal evidence.

35 (e) In case of disobedience of any person to comply with the
36 order of the state liquor ~~((control))~~ and cannabis board or a
37 subpoena issued by the state liquor ~~((control))~~ and cannabis board,
38 or any of its members, or administrative law judges, or on the
39 refusal of a witness to testify to any matter regarding which he or
40 she may be lawfully interrogated, the judge of the superior court of

1 the county in which the person resides, on application of any member
2 of the board or administrative law judge, shall compel obedience by
3 contempt proceedings, as in the case of disobedience of the
4 requirements of a subpoena issued from said court or a refusal to
5 testify therein.

6 (3) Upon receipt of notice of the suspension or cancellation of a
7 license, the licensee shall forthwith deliver up the license to the
8 state liquor (~~((control))~~) and cannabis board. Where the license has
9 been suspended only, the state liquor (~~((control))~~) and cannabis board
10 shall return the license to the licensee at the expiration or
11 termination of the period of suspension. The state liquor (~~((control))~~)
12 and cannabis board shall notify all other licensees in the county
13 where the subject licensee has its premises of the suspension or
14 cancellation of the license; and no other licensee or employee of
15 another licensee may allow or cause any marijuana, useable marijuana,
16 or marijuana-infused products to be delivered to or for any person at
17 the premises of the subject licensee.

18 (4) Every license issued under chapter 3, Laws of 2013 shall be
19 subject to all conditions and restrictions imposed by chapter 3, Laws
20 of 2013 or by rules adopted by the state liquor (~~((control))~~) and
21 cannabis board to implement and enforce chapter 3, Laws of 2013. All
22 conditions and restrictions imposed by the state liquor (~~((control))~~)
23 and cannabis board in the issuance of an individual license shall be
24 listed on the face of the individual license along with the trade
25 name, address, and expiration date.

26 (5) Every licensee shall post and keep posted its license, or
27 licenses, in a conspicuous place on the premises.

28 (6) No licensee shall employ any person under the age of twenty-
29 one years.

30 (7)(a) Before the state liquor (~~((control))~~) and cannabis board
31 issues a new or renewed license to an applicant it shall give notice
32 of the application to the chief executive officer of the incorporated
33 city or town, if the application is for a license within an
34 incorporated city or town, or to the county legislative authority, if
35 the application is for a license outside the boundaries of
36 incorporated cities or towns.

37 (b) The incorporated city or town through the official or
38 employee selected by it, or the county legislative authority or the
39 official or employee selected by it, shall have the right to file
40 with the state liquor (~~((control))~~) and cannabis board within twenty

1 days after the date of transmittal of the notice for applications, or
2 at least thirty days prior to the expiration date for renewals,
3 written objections against the applicant or against the premises for
4 which the new or renewed license is asked. The state liquor
5 (~~control~~) and cannabis board may extend the time period for
6 submitting written objections.

7 (c) The written objections shall include a statement of all facts
8 upon which the objections are based, and in case written objections
9 are filed, the city or town or county legislative authority may
10 request, and the state liquor (~~control~~) and cannabis board may in
11 its discretion hold, a hearing subject to the applicable provisions
12 of Title 34 RCW. If the state liquor (~~control~~) and cannabis board
13 makes an initial decision to deny a license or renewal based on the
14 written objections of an incorporated city or town or county
15 legislative authority, the applicant may request a hearing subject to
16 the applicable provisions of Title 34 RCW. If a hearing is held at
17 the request of the applicant, state liquor (~~control~~) and cannabis
18 board representatives shall present and defend the state liquor
19 (~~control~~) and cannabis board's initial decision to deny a license
20 or renewal.

21 (d) Upon the granting of a license under this title the state
22 liquor (~~control~~) and cannabis board shall send written notification
23 to the chief executive officer of the incorporated city or town in
24 which the license is granted, or to the county legislative authority
25 if the license is granted outside the boundaries of incorporated
26 cities or towns.

27 (8) The state liquor (~~control~~) and cannabis board shall not
28 issue a license for any premises within one thousand feet of the
29 perimeter of the grounds of any elementary or secondary school,
30 playground, recreation center or facility, child care center, public
31 park, public transit center, or library, or any game arcade admission
32 to which is not restricted to persons aged twenty-one years or older.

33 (9) In determining whether to grant or deny a license or renewal
34 of any license, the state liquor (~~control~~) and cannabis board shall
35 give substantial weight to objections from an incorporated city or
36 town or county legislative authority based upon chronic illegal
37 activity associated with the applicant's operations of the premises
38 proposed to be licensed or the applicant's operation of any other
39 licensed premises, or the conduct of the applicant's patrons inside
40 or outside the licensed premises. "Chronic illegal activity" means

1 (a) a pervasive pattern of activity that threatens the public health,
 2 safety, and welfare of the city, town, or county including, but not
 3 limited to, open container violations, assaults, disturbances,
 4 disorderly conduct, or other criminal law violations, or as
 5 documented in crime statistics, police reports, emergency medical
 6 response data, calls for service, field data, or similar records of a
 7 law enforcement agency for the city, town, county, or any other
 8 municipal corporation or any state agency; or (b) an unreasonably
 9 high number of citations for violations of RCW 46.61.502 associated
 10 with the applicant's or licensee's operation of any licensed premises
 11 as indicated by the reported statements given to law enforcement upon
 12 arrest.

13 **Sec. 7.** RCW 69.50.342 and 2013 c 3 s 9 are each amended to read
 14 as follows:

15 (1) For the purpose of carrying into effect the provisions of
 16 chapter 3, Laws of 2013 according to their true intent or of
 17 supplying any deficiency therein, the state liquor ~~((control))~~ and
 18 cannabis board may adopt rules not inconsistent with the spirit of
 19 chapter 3, Laws of 2013 as are deemed necessary or advisable. Without
 20 limiting the generality of the preceding sentence, the state liquor
 21 ~~((control))~~ and cannabis board is empowered to adopt rules regarding
 22 the following:

23 ~~((1))~~ (a) The equipment and management of retail outlets and
 24 premises where marijuana is produced or processed, and inspection of
 25 the retail outlets and premises where marijuana is produced or
 26 processed;

27 ~~((2))~~ (b) The books and records to be created and maintained by
 28 licensees, the reports to be made thereon to the state liquor
 29 ~~((control))~~ and cannabis board, and inspection of the books and
 30 records;

31 ~~((3))~~ (c) Methods of producing, processing, and packaging
 32 marijuana, useable marijuana, marijuana concentrates, and marijuana-
 33 infused products; conditions of sanitation; safe handling
 34 requirements; approved pesticides and pesticide testing requirements;
 35 and standards of ingredients, quality, and identity of marijuana,
 36 useable marijuana, marijuana concentrates, and marijuana-infused
 37 products produced, processed, packaged, or sold by licensees;

1 ~~((4))~~ (d) Security requirements for retail outlets and premises
 2 where marijuana is produced or processed, and safety protocols for
 3 licensees and their employees;

4 ~~((5))~~ (e) Screening, hiring, training, and supervising
 5 employees of licensees;

6 ~~((6))~~ (f) Retail outlet locations and hours of operation;

7 ~~((7))~~ (g) Labeling requirements and restrictions on
 8 advertisement of marijuana, useable marijuana, marijuana
 9 concentrates, and marijuana-infused products for sale in retail
 10 outlets;

11 ~~((8))~~ (h) Forms to be used for purposes of this chapter (~~(3,~~
 12 ~~Laws of 2013))~~ and chapter 69.51A RCW or the rules adopted to
 13 implement and enforce (~~(it))~~ these chapters, the terms and conditions
 14 to be contained in licenses issued under this chapter (~~(3,~~
 15 ~~Laws of 2013))~~ and chapter 69.51A RCW, and the qualifications for receiving a
 16 license issued under this chapter (~~(3,~~
 17 ~~Laws of 2013))~~ and chapter
 18 69.51A RCW, including a criminal history record information check.
 19 The state liquor (~~control~~) and cannabis board may submit any
 20 criminal history record information check to the Washington state
 21 patrol and to the identification division of the federal bureau of
 22 investigation in order that these agencies may search their records
 23 for prior arrests and convictions of the individual or individuals
 24 who filled out the forms. The state liquor (~~control~~) and cannabis
 25 board shall require fingerprinting of any applicant whose criminal
 26 history record information check is submitted to the federal bureau
 27 of investigation;

28 ~~((9))~~ (i) Application, reinstatement, and renewal fees for
 29 licenses issued under this chapter (~~(3,~~
 30 ~~Laws of 2013))~~ and chapter
 31 69.51A RCW, and fees for anything done or permitted to be done under
 32 the rules adopted to implement and enforce this chapter (~~(3,~~
 33 ~~Laws of 2013))~~ and chapter 69.51A RCW;

34 ~~((10))~~ (j) The manner of giving and serving notices required by
 35 this chapter (~~(3,~~
 36 ~~Laws of 2013))~~ and chapter 69.51A RCW or rules
 37 adopted to implement or enforce (~~(it))~~ these chapters;

38 ~~((11))~~ (k) Times and periods when, and the manner, methods, and
 39 means by which, licensees shall transport and deliver marijuana,
 40 marijuana concentrates, useable marijuana, and marijuana-infused
 41 products within the state;

42 ~~((12))~~ (l) Identification, seizure, confiscation, destruction,
 43 or donation to law enforcement for training purposes of all

1 marijuana, marijuana concentrates, useable marijuana, and marijuana-
 2 infused products produced, processed, sold, or offered for sale
 3 within this state which do not conform in all respects to the
 4 standards prescribed by this chapter ((3, Laws of 2013)) or chapter
 5 69.51A RCW or the rules adopted to implement and enforce (~~it~~-
 6 ~~PROVIDED, That nothing in chapter 3, Laws of 2013 shall be construed~~
 7 ~~as authorizing the state liquor control board to seize, confiscate,~~
 8 ~~destroy, or donate to law enforcement marijuana, useable marijuana,~~
 9 ~~or marijuana-infused products produced, processed, sold, offered for~~
 10 ~~sale, or possessed in compliance with the Washington state medical~~
 11 ~~use of cannabis act, chapter 69.51A RCW)) these chapters.~~

12 (2) Rules adopted on retail outlets holding medical marijuana
 13 endorsements must be adopted in coordination and consultation with
 14 the department.

15 **Sec. 8.** RCW 69.50.345 and 2013 c 3 s 10 are each amended to read
 16 as follows:

17 The state liquor (~~control~~) and cannabis board, subject to the
 18 provisions of this chapter ((3, Laws of 2013)), must adopt rules (~~by~~
 19 ~~December 1, 2013,~~) that establish the procedures and criteria
 20 necessary to implement the following:

21 (1) Licensing of marijuana producers, marijuana processors, and
 22 marijuana retailers, including prescribing forms and establishing
 23 application, reinstatement, and renewal fees.

24 (a) Application forms for marijuana producers must request the
 25 applicant to state whether the applicant intends to produce marijuana
 26 for sale by marijuana retailers holding medical marijuana
 27 endorsements and the amount of or percentage of canopy the applicant
 28 intends to commit to growing plants determined by the department
 29 under section 10 of this act to be of a THC concentration, CBD
 30 concentration, or THC to CBD ratio appropriate for marijuana
 31 concentrates, useable marijuana, or marijuana-infused products sold
 32 to qualifying patients.

33 (b) The state liquor and cannabis board must reconsider and
 34 increase limits on the amount of square feet permitted to be in
 35 production on the effective date of this section and increase the
 36 percentage of production space for those marijuana producers who
 37 intend to grow plants for marijuana retailers holding medical
 38 marijuana endorsements if the marijuana producer designates the
 39 increased production space to plants determined by the department

1 under section 10 of this act to be of a THC concentration, CBD
2 concentration, or THC to CBD ratio appropriate for marijuana
3 concentrates, useable marijuana, or marijuana-infused products to be
4 sold to qualifying patients. If current marijuana producers do not
5 use all the increased production space, the state liquor and cannabis
6 board may reopen the license period for new marijuana producer
7 license applicants but only to those marijuana producers who agree to
8 grow plants for marijuana retailers holding medical marijuana
9 endorsements. Priority in licensing must be given to marijuana
10 producer license applicants who have an application pending on the
11 effective date of this section but who are not yet licensed and then
12 to new marijuana producer license applicants. After January 1, 2017,
13 any reconsideration of the limits on the amount of square feet
14 permitted to be in production to meet the medical needs of qualifying
15 patients must consider information contained in the medical marijuana
16 authorization database established in section 21 of this act;

17 (2) Determining, in consultation with the office of financial
18 management, the maximum number of retail outlets that may be licensed
19 in each county, taking into consideration:

20 (a) Population distribution;

21 (b) Security and safety issues; (~~and~~)

22 (c) The provision of adequate access to licensed sources of
23 marijuana concentrates, useable marijuana, and marijuana-infused
24 products to discourage purchases from the illegal market; and

25 (d) The number of retail outlets holding medical marijuana
26 endorsements necessary to meet the medical needs of qualifying
27 patients. The state liquor and cannabis board must reconsider and
28 increase the maximum number of retail outlets it established before
29 the effective date of this section and allow for a new license
30 application period and a greater number of retail outlets to be
31 permitted in order to accommodate the medical needs of qualifying
32 patients and designated providers. After January 1, 2017, any
33 reconsideration of the maximum number of retail outlets needed to
34 meet the medical needs of qualifying patients must consider
35 information contained in the medical marijuana authorization database
36 established in section 21 of this act;

37 (3) Determining the maximum quantity of marijuana a marijuana
38 producer may have on the premises of a licensed location at any time
39 without violating Washington state law;

1 (4) Determining the maximum quantities of marijuana, marijuana
2 concentrates, useable marijuana, and marijuana-infused products a
3 marijuana processor may have on the premises of a licensed location
4 at any time without violating Washington state law;

5 (5) Determining the maximum quantities of marijuana concentrates,
6 useable marijuana, and marijuana-infused products a marijuana
7 retailer may have on the premises of a retail outlet at any time
8 without violating Washington state law;

9 (6) In making the determinations required by (~~subsections (3)~~
10 ~~through (5) of~~) this section, the state liquor (~~control~~) and
11 cannabis board shall take into consideration:

12 (a) Security and safety issues;

13 (b) The provision of adequate access to licensed sources of
14 marijuana, marijuana concentrates, useable marijuana, and marijuana-
15 infused products to discourage purchases from the illegal market; and

16 (c) Economies of scale, and their impact on licensees' ability to
17 both comply with regulatory requirements and undercut illegal market
18 prices;

19 (7) Determining the nature, form, and capacity of all containers
20 to be used by licensees to contain marijuana, marijuana concentrates,
21 useable marijuana, and marijuana-infused products, and their labeling
22 requirements, to include but not be limited to:

23 (a) The business or trade name and Washington state unified
24 business identifier number of the licensees that (~~grew~~)
25 processed(~~ed~~) and sold the marijuana, marijuana concentrates,
26 useable marijuana, or marijuana-infused product;

27 (b) Lot numbers of the marijuana, marijuana concentrates, useable
28 marijuana, or marijuana-infused product;

29 (c) THC concentration and CBD concentration of the marijuana,
30 marijuana concentrates, useable marijuana, or marijuana-infused
31 product;

32 (d) Medically and scientifically accurate information about the
33 health and safety risks posed by marijuana use; and

34 (e) Language required by RCW 69.04.480;

35 (8) In consultation with the department of agriculture and the
36 department, establishing classes of marijuana, marijuana
37 concentrates, useable marijuana, and marijuana-infused products
38 according to grade, condition, cannabinoid profile, THC
39 concentration, CBD concentration, or other qualitative measurements

1 deemed appropriate by the state liquor (~~control~~) and cannabis
2 board;

3 (9) Establishing reasonable time, place, and manner restrictions
4 and requirements regarding advertising of marijuana, marijuana
5 concentrates, useable marijuana, and marijuana-infused products that
6 are not inconsistent with the provisions of this chapter (~~(3, Laws of~~
7 ~~2013)~~), taking into consideration:

8 (a) Federal laws relating to marijuana that are applicable within
9 Washington state;

10 (b) Minimizing exposure of people under twenty-one years of age
11 to the advertising; (~~and~~)

12 (c) The inclusion of medically and scientifically accurate
13 information about the health and safety risks posed by marijuana use
14 in the advertising; and

15 (d) Ensuring that retail outlets with medical marijuana
16 endorsements may advertise themselves as medical retail outlets;

17 (10) Specifying and regulating the time and periods when, and the
18 manner, methods, and means by which, licensees shall transport and
19 deliver marijuana, marijuana concentrates, useable marijuana, and
20 marijuana-infused products within the state;

21 (11) In consultation with the department and the department of
22 agriculture, establishing accreditation requirements for testing
23 laboratories used by licensees to demonstrate compliance with
24 standards adopted by the state liquor (~~control~~) and cannabis board,
25 and prescribing methods of producing, processing, and packaging
26 marijuana, marijuana concentrates, useable marijuana, and marijuana-
27 infused products; conditions of sanitation; and standards of
28 ingredients, quality, and identity of marijuana, marijuana
29 concentrates, useable marijuana, and marijuana-infused products
30 produced, processed, packaged, or sold by licensees;

31 (12) Specifying procedures for identifying, seizing,
32 confiscating, destroying, and donating to law enforcement for
33 training purposes all marijuana, marijuana concentrates, useable
34 marijuana, and marijuana-infused products produced, processed,
35 packaged, labeled, or offered for sale in this state that do not
36 conform in all respects to the standards prescribed by this chapter
37 (~~(3, Laws of 2013)~~) or the rules of the state liquor (~~control~~) and
38 cannabis board.

1 **Sec. 9.** RCW 69.50.354 and 2014 c 192 s 3 are each amended to
2 read as follows:

3 There may be licensed, in no greater number in each of the
4 counties of the state than as the state liquor (~~control~~) and
5 cannabis board shall deem advisable, retail outlets established for
6 the purpose of making marijuana concentrates, useable marijuana, and
7 marijuana-infused products available for sale to adults aged twenty-
8 one and over. Retail sale of marijuana concentrates, useable
9 marijuana, and marijuana-infused products in accordance with the
10 provisions of this chapter (~~(3, Laws of 2013)~~) and the rules adopted
11 to implement and enforce it, by a validly licensed marijuana retailer
12 or retail outlet employee, shall not be a criminal or civil offense
13 under Washington state law.

14 NEW SECTION. **Sec. 10.** A new section is added to chapter 69.50
15 RCW to read as follows:

16 (1) A medical marijuana endorsement to a marijuana retail license
17 is hereby established to permit a marijuana retailer to sell
18 marijuana for medical use to qualifying patients and designated
19 providers. This endorsement also permits such retailers to provide
20 marijuana at no charge, at their discretion, to qualifying patients
21 and designated providers.

22 (2) An applicant may apply for a medical marijuana endorsement
23 concurrently with an application for a marijuana retail license.

24 (3) To be issued an endorsement, a marijuana retailer must:

25 (a) Not authorize the medical use of marijuana for qualifying
26 patients at the retail outlet or permit health care professionals to
27 authorize the medical use of marijuana for qualifying patients at the
28 retail outlet;

29 (b) Carry marijuana concentrates and marijuana-infused products
30 identified by the department under subsection (4) of this section;

31 (c) Not use labels or market marijuana concentrates, useable
32 marijuana, or marijuana-infused products in a way that make them
33 intentionally attractive to minors;

34 (d) Demonstrate the ability to enter qualifying patients and
35 designated providers in the medical marijuana authorization database
36 established in section 21 of this act and issue recognition cards and
37 agree to enter qualifying patients and designated providers into the
38 database and issue recognition cards in compliance with department
39 standards;

1 (e) Keep copies of the qualifying patient's or designated
2 provider's recognition card, or keep equivalent records as required
3 by rule of the state liquor and cannabis board or the department of
4 revenue to document the validity of tax exempt sales; and

5 (f) Meet other requirements as adopted by rule of the department
6 or the state liquor and cannabis board.

7 (4) The department, in conjunction with the state liquor and
8 cannabis board, must adopt rules on requirements for marijuana
9 concentrates, useable marijuana, and marijuana-infused products that
10 may be sold, or provided at no charge, to qualifying patients or
11 designated providers at a retail outlet holding a medical marijuana
12 endorsement. These rules must include:

13 (a) THC concentration, CBD concentration, or low THC, high CBD
14 ratios appropriate for marijuana concentrates, useable marijuana, or
15 marijuana-infused products sold to qualifying patients or designated
16 providers;

17 (b) Labeling requirements including that the labels attached to
18 marijuana concentrates, useable marijuana, or marijuana-infused
19 products contain THC concentration, CBD concentration, and THC to CBD
20 ratios;

21 (c) Other product requirements, including any additional mold,
22 fungus, or pesticide testing requirements, or limitations to the
23 types of solvents that may be used in marijuana processing that the
24 department deems necessary to address the medical needs of qualifying
25 patients;

26 (d) Safe handling requirements for marijuana concentrates,
27 useable marijuana, or marijuana-infused products; and

28 (e) Training requirements for employees.

29 (5) A marijuana retailer holding an endorsement to sell marijuana
30 to qualifying patients or designated providers must train its
31 employees on:

32 (a) Procedures regarding the recognition of valid authorizations
33 and the use of equipment to enter qualifying patients and designated
34 providers into the medical marijuana authorization database;

35 (b) Recognition of valid recognition cards; and

36 (c) Recognition of strains, varieties, THC concentration, CBD
37 concentration, and THC to CBD ratios of marijuana concentrates,
38 useable marijuana, and marijuana-infused products, available for sale
39 when assisting qualifying patients and designated providers at the
40 retail outlet.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 69.50
2 RCW to read as follows:

3 A marijuana retailer or a marijuana retailer holding a medical
4 marijuana endorsement may sell products with a THC concentration of
5 0.3 percent or less. Marijuana retailers holding a medical marijuana
6 endorsement may also provide these products at no charge to
7 qualifying patients or designated providers.

8 **Sec. 12.** RCW 69.50.357 and 2014 c 192 s 4 are each amended to
9 read as follows:

10 (1) Retail outlets shall sell no products or services other than
11 marijuana concentrates, useable marijuana, marijuana-infused
12 products, or paraphernalia intended for the storage or use of
13 marijuana concentrates, useable marijuana, or marijuana-infused
14 products.

15 (2) Licensed marijuana retailers shall not employ persons under
16 twenty-one years of age or allow persons under twenty-one years of
17 age to enter or remain on the premises of a retail outlet. However,
18 qualifying patients between eighteen and twenty-one years of age with
19 a recognition card may enter and remain on the premises of a retail
20 outlet holding a medical marijuana endorsement and may purchase
21 products for their personal medical use. Qualifying patients who are
22 under the age of eighteen with a recognition card and who accompany
23 their designated providers may enter and remain on the premises of a
24 retail outlet holding a medical marijuana endorsement, but may not
25 purchase products for their personal medical use.

26 (3)(a) Licensed marijuana retailers must ensure that all
27 employees are trained on the rules adopted to implement this chapter,
28 identification of persons under the age of twenty-one, and other
29 requirements adopted by the state liquor and cannabis board to ensure
30 that persons under the age of twenty-one are not permitted to enter
31 or remain on the premises of a retail outlet.

32 (b) Licensed marijuana retailers with a medical marijuana
33 endorsement must ensure that all employees are trained on the
34 subjects required by (a) of this subsection as well as identification
35 of authorizations and recognition cards. Employees must also be
36 trained to permit qualifying patients who hold recognition cards and
37 are between the ages of eighteen and twenty-one to enter the premises
38 and purchase marijuana for their personal medical use and to permit
39 qualifying patients who are under the age of eighteen with a

1 recognition card to enter the premises if accompanied by their
 2 designated providers.

3 (4) Licensed marijuana retailers shall not display any signage in
 4 a window, on a door, or on the outside of the premises of a retail
 5 outlet that is visible to the general public from a public right-of-
 6 way, other than a single sign no larger than one thousand six hundred
 7 square inches identifying the retail outlet by the licensee's
 8 business or trade name. Retail outlets that hold medical marijuana
 9 endorsements may include this information on signage.

10 ((+4)) (5) Licensed marijuana retailers shall not display
 11 marijuana concentrates, useable marijuana, or marijuana-infused
 12 products in a manner that is visible to the general public from a
 13 public right-of-way.

14 ((+5)) (6) No licensed marijuana retailer or employee of a
 15 retail outlet shall open or consume, or allow to be opened or
 16 consumed, any marijuana concentrates, useable marijuana, or
 17 marijuana-infused product on the outlet premises.

18 ((+6)) (7) The state liquor ((control)) and cannabis board shall
 19 fine a licensee one thousand dollars for each violation of any
 20 subsection of this section. Fines collected under this section must
 21 be deposited into the dedicated marijuana fund created under RCW
 22 69.50.530.

23 **Sec. 13.** RCW 69.50.360 and 2014 c 192 s 5 are each amended to
 24 read as follows:

25 The following acts, when performed by a validly licensed
 26 marijuana retailer or employee of a validly licensed retail outlet in
 27 compliance with rules adopted by the state liquor ((control)) and
 28 cannabis board to implement and enforce chapter 3, Laws of 2013,
 29 shall not constitute criminal or civil offenses under Washington
 30 state law:

31 (1) Purchase and receipt of marijuana concentrates, useable
 32 marijuana, or marijuana-infused products that have been properly
 33 packaged and labeled from a marijuana processor validly licensed
 34 under this chapter ((3, Laws of 2013));

35 (2) Possession of quantities of marijuana concentrates, useable
 36 marijuana, or marijuana-infused products that do not exceed the
 37 maximum amounts established by the state liquor ((control)) and
 38 cannabis board under RCW 69.50.345(5); and

1 (3) Delivery, distribution, and sale, on the premises of the
2 retail outlet, of any combination of the following amounts of
3 marijuana concentrates, useable marijuana, or marijuana-infused
4 product to any person twenty-one years of age or older:

5 (a) One ounce of useable marijuana;

6 (b) Sixteen ounces of marijuana-infused product in solid form;

7 (c) Seventy-two ounces of marijuana-infused product in liquid
8 form; or

9 (d) Seven grams of marijuana concentrate.

10 **Sec. 14.** RCW 69.50.4013 and 2013 c 3 s 20 are each amended to
11 read as follows:

12 (1) It is unlawful for any person to possess a controlled
13 substance unless the substance was obtained directly from, or
14 pursuant to, a valid prescription or order of a practitioner while
15 acting in the course of his or her professional practice, or except
16 as otherwise authorized by this chapter.

17 (2) Except as provided in RCW 69.50.4014, any person who violates
18 this section is guilty of a class C felony punishable under chapter
19 9A.20 RCW.

20 (3) The possession, by a person twenty-one years of age or older,
21 of useable marijuana or marijuana-infused products in amounts that do
22 not exceed those set forth in RCW 69.50.360(3) is not a violation of
23 this section, this chapter, or any other provision of Washington
24 state law.

25 (4) No person under twenty-one years of age may possess,
26 manufacture, sell, or distribute marijuana, marijuana-infused
27 products, or marijuana concentrates, regardless of THC concentration.
28 This does not include qualifying patients with a valid authorization.

29 (5) The possession by a qualifying patient or designated provider
30 of marijuana concentrates, useable marijuana, marijuana-infused
31 products, or plants in accordance with chapter 69.51A RCW is not a
32 violation of this section, this chapter, or any other provision of
33 Washington state law.

34 NEW SECTION. **Sec. 15.** A new section is added to chapter 69.50
35 RCW to read as follows:

36 (1) Nothing in this chapter permits anyone other than a validly
37 licensed marijuana processor to use butane or other explosive gases
38 to extract or separate resin from marijuana or to produce or process

1 any form of marijuana concentrates or marijuana-infused products that
 2 include marijuana concentrates not purchased from a validly licensed
 3 marijuana retailer as an ingredient. The extraction or separation of
 4 resin from marijuana, the processing of marijuana concentrates, and
 5 the processing of marijuana-infused products that include marijuana
 6 concentrates not purchased from a validly licensed marijuana retailer
 7 as an ingredient by any person other than a validly licensed
 8 marijuana processor each constitute manufacture of marijuana in
 9 violation of RCW 69.50.401. Cooking oil, butter, and other
 10 nonexplosive home cooking substances may be used to make marijuana
 11 extracts for noncommercial personal use.

12 (2) Except for the use of butane, the state liquor and cannabis
 13 board may not enforce this section until it has adopted the rules
 14 required by section 28 of this act.

15 **Sec. 16.** RCW 69.51A.005 and 2011 c 181 s 102 are each amended to
 16 read as follows:

17 (1) The legislature finds that:

18 (a) There is medical evidence that some patients with terminal or
 19 debilitating medical conditions may, under their health care
 20 professional's care, benefit from the medical use of ~~((cannabis))~~
 21 marijuana. Some of the conditions for which ~~((cannabis))~~ marijuana
 22 appears to be beneficial include, but are not limited to:

23 (i) Nausea, vomiting, and cachexia associated with cancer, HIV-
 24 positive status, AIDS, hepatitis C, anorexia, and their treatments;

25 (ii) Severe muscle spasms associated with multiple sclerosis,
 26 epilepsy, and other seizure and spasticity disorders;

27 (iii) Acute or chronic glaucoma;

28 (iv) Crohn's disease; and

29 (v) Some forms of intractable pain.

30 (b) Humanitarian compassion necessitates that the decision to use
 31 ~~((cannabis))~~ marijuana by patients with terminal or debilitating
 32 medical conditions is a personal, individual decision, based upon
 33 their health care professional's professional medical judgment and
 34 discretion.

35 (2) Therefore, the legislature intends that, so long as such
 36 activities are in strict compliance with this chapter:

37 (a) Qualifying patients with terminal or debilitating medical
 38 conditions who, in the judgment of their health care professionals,
 39 may benefit from the medical use of ~~((cannabis))~~ marijuana, shall not

1 be arrested, prosecuted, or subject to other criminal sanctions or
 2 civil consequences under state law based solely on their medical use
 3 of ~~((cannabis))~~ marijuana, notwithstanding any other provision of
 4 law;

5 (b) Persons who act as designated providers to such patients
 6 shall also not be arrested, prosecuted, or subject to other criminal
 7 sanctions or civil consequences under state law, notwithstanding any
 8 other provision of law, based solely on their assisting with the
 9 medical use of ~~((cannabis))~~ marijuana; and

10 (c) Health care professionals shall also not be arrested,
 11 prosecuted, or subject to other criminal sanctions or civil
 12 consequences under state law for the proper authorization of medical
 13 use of ~~((cannabis))~~ marijuana by qualifying patients for whom, in the
 14 health care professional's professional judgment, the medical use of
 15 ~~((cannabis))~~ marijuana may prove beneficial.

16 (3) Nothing in this chapter establishes the medical necessity or
 17 medical appropriateness of ~~((cannabis))~~ marijuana for treating
 18 terminal or debilitating medical conditions as defined in RCW
 19 69.51A.010.

20 (4) Nothing in this chapter diminishes the authority of
 21 correctional agencies and departments, including local governments or
 22 jails, to establish a procedure for determining when the use of
 23 ~~((cannabis))~~ marijuana would impact community safety or the effective
 24 supervision of those on active supervision for a criminal conviction,
 25 nor does it create the right to any accommodation of any medical use
 26 of ~~((cannabis))~~ marijuana in any correctional facility or jail.

27 **Sec. 17.** RCW 69.51A.010 and 2010 c 284 s 2 are each amended to
 28 read as follows:

29 The definitions in this section apply throughout this chapter
 30 unless the context clearly requires otherwise.

31 (1) "Designated provider" means a person who ~~((+~~
 32 ~~(+))~~ is ~~((eighteen))~~ twenty-one years of age or older ~~((+~~
 33 ~~(b))~~ and:

34 (a)(i) Is the parent or guardian of a qualifying patient who is
 35 under the age of eighteen and beginning July 1, 2016, holds a
 36 recognition card; or

37 (ii) Has been designated in writing by a qualifying patient to
 38 serve as ~~((a))~~ the designated provider ~~((under this chapter))~~ for
 39 that patient;

1 (b)(i) Has an authorization from the qualifying patient's health
 2 care professional; or

3 (ii) Beginning July 1, 2016:

4 (A) Has been entered into the medical marijuana authorization
 5 database as being the designated provider to a qualifying patient;
 6 and

7 (B) Has been provided a recognition card;

8 (c) Is prohibited from consuming marijuana obtained for the
 9 personal, medical use of the qualifying patient for whom the
 10 individual is acting as designated provider; ~~((and))~~

11 (d) Provides marijuana to only the qualifying patient that has
 12 designated him or her;

13 (e) Is in compliance with the terms and conditions of this
 14 chapter; and

15 (f) Is the designated provider to only one patient at any one
 16 time.

17 (2) "Health care professional," for purposes of this chapter
 18 only, means a physician licensed under chapter 18.71 RCW, a physician
 19 assistant licensed under chapter 18.71A RCW, an osteopathic physician
 20 licensed under chapter 18.57 RCW, an osteopathic physicians'
 21 assistant licensed under chapter 18.57A RCW, a naturopath licensed
 22 under chapter 18.36A RCW, or an advanced registered nurse
 23 practitioner licensed under chapter 18.79 RCW.

24 (3) "Medical use of marijuana" means the manufacture, production,
 25 possession, transportation, delivery, ingestion, application, or
 26 administration of marijuana~~((, as defined in RCW 69.50.101(q),))~~ for
 27 the exclusive benefit of a qualifying patient in the treatment of his
 28 or her terminal or debilitating ~~((illness))~~ medical condition.

29 (4) "Qualifying patient" means a person who:

30 (a)(i) Is a patient of a health care professional;

31 ~~((b))~~ (ii) Has been diagnosed by that health care professional
 32 as having a terminal or debilitating medical condition;

33 ~~((c))~~ (iii) Is a resident of the state of Washington at the
 34 time of such diagnosis;

35 ~~((d))~~ (iv) Has been advised by that health care professional
 36 about the risks and benefits of the medical use of marijuana; ~~((and~~

37 ~~((e))~~ (v) Has been advised by that health care professional that
 38 they may benefit from the medical use of marijuana;

39 (vi)(A) Has an authorization from his or her health care
 40 professional; or

1 (B) Beginning July 1, 2016, has been entered into the medical
2 marijuana authorization database and has been provided a recognition
3 card; and

4 (vii) Is otherwise in compliance with the terms and conditions
5 established in this chapter.

6 (b) "Qualifying patient" does not include a person who is
7 actively being supervised for a criminal conviction by a corrections
8 agency or department that has determined that the terms of this
9 chapter are inconsistent with and contrary to his or her supervision
10 and all related processes and procedures related to that supervision.

11 (5) "Tamper-resistant paper" means paper that meets one or more
12 of the following industry-recognized features:

13 (a) One or more features designed to prevent copying of the
14 paper;

15 (b) One or more features designed to prevent the erasure or
16 modification of information on the paper; or

17 (c) One or more features designed to prevent the use of
18 counterfeit (~~valid documentation~~) authorization.

19 (6) "Terminal or debilitating medical condition" means a
20 condition severe enough to significantly interfere with the patient's
21 activities of daily living and ability to function, which can be
22 objectively assessed and evaluated and limited to the following:

23 (a) Cancer, human immunodeficiency virus (HIV), multiple
24 sclerosis, epilepsy or other seizure disorder, or spasticity
25 disorders; (~~or~~)

26 (b) Intractable pain, limited for the purpose of this chapter to
27 mean pain unrelieved by standard medical treatments and medications;
28 (~~or~~)

29 (c) Glaucoma, either acute or chronic, limited for the purpose of
30 this chapter to mean increased intraocular pressure unrelieved by
31 standard treatments and medications; (~~or~~)

32 (d) Crohn's disease with debilitating symptoms unrelieved by
33 standard treatments or medications; (~~or~~)

34 (e) Hepatitis C with debilitating nausea or intractable pain
35 unrelieved by standard treatments or medications; (~~or~~)

36 (f) Diseases, including anorexia, which result in nausea,
37 vomiting, wasting, appetite loss, cramping, seizures, muscle spasms,
38 or spasticity, when these symptoms are unrelieved by standard
39 treatments or medications; (~~or~~)

1 (g) (~~Any other medical condition duly approved by the Washington~~
2 ~~state medical quality assurance commission in consultation with the~~
3 ~~board of osteopathic medicine and surgery as directed in this~~
4 ~~chapter~~) Posttraumatic stress disorder; or

5 (h) Traumatic brain injury.

6 (7) (~~"Valid documentation"~~) (a) Until July 1, 2016,
7 "authorization" means:

8 (~~(a)~~) (i) A statement signed and dated by a qualifying
9 patient's health care professional written on tamper-resistant paper,
10 which states that, in the health care professional's professional
11 opinion, the patient may benefit from the medical use of marijuana;
12 and

13 (~~(b)~~) (ii) Proof of identity such as a Washington state
14 driver's license or identicard, as defined in RCW 46.20.035.

15 (b) Beginning July 1, 2016, "authorization" means a form
16 developed by the department that is completed and signed by a
17 qualifying patient's health care professional and printed on tamper-
18 resistant paper.

19 (c) An authorization is not a prescription as defined in RCW
20 69.50.101.

21 (8) "Recognition card" means a card issued to qualifying patients
22 and designated providers by a marijuana retailer with a medical
23 marijuana endorsement that has entered them into the medical
24 marijuana authorization database.

25 (9) "CBD concentration" means the percent of cannabidiol content
26 per dry weight of any part of the plant *Cannabis*, or per volume or
27 weight of marijuana product.

28 (10) "Department" means the department of health.

29 (11) "Marijuana" has the meaning provided in RCW 69.50.101.

30 (12) "Marijuana concentrates" has the meaning provided in RCW
31 69.50.101.

32 (13) "Marijuana processor" has the meaning provided in RCW
33 69.50.101.

34 (14) "Marijuana producer" has the meaning provided in RCW
35 69.50.101.

36 (15) "Marijuana retailer" has the meaning provided in RCW
37 69.50.101.

38 (16) "Marijuana retailer with a medical marijuana endorsement"
39 means a marijuana retailer that has been issued a medical marijuana

1 endorsement by the state liquor and cannabis board pursuant to
2 section 10 of this act.

3 (17) "Marijuana-infused products" has the meaning provided in RCW
4 69.50.101.

5 (18) "Medical marijuana authorization database" means the secure
6 and confidential database established in section 21 of this act.

7 (19) "Plant" means a marijuana plant having at least three
8 distinguishable and distinct leaves, each leaf being at least three
9 centimeters in diameter, and a readily observable root formation
10 consisting of at least two separate and distinct roots, each being at
11 least two centimeters in length. Multiple stalks emanating from the
12 same root ball or root system is considered part of the same single
13 plant.

14 (20) "Retail outlet" has the meaning provided in RCW 69.50.101.

15 (21) "Secretary" means the secretary of the department of health.

16 (22) "THC concentration" has the meaning provided in RCW
17 69.50.101.

18 (23) "Useable marijuana" has the meaning provided in RCW
19 69.50.101.

20 (24) "Low THC, high CBD" means products determined by the
21 department to have a low THC, high CBD ratio under section 10 of this
22 act. Low THC, high CBD products must be inhalable, ingestible, or
23 absorbable.

24 (25) "Public place" has the meaning provided in RCW 70.160.020.

25 (26) "Housing unit" means a house, an apartment, a mobile home, a
26 group of rooms, or a single room that is occupied as separate living
27 quarters, in which the occupants live and eat separately from any
28 other persons in the building, and which have direct access from the
29 outside of the building or through a common hall.

30 **Sec. 18.** RCW 69.51A.030 and 2011 c 181 s 301 are each amended to
31 read as follows:

32 (1) The following acts do not constitute crimes under state law
33 or unprofessional conduct under chapter 18.130 RCW, and a health care
34 professional may not be arrested, searched, prosecuted, disciplined,
35 or subject to other criminal sanctions or civil consequences or
36 liability under state law, or have real or personal property
37 searched, seized, or forfeited pursuant to state law, notwithstanding
38 any other provision of law as long as the health care professional
39 complies with subsection (2) of this section:

1 (a) Advising a patient about the risks and benefits of medical
 2 use of ~~((cannabis))~~ marijuana or that the patient may benefit from
 3 the medical use of ~~((cannabis))~~ marijuana; or

4 (b) Providing a patient or designated provider meeting the
 5 criteria established under RCW 69.51A.010~~((+26+))~~ with ~~((valid~~
 6 ~~documentation))~~ an authorization, based upon the health care
 7 professional's assessment of the patient's medical history and
 8 current medical condition, ~~((where such use is))~~ if the health care
 9 professional has complied with this chapter and he or she determines
 10 within a professional standard of care or in the individual health
 11 care professional's medical judgment the qualifying patient may
 12 benefit from the medical use of marijuana.

13 (2)(a) A health care professional may ~~((only))~~ provide a
 14 qualifying patient or that patient's designated provider with ~~((valid~~
 15 ~~documentation authorizing))~~ an authorization for the medical use of
 16 ~~((cannabis or register the patient with the registry established in~~
 17 ~~section 901 of this act if he or she has a newly initiated or~~
 18 ~~existing documented relationship with the patient, as a primary care~~
 19 ~~provider or a specialist, relating to the diagnosis and ongoing~~
 20 ~~treatment or monitoring of the patient's terminal or debilitating~~
 21 ~~medical condition, and only after:~~

22 ~~(i) Completing a))~~ marijuana in accordance with this section.

23 (b) In order to authorize for the medical use of marijuana under
 24 (a) of this subsection, the health care professional must:

25 (i) Have a documented relationship with the patient, as a
 26 principal care provider or a specialist, relating to the diagnosis
 27 and ongoing treatment or monitoring of the patient's terminal or
 28 debilitating medical condition;

29 (ii) Complete an in-person physical examination of the patient
 30 ~~((as appropriate, based on the patient's condition and age));~~

31 ~~((ii) Documenting))~~ (iii) Document the terminal or debilitating
 32 medical condition of the patient in the patient's medical record and
 33 that the patient may benefit from treatment of this condition or its
 34 symptoms with medical use of ~~((cannabis))~~ marijuana;

35 ~~((iii) Informing))~~ (iv) Inform the patient of other options for
 36 treating the terminal or debilitating medical condition and
 37 documenting in the patient's medical record that the patient has
 38 received this information; ~~((and~~

39 ~~(iv) Documenting))~~ (v) Document in the patient's medical record
 40 other measures attempted to treat the terminal or debilitating

1 medical condition that do not involve the medical use of ~~((cannabis))~~
2 marijuana; and

3 (vi) Complete an authorization on forms developed by the
4 department, in accordance with subsection (3) of this section.

5 ~~((b))~~ (c) For a qualifying patient eighteen years of age or
6 older, an authorization expires one year after its issuance. For a
7 qualifying patient less than eighteen years of age, an authorization
8 expires six months after its issuance. An authorization may be
9 renewed upon completion of an in-person physical examination and
10 compliance with the other requirements of (b) of this subsection.

11 (d) A health care professional shall not:

12 (i) Accept, solicit, or offer any form of pecuniary remuneration
13 from or to a ~~((licensed dispenser, licensed producer, or licensed~~
14 ~~processor of cannabis products))~~ marijuana retailer, marijuana
15 processor, or marijuana producer;

16 (ii) Offer a discount or any other thing of value to a qualifying
17 patient who is a customer of, or agrees to be a customer of, a
18 particular ~~((licensed dispenser, licensed producer, or licensed~~
19 ~~processor of cannabis products))~~ marijuana retailer;

20 (iii) Examine or offer to examine a patient for purposes of
21 diagnosing a terminal or debilitating medical condition at a location
22 where ~~((cannabis))~~ marijuana is produced, processed, or ~~((dispensed))~~
23 sold;

24 (iv) Have a business or practice which consists ~~((solely))~~
25 primarily of authorizing the medical use of ~~((cannabis))~~ marijuana or
26 authorize the medical use of marijuana at any location other than his
27 or her practice's permanent physical location;

28 ~~((Include any statement or reference, visual or otherwise, on~~
29 ~~the medical use of cannabis in any advertisement for his or her~~
30 ~~business or practice)) Except as provided in section 35 of this act,
31 sell, or provide at no charge, marijuana concentrates, marijuana-
32 infused products, or useable marijuana to a qualifying patient or
33 designated provider; or~~

34 (vi) Hold an economic interest in an enterprise that produces,
35 processes, or ~~((dispenses cannabis))~~ sells marijuana if the health
36 care professional authorizes the medical use of ~~((cannabis))~~
37 marijuana.

38 ~~((A violation of any provision of subsection (2) of this~~
39 ~~section constitutes unprofessional conduct under chapter 18.130~~
40 ~~RCW.)) The department shall develop the form for the health care~~

1 professional to use as an authorization for qualifying patients and
2 designated providers. The form shall include the qualifying patient's
3 or designated provider's name, address, and date of birth; the health
4 care professional's name, address, and license number; the amount of
5 marijuana recommended for the qualifying patient; a telephone number
6 where the authorization can be verified during normal business hours;
7 the dates of issuance and expiration; and a statement that an
8 authorization does not provide protection from arrest unless the
9 qualifying patient or designated provider is also entered in the
10 medical marijuana authorization database and holds a recognition
11 card.

12 (4) Until July 1, 2016, a health care professional who, within a
13 single calendar month, authorizes the medical use of marijuana to
14 more than thirty patients must report the number of authorizations
15 issued.

16 (5) The appropriate health professions disciplining authority may
17 inspect or request patient records to confirm compliance with this
18 section. The health care professional must provide access to or
19 produce documents, records, or other items that are within his or her
20 possession or control within twenty-one calendar days of service of a
21 request by the health professions disciplining authority. If the
22 twenty-one calendar day limit results in a hardship upon the health
23 care professional, he or she may request, for good cause, an
24 extension not to exceed thirty additional calendar days. Failure to
25 produce the documents, records, or other items shall result in
26 citations and fines issued consistent with RCW 18.130.230. Failure to
27 otherwise comply with the requirements of this section shall be
28 considered unprofessional conduct and subject to sanctions under
29 chapter 18.130 RCW.

30 (6) After a health care professional authorizes a qualifying
31 patient for the medical use of marijuana, he or she may discuss with
32 the qualifying patient how to use marijuana and the types of products
33 the qualifying patient should seek from a retail outlet.

34 NEW SECTION. Sec. 19. A new section is added to chapter 69.51A
35 RCW to read as follows:

36 As part of authorizing a qualifying patient or designated
37 provider, the health care professional may include recommendations on
38 the amount of marijuana that is likely needed by the qualifying

1 patient for his or her medical needs and in accordance with this
2 section.

3 (1) If the health care professional does not include
4 recommendations on the qualifying patient's or designated provider's
5 authorization, the marijuana retailer with a medical marijuana
6 endorsement, when adding the qualifying patient or designated
7 provider to the medical marijuana authorization database, shall enter
8 into the database that the qualifying patient or designated provider
9 may purchase or obtain at a retail outlet holding a medical marijuana
10 endorsement a combination of the following: Forty-eight ounces of
11 marijuana-infused product in solid form; three ounces of useable
12 marijuana; two hundred sixteen ounces of marijuana-infused product in
13 liquid form; or twenty-one grams of marijuana concentrates. The
14 qualifying patient or designated provider may also grow, in his or
15 her domicile, up to six plants for the personal medical use of the
16 qualifying patient and possess up to eight ounces of useable
17 marijuana produced from his or her plants. These amounts shall be
18 specified on the recognition card that is issued to the qualifying
19 patient or designated provider.

20 (2) If the health care professional determines that the medical
21 needs of a qualifying patient exceed the amounts provided for in
22 subsection (1) of this section, the health care professional must
23 specify on the authorization that it is recommended that the patient
24 be allowed to grow, in his or her domicile, up to fifteen plants for
25 the personal medical use of the patient. A patient so authorized may
26 possess up to sixteen ounces of useable marijuana in his or her
27 domicile. The number of plants must be entered into the medical
28 marijuana authorization database by the marijuana retailer with a
29 medical marijuana endorsement and specified on the recognition card
30 that is issued to the qualifying patient or designated provider.

31 (3) If a qualifying patient or designated provider with an
32 authorization from a health care professional has not been entered
33 into the medical marijuana authorization database, he or she may not
34 receive a recognition card and may only purchase at a retail outlet,
35 whether it holds a medical marijuana endorsement or not, the amounts
36 established in RCW 69.50.360. In addition the qualifying patient or
37 the designated provider may grow, in his or her domicile, up to four
38 plants for the personal medical use of the qualifying patient and
39 possess up to six ounces of useable marijuana in his or her domicile.

1 NEW SECTION. **Sec. 20.** A new section is added to chapter 69.51A
2 RCW to read as follows:

3 (1) Health care professionals may authorize the medical use of
4 marijuana for qualifying patients who are under the age of eighteen
5 if:

6 (a) The minor's parent or guardian participates in the minor's
7 treatment and agrees to the medical use of marijuana by the minor;
8 and

9 (b) The parent or guardian acts as the designated provider for
10 the minor and has sole control over the minor's marijuana.

11 (2) The minor may not grow plants or purchase marijuana-infused
12 products, useable marijuana, or marijuana concentrates from a
13 marijuana retailer with a medical marijuana endorsement.

14 (3) Both the minor and the minor's parent or guardian who is
15 acting as the designated provider must be entered in the medical
16 marijuana authorization database and hold a recognition card.

17 (4) A health care professional who authorizes the medical use of
18 marijuana by a minor must do so as part of the course of treatment of
19 the minor's terminal or debilitating medical condition. If
20 authorizing a minor for the medical use of marijuana, the health care
21 professional must:

22 (a) Consult with other health care providers involved in the
23 minor's treatment, as medically indicated, before authorization or
24 reauthorization of the medical use of marijuana; and

25 (b) Reexamine the minor at least once every six months or more
26 frequently as medically indicated. The reexamination must:

27 (i) Determine that the minor continues to have a terminal or
28 debilitating medical condition and that the condition benefits from
29 the medical use of marijuana; and

30 (ii) Include a follow-up discussion with the minor's parent or
31 guardian to ensure the parent or guardian continues to participate in
32 the treatment of the minor.

33 NEW SECTION. **Sec. 21.** A new section is added to chapter 69.51A
34 RCW to read as follows:

35 (1) The department must contract with an entity to create,
36 administer, and maintain a secure and confidential medical marijuana
37 authorization database that, beginning July 1, 2016, allows:

38 (a) A marijuana retailer with a medical marijuana endorsement to
39 add a qualifying patient or designated provider and include the

1 amount of marijuana concentrates, useable marijuana, marijuana-
2 infused products, or plants for which the qualifying patient is
3 authorized under section 19 of this act;

4 (b) Persons authorized to prescribe or dispense controlled
5 substances to access health care information on their patients for
6 the purpose of providing medical or pharmaceutical care for their
7 patients;

8 (c) A qualifying patient or designated provider to request and
9 receive his or her own health care information or information on any
10 person or entity that has queried their name or information;

11 (d) Appropriate local, state, tribal, and federal law enforcement
12 or prosecutorial officials who are engaged in a bona fide specific
13 investigation of suspected marijuana-related activity that may be
14 illegal under Washington state law to confirm the validity of the
15 recognition card of a qualifying patient or designated provider;

16 (e) A marijuana retailer holding a medical marijuana endorsement
17 to confirm the validity of the recognition card of a qualifying
18 patient or designated provider;

19 (f) The department of revenue to verify tax exemptions under
20 chapters 82.08 and 82.12 RCW;

21 (g) The department and the health care professional's
22 disciplining authorities to monitor authorizations and ensure
23 compliance with this chapter and chapter 18.130 RCW by their
24 licensees; and

25 (h) Authorizations to expire six months or one year after entry
26 into the medical marijuana authorization database, depending on
27 whether the authorization is for a minor or an adult.

28 (2) A qualifying patient and his or her designated provider, if
29 any, may be placed in the medical marijuana authorization database at
30 a marijuana retailer with a medical marijuana endorsement. After a
31 qualifying patient or designated provider is placed in the medical
32 marijuana authorization database, he or she must be provided with a
33 recognition card that contains identifiers required in subsection (3)
34 of this section.

35 (3) The recognition card requirements must be developed by the
36 department in rule and include:

37 (a) A randomly generated and unique identifying number;

38 (b) For designated providers, the unique identifying number of
39 the qualifying patient whom the provider is assisting;

1 (c) A photograph of the qualifying patient's or designated
2 provider's face taken by an employee of the marijuana retailer with a
3 medical marijuana endorsement at the same time that the qualifying
4 patient or designated provider is being placed in the medical
5 marijuana authorization database in accordance with rules adopted by
6 the department;

7 (d) The amount of marijuana concentrates, useable marijuana,
8 marijuana-infused products, or plants for which the qualifying
9 patient is authorized under section 19 of this act;

10 (e) The effective date and expiration date of the recognition
11 card;

12 (f) The name of the health care professional who authorized the
13 qualifying patient or designated provider; and

14 (g) For the recognition card, additional security features as
15 necessary to ensure its validity.

16 (4) For qualifying patients who are eighteen years of age or
17 older and their designated providers, recognition cards are valid for
18 one year from the date the health care professional issued the
19 authorization. For qualifying patients who are under the age of
20 eighteen and their designated providers, recognition cards are valid
21 for six months from the date the health care professional issued the
22 authorization. Qualifying patients may not be reentered into the
23 medical marijuana authorization database until they have been
24 reexamined by a health care professional and determined to meet the
25 definition of qualifying patient. After reexamination, a marijuana
26 retailer with a medical marijuana endorsement must reenter the
27 qualifying patient or designated provider into the medical marijuana
28 authorization database and a new recognition card will then be issued
29 in accordance with department rules.

30 (5) If a recognition card is lost or stolen, a marijuana retailer
31 with a medical marijuana endorsement, in conjunction with the
32 database administrator, may issue a new card that will be valid for
33 six months to one year if the patient is reexamined by a health care
34 professional and determined to meet the definition of qualifying
35 patient and depending on whether the patient is under the age of
36 eighteen or eighteen years of age or older as provided in subsection
37 (4) of this section. If a reexamination is not performed, the
38 expiration date of the replacement recognition card must be the same
39 as the lost or stolen recognition card.

1 (6) The database administrator must remove qualifying patients
2 and designated providers from the medical marijuana authorization
3 database upon expiration of the recognition card. Qualifying patients
4 and designated providers may request to remove themselves from the
5 medical marijuana authorization database before expiration of a
6 recognition card and health care professionals may request to remove
7 qualifying patients and designated providers from the medical
8 marijuana authorization database if the patient or provider no longer
9 qualifies for the medical use of marijuana. The database
10 administrator must retain database records for at least five calendar
11 years to permit the state liquor and cannabis board and the
12 department of revenue to verify eligibility for tax exemptions.

13 (7) During development of the medical marijuana authorization
14 database, the database administrator must consult with the
15 department, stakeholders, and persons with relevant expertise to
16 include, but not be limited to, qualifying patients, designated
17 providers, health care professionals, state and local law enforcement
18 agencies, and the University of Washington computer science and
19 engineering security and privacy research lab or a certified cyber
20 security firm, vendor, or service.

21 (8) The medical marijuana authorization database must meet the
22 following requirements:

23 (a) Any personally identifiable information included in the
24 database must be nonreversible, pursuant to definitions and standards
25 set forth by the national institute of standards and technology;

26 (b) Any personally identifiable information included in the
27 database must not be susceptible to linkage by use of data external
28 to the database;

29 (c) The database must incorporate current best differential
30 privacy practices, allowing for maximum accuracy of database queries
31 while minimizing the chances of identifying the personally
32 identifiable information included therein; and

33 (d) The database must be upgradable and updated in a timely
34 fashion to keep current with state of the art privacy and security
35 standards and practices.

36 (9)(a) Personally identifiable information of qualifying patients
37 and designated providers included in the medical marijuana
38 authorization database is confidential and exempt from public
39 disclosure, inspection, or copying under chapter 42.56 RCW.

1 (b) Information contained in the medical marijuana authorization
2 database may be released in aggregate form, with all personally
3 identifying information redacted, for the purpose of statistical
4 analysis and oversight of agency performance and actions.

5 (c) Information contained in the medical marijuana authorization
6 database shall not be shared with the federal government or its
7 agents unless the particular patient or designated provider is
8 convicted in state court for violating this chapter or chapter 69.50
9 RCW.

10 (10)(a) The department must charge a one dollar fee for each
11 initial and renewal recognition card issued by a marijuana retailer
12 with a medical marijuana endorsement. The marijuana retailer with a
13 medical marijuana endorsement shall collect the fee from the
14 qualifying patient or designated provider at the time that he or she
15 is entered into the database and issued a recognition card. The
16 department shall establish a schedule for marijuana retailers with a
17 medical marijuana endorsement to remit the fees collected. Fees
18 collected under this subsection shall be deposited into the health
19 professions account created under RCW 43.70.320.

20 (b) By November 1, 2016, the department shall report to the
21 governor and the fiscal committees of both the house of
22 representatives and the senate regarding the cost of implementation
23 and administration of the medical marijuana authorization database.
24 The report must specify amounts from the health professions account
25 used to finance the establishment and administration of the medical
26 marijuana authorization database as well as estimates of the
27 continuing costs associated with operating the medical marijuana
28 database. The report must also provide initial enrollment figures in
29 the medical marijuana authorization database and estimates of
30 expected future enrollment.

31 (11) If the database administrator fails to comply with this
32 section, the department may cancel any contracts with the database
33 administrator and contract with another database administrator to
34 continue administration of the database. A database administrator who
35 fails to comply with this section is subject to a fine of up to five
36 thousand dollars in addition to any penalties established in the
37 contract. Fines collected under this section must be deposited into
38 the health professions account created under RCW 43.70.320.

39 (12) The department may adopt rules to implement this section.

1 NEW SECTION. **Sec. 22.** A new section is added to chapter 42.56
2 RCW to read as follows:

3 Records in the medical marijuana authorization database
4 established in section 21 of this act containing names and other
5 personally identifiable information of qualifying patients and
6 designated providers are exempt from disclosure under this chapter.

7 NEW SECTION. **Sec. 23.** A new section is added to chapter 69.51A
8 RCW to read as follows:

9 (1) It is unlawful for a person to knowingly or intentionally:

10 (a) Access the medical marijuana authorization database for any
11 reason not authorized under section 21 of this act;

12 (b) Disclose any information received from the medical marijuana
13 authorization database in violation of section 21 of this act
14 including, but not limited to, qualifying patient or designated
15 provider names, addresses, or amount of marijuana for which they are
16 authorized;

17 (c) Produce a recognition card or to tamper with a recognition
18 card for the purpose of having it accepted by a marijuana retailer
19 holding a medical marijuana endorsement in order to purchase
20 marijuana as a qualifying patient or designated provider or to grow
21 marijuana plants in accordance with this chapter;

22 (d) If a person is a designated provider to a qualifying patient,
23 sell, donate, or supply marijuana produced or obtained for the
24 qualifying patient to another person, or use the marijuana produced
25 or obtained for the qualifying patient for the designated provider's
26 own personal use or benefit; or

27 (e) If the person is a qualifying patient, sell, donate, or
28 otherwise supply marijuana produced or obtained by the qualifying
29 patient to another person.

30 (2) A person who violates this section is guilty of a class C
31 felony.

32 **Sec. 24.** RCW 69.51A.040 and 2011 c 181 s 401 are each amended to
33 read as follows:

34 The medical use of (~~cannabis~~) marijuana in accordance with the
35 terms and conditions of this chapter does not constitute a crime and
36 a qualifying patient or designated provider in compliance with the
37 terms and conditions of this chapter may not be arrested, prosecuted,
38 or subject to other criminal sanctions or civil consequences(~~(7)~~) for

1 possession, manufacture, or delivery of, or for possession with
 2 intent to manufacture or deliver, (~~cannabis~~) marijuana under state
 3 law, or have real or personal property seized or forfeited for
 4 possession, manufacture, or delivery of, or for possession with
 5 intent to manufacture or deliver, (~~cannabis~~) marijuana under state
 6 law, and investigating (~~peace~~) law enforcement officers and (~~law~~
 7 ~~enforcement~~) agencies may not be held civilly liable for failure to
 8 seize (~~cannabis~~) marijuana in this circumstance, if:

9 (1)(a) The qualifying patient or designated provider has been
 10 entered into the medical marijuana authorization database and holds a
 11 valid recognition card and possesses no more than (~~fifteen cannabis~~
 12 ~~plants and~~:

13 (i) ~~No more than twenty four ounces of useable cannabis;~~

14 (ii) ~~No more cannabis product than what could reasonably be~~
 15 ~~produced with no more than twenty four ounces of useable cannabis; or~~

16 (iii) ~~A combination of useable cannabis and cannabis product that~~
 17 ~~does not exceed a combined total representing possession and~~
 18 ~~processing of no more than twenty four ounces of useable cannabis))~~
 19 the amount of marijuana concentrates, useable marijuana, plants, or
 20 marijuana-infused products authorized under section 19 of this act.

21 (~~(b)~~) If a person is both a qualifying patient and a designated
 22 provider for another qualifying patient, the person may possess no
 23 more than twice the amounts described in (~~(a) of this subsection~~)
 24 section 19 of this act for the qualifying patient and designated
 25 provider, whether the plants, (~~useable cannabis, and cannabis~~
 26 ~~product~~) marijuana concentrates, useable marijuana, or marijuana-
 27 infused products are possessed individually or in combination between
 28 the qualifying patient and his or her designated provider;

29 (~~(2)~~) (b) The qualifying patient or designated provider
 30 presents his or her (~~proof of registration with the department of~~
 31 ~~health,~~) recognition card to any (~~peace~~) law enforcement officer
 32 who questions the patient or provider regarding his or her medical
 33 use of (~~cannabis~~) marijuana;

34 (~~(3)~~) (c) The qualifying patient or designated provider keeps a
 35 copy of his or her (~~proof of registration with the registry~~
 36 ~~established in section 901 of this act~~) recognition card and the
 37 qualifying patient or designated provider's contact information
 38 posted prominently next to any (~~cannabis~~) plants, (~~cannabis~~)
 39 marijuana concentrates, marijuana-infused products, or useable
 40 (~~cannabis~~) marijuana located at his or her residence;

1 ~~((4))~~ (d) The investigating ~~((peace))~~ law enforcement officer
2 does not possess evidence that:

3 ~~((a))~~ (i) The designated provider has converted ~~((cannabis))~~
4 marijuana produced or obtained for the qualifying patient for his or
5 her own personal use or benefit; or

6 ~~((b))~~ (ii) The qualifying patient ~~((has converted cannabis~~
7 ~~produced or obtained for his or her own medical use to the qualifying~~
8 ~~patient's personal, nonmedical use or benefit))~~ sold, donated, or
9 supplied marijuana to another person; and

10 ~~((5))~~ (e) The ~~((investigating peace officer does not possess~~
11 ~~evidence that the))~~ designated provider has not served as a
12 designated provider to more than one qualifying patient within a
13 fifteen-day period; ~~((and~~

14 ~~(6))~~ or

15 (2) The ~~((investigating peace officer has not observed evidence~~
16 ~~of any of the circumstances identified in section 901(4))~~ qualifying
17 patient or designated provider participates in a cooperative as
18 provided in section 26 of this act.

19 **Sec. 25.** RCW 69.51A.043 and 2011 c 181 s 402 are each amended to
20 read as follows:

21 (1) A qualifying patient or designated provider who has a valid
22 authorization from his or her health care professional, but is not
23 ~~((registered with the registry established in section 901 of this~~
24 ~~act))~~ entered in the medical marijuana authorization database and
25 does not have a recognition card may raise the affirmative defense
26 set forth in subsection (2) of this section, if:

27 (a) The qualifying patient or designated provider presents his or
28 her ~~((valid documentation to any peace))~~ authorization to any law
29 enforcement officer who questions the patient or provider regarding
30 his or her medical use of ~~((cannabis))~~ marijuana;

31 (b) The qualifying patient or designated provider possesses no
32 more ~~((cannabis))~~ marijuana than the limits set forth in ~~((RCW~~
33 ~~69.51A.040(1))~~ section 19(3) of this act;

34 (c) The qualifying patient or designated provider is in
35 compliance with all other terms and conditions of this chapter;

36 (d) The investigating ~~((peace))~~ law enforcement officer does not
37 have probable cause to believe that the qualifying patient or
38 designated provider has committed a felony, or is committing a

1 misdemeanor in the officer's presence, that does not relate to the
2 medical use of ~~((cannabis))~~ marijuana; and

3 (e) No outstanding warrant for arrest exists for the qualifying
4 patient or designated provider ~~((; and~~

5 ~~((f) The investigating peace officer has not observed evidence of
6 any of the circumstances identified in section 901(4) of this act)).~~

7 (2) A qualifying patient or designated provider who is not
8 ~~((registered with the registry established in section 901 of this
9 act))~~ entered in the medical marijuana authorization database and
10 does not have a recognition card, but who presents his or her ~~((valid
11 documentation))~~ authorization to any ~~((peace))~~ law enforcement
12 officer who questions the patient or provider regarding his or her
13 medical use of ~~((cannabis))~~ marijuana, may assert an affirmative
14 defense to charges of violations of state law relating to
15 ~~((cannabis))~~ marijuana through proof at trial, by a preponderance of
16 the evidence, that he or she otherwise meets the requirements of RCW
17 69.51A.040. A qualifying patient or designated provider meeting the
18 conditions of this subsection but possessing more ~~((cannabis))~~
19 marijuana than the limits set forth in ~~((RCW 69.51A.040(1)))~~ section
20 19(3) of this act may, in the investigating ~~((peace))~~ law enforcement
21 officer's discretion, be taken into custody and booked into jail in
22 connection with the investigation of the incident.

23 NEW SECTION. Sec. 26. A new section is added to chapter 69.51A
24 RCW to read as follows:

25 (1) Qualifying patients or designated providers may form a
26 cooperative and share responsibility for acquiring and supplying the
27 resources needed to produce and process marijuana only for the
28 medical use of members of the cooperative. No more than four
29 qualifying patients or designated providers may become members of a
30 cooperative under this section and all members must hold valid
31 recognition cards. All members of the cooperative must be at least
32 twenty-one years old. The designated provider of a qualifying patient
33 who is under twenty-one years old may be a member of a cooperative on
34 the qualifying patient's behalf.

35 (2) Cooperatives may not be located within one mile of a
36 marijuana retailer. People who wish to form a cooperative must
37 register the location with the state liquor and cannabis board and
38 this is the only location where cooperative members may grow or
39 process marijuana. This registration must include the names of all

1 participating members and copies of each participant's recognition
2 card. Only qualifying patients or designated providers registered
3 with the state liquor and cannabis board in association with the
4 location may participate in growing or receive useable marijuana or
5 marijuana-infused products grown at that location. The state liquor
6 and cannabis board must deny the registration of any cooperative if
7 the location is within one mile of a marijuana retailer.

8 (3) If a qualifying patient or designated provider no longer
9 participates in growing at the location, he or she must notify the
10 state liquor and cannabis board within fifteen days of the date the
11 qualifying patient or designated provider ceases participation. The
12 state liquor and cannabis board must remove his or her name from
13 connection to the cooperative. Additional qualifying patients or
14 designated providers may not join the cooperative until sixty days
15 have passed since the date on which the last qualifying patient or
16 designated provider notifies the state liquor and cannabis board that
17 he or she no longer participates in that cooperative.

18 (4) Qualifying patients or designated providers who participate
19 in a cooperative under this section:

20 (a) May grow up to the total amount of plants for which each
21 participating member is authorized on their recognition cards, up to
22 a maximum of sixty plants. At the location, the qualifying patients
23 or designated providers may possess the amount of useable marijuana
24 that can be produced with the number of plants permitted under this
25 subsection, but no more than seventy-two ounces;

26 (b) May only participate in one cooperative;

27 (c) May only grow plants in the cooperative and if he or she
28 grows plants in the cooperative may not grow plants elsewhere;

29 (d) Must provide assistance in growing plants. A monetary
30 contribution or donation is not to be considered assistance under
31 this section. Participants must provide nonmonetary resources and
32 labor in order to participate; and

33 (e) May not sell, donate, or otherwise provide marijuana,
34 marijuana concentrates, useable marijuana, or marijuana-infused
35 products to a person who is not participating under this section.

36 (5) The location of the cooperative must be the domicile of one
37 of the participants. Only one cooperative may be located per property
38 tax parcel. A copy of each participant's recognition card must be
39 kept at the location at all times.

1 (6) The state liquor and cannabis board may adopt rules to
2 implement this section including:

3 (a) Any security requirements necessary to ensure the safety of
4 the cooperative and to reduce the risk of diversion from the
5 cooperative;

6 (b) A seed to sale traceability model that is similar to the seed
7 to sale traceability model used by licensees that will allow the
8 state liquor and cannabis board to track all marijuana grown in a
9 cooperative.

10 (7) The state liquor and cannabis board or law enforcement may
11 inspect a cooperative registered under this section to ensure members
12 are in compliance with this section. The state liquor and cannabis
13 board must adopt rules on reasonable inspection hours and reasons for
14 inspections.

15 NEW SECTION. **Sec. 27.** A new section is added to chapter 69.51A
16 RCW to read as follows:

17 (1) Notwithstanding any other provision of this chapter and even
18 if multiple qualifying patients or designated providers reside in the
19 same housing unit, no more than fifteen plants may be grown or
20 located in any one housing unit other than a cooperative established
21 pursuant to section 26 of this act.

22 (2) Neither the production nor processing of marijuana or
23 marijuana-infused products pursuant to this section nor the storage
24 or growing of plants may occur if any portion of such activity can be
25 readily seen by normal unaided vision or readily smelled from a
26 public place or the private property of another housing unit.

27 (3) Cities, towns, counties, and other municipalities may create
28 and enforce civil penalties, including abatement procedures, for the
29 growing or processing of marijuana and for keeping marijuana plants
30 beyond or otherwise not in compliance with this section.

31 NEW SECTION. **Sec. 28.** A new section is added to chapter 69.51A
32 RCW to read as follows:

33 (1) Once the state liquor and cannabis board adopts rules under
34 subsection (2) of this section, qualifying patients or designated
35 providers may only extract or separate the resin from marijuana or
36 produce or process any form of marijuana concentrates or
37 marijuana-infused products in accordance with those standards.

1 (2) The state liquor and cannabis board must adopt rules
 2 permitting qualifying patients and designated providers to extract or
 3 separate the resin from marijuana using noncombustible methods. The
 4 rules must provide the noncombustible methods permitted and any
 5 restrictions on this practice.

6 **Sec. 29.** RCW 69.51A.045 and 2011 c 181 s 405 are each amended to
 7 read as follows:

8 (1) A qualifying patient or designated provider in possession of
 9 ~~((cannabis))~~ plants, marijuana concentrates, useable ~~((cannabis))~~
 10 marijuana, or ~~((cannabis))~~ marijuana-infused products exceeding the
 11 limits set forth in ~~((RCW 69.51A.040(1)))~~ this chapter but otherwise
 12 in compliance with all other terms and conditions of this chapter may
 13 establish an affirmative defense to charges of violations of state
 14 law relating to ~~((cannabis))~~ marijuana through proof at trial, by a
 15 preponderance of the evidence, that the qualifying patient's
 16 necessary medical use exceeds the amounts set forth in RCW
 17 69.51A.040(~~((1))~~).

18 (2) An investigating ~~((peace))~~ law enforcement officer may seize
 19 ~~((cannabis))~~ plants, marijuana concentrates, useable ~~((cannabis))~~
 20 marijuana, or ~~((cannabis))~~ marijuana-infused products exceeding the
 21 amounts set forth in ~~((RCW 69.51A.040(1): PROVIDED, That))~~ this
 22 chapter. In the case of ~~((cannabis))~~ plants, the qualifying patient
 23 or designated provider shall be allowed to select the plants that
 24 will remain at the location. The officer and his or her law
 25 enforcement agency may not be held civilly liable for failure to
 26 seize ~~((cannabis))~~ marijuana in this circumstance.

27 **Sec. 30.** RCW 69.51A.055 and 2011 c 181 s 1105 are each amended
 28 to read as follows:

29 (1)(a) The arrest and prosecution protections established in RCW
 30 69.51A.040 may not be asserted in a supervision revocation or
 31 violation hearing by a person who is supervised by a corrections
 32 agency or department, including local governments or jails, that has
 33 determined that the terms of this section are inconsistent with and
 34 contrary to his or her supervision.

35 (b) The affirmative defenses established in RCW 69.51A.043(~~((7))~~)
 36 and 69.51A.045(~~((7, 69.51A.047, and section 407 of this act))~~) may not
 37 be asserted in a supervision revocation or violation hearing by a
 38 person who is supervised by a corrections agency or department,

ATTACHMENT 2

1 including local governments or jails, that has determined that the
2 terms of this section are inconsistent with and contrary to his or
3 her supervision.

4 (2) (~~The provisions of~~) RCW 69.51A.040(~~(, 69.51A.085, and~~
5 ~~69.51A.025 de~~) does not apply to a person who is supervised for a
6 criminal conviction by a corrections agency or department, including
7 local governments or jails, that has determined that the terms of
8 this chapter are inconsistent with and contrary to his or her
9 supervision.

10 (~~(3) A person may not be licensed as a licensed producer,~~
11 ~~licensed processor of cannabis products, or a licensed dispenser~~
12 ~~under section 601, 602, or 701 of this act if he or she is supervised~~
13 ~~for a criminal conviction by a corrections agency or department,~~
14 ~~including local governments or jails, that has determined that~~
15 ~~licensure is inconsistent with and contrary to his or her~~
16 ~~supervision.))~~

17 **Sec. 31.** RCW 69.51A.060 and 2011 c 181 s 501 are each amended to
18 read as follows:

19 (1) It shall be a class 3 civil infraction to use or display
20 medical (~~(cannabis))~~ marijuana in a manner or place which is open to
21 the view of the general public.

22 (2) Nothing in this chapter establishes a right of care as a
23 covered benefit or requires any state purchased health care as
24 defined in RCW 41.05.011 or other health carrier or health plan as
25 defined in Title 48 RCW to be liable for any claim for reimbursement
26 for the medical use of (~~(cannabis))~~ marijuana. Such entities may
27 enact coverage or noncoverage criteria or related policies for
28 payment or nonpayment of medical (~~(cannabis))~~ marijuana in their sole
29 discretion.

30 (3) Nothing in this chapter requires any health care professional
31 to authorize the medical use of (~~(cannabis))~~ marijuana for a patient.

32 (4) Nothing in this chapter requires any accommodation of any on-
33 site medical use of (~~(cannabis))~~ marijuana in any place of
34 employment, in any school bus or on any school grounds, in any youth
35 center, in any correctional facility, or smoking (~~(cannabis))~~
36 marijuana in any public place or hotel or motel. However, a school
37 may permit a minor who meets the requirements of section 20 of this
38 act to consume marijuana on school grounds. Such use must be in

1 accordance with school policy relating to medication use on school
 2 grounds.

3 (5) Nothing in this chapter authorizes the possession or use of
 4 marijuana, marijuana concentrates, useable marijuana, or marijuana-
 5 infused products on federal property.

6 ~~((+5))~~ (6) Nothing in this chapter authorizes the use of medical
 7 ~~((cannabis))~~ marijuana by any person who is subject to the Washington
 8 code of military justice in chapter 38.38 RCW.

9 ~~((+6))~~ (7) Employers may establish drug-free work policies.
 10 Nothing in this chapter requires an accommodation for the medical use
 11 of ~~((cannabis))~~ marijuana if an employer has a drug-free workplace.

12 ~~((+7) It is a class C felony to fraudulently produce any record~~
 13 ~~purporting to be, or tamper with the content of any record for the~~
 14 ~~purpose of having it accepted as, valid documentation under RCW~~
 15 ~~69.51A.010(32)(a), or to backdate such documentation to a time~~
 16 ~~earlier than its actual date of execution.))~~

17 (8) No person shall be entitled to claim the protection from
 18 arrest and prosecution under RCW 69.51A.040 or the affirmative
 19 defense under RCW 69.51A.043 for engaging in the medical use of
 20 ~~((cannabis))~~ marijuana in a way that endangers the health or well-
 21 being of any person through the use of a motorized vehicle on a
 22 street, road, or highway, including violations of RCW 46.61.502 or
 23 46.61.504, or equivalent local ordinances.

24 **Sec. 32.** RCW 69.51A.085 and 2011 c 181 s 403 are each amended to
 25 read as follows:

26 (1) Qualifying patients may create and participate in collective
 27 gardens for the purpose of producing, processing, transporting, and
 28 delivering ~~((cannabis))~~ marijuana for medical use subject to the
 29 following conditions:

30 (a) No more than ten qualifying patients may participate in a
 31 single collective garden at any time;

32 (b) No person under the age of twenty-one may participate in a
 33 collective garden or receive marijuana that was produced, processed,
 34 transported, or delivered through a collective garden. A designated
 35 provider for a person who is under the age of twenty-one may
 36 participate in a collective garden on behalf of the person under the
 37 age of twenty-one;

38 (c) A collective garden may contain no more than fifteen plants
 39 per patient up to a total of forty-five plants;

1 ~~((e))~~ (d) A collective garden may contain no more than twenty-
2 four ounces of useable ~~((cannabis))~~ marijuana per patient up to a
3 total of seventy-two ounces of useable ~~((cannabis))~~ marijuana;

4 ~~((d))~~ (e) A copy of each qualifying patient's ~~((valid~~
5 ~~documentation or proof of registration with the registry established~~
6 ~~in section 901 of this act))~~ authorization, including a copy of the
7 patient's proof of identity, must be available at all times on the
8 premises of the collective garden; and

9 ~~((e))~~ (f) No useable ~~((cannabis))~~ marijuana from the collective
10 garden is delivered to anyone other than one of the qualifying
11 patients participating in the collective garden.

12 (2) For purposes of this section, the creation of a "collective
13 garden" means qualifying patients sharing responsibility for
14 acquiring and supplying the resources required to produce and process
15 cannabis for medical use such as, for example, a location for a
16 collective garden; equipment, supplies, and labor necessary to plant,
17 grow, and harvest ~~((cannabis; cannabis))~~ marijuana plants, seeds, and
18 cuttings; and equipment, supplies, and labor necessary for proper
19 construction, plumbing, wiring, and ventilation of a garden of
20 ~~((cannabis))~~ marijuana plants.

21 (3) A person who knowingly violates a provision of subsection (1)
22 of this section is not entitled to the protections of this chapter.

23 NEW SECTION. **Sec. 33.** A new section is added to chapter 69.50
24 RCW to read as follows:

25 (1) The state liquor and cannabis board may conduct controlled
26 purchase programs to determine whether:

27 (a) A marijuana retailer is unlawfully selling marijuana to
28 persons under the age of twenty-one;

29 (b) A marijuana retailer holding a medical marijuana endorsement
30 is selling to persons under the age of eighteen or selling to persons
31 between the ages of eighteen and twenty-one who do not hold valid
32 recognition cards;

33 (c) Until July 1, 2016, collective gardens under RCW 69.51A.085
34 are providing marijuana to persons under the age of twenty-one; or

35 (d) A cooperative organized under section 26 of this act is
36 permitting a person under the age of twenty-one to participate.

37 (2) Every person under the age of twenty-one years who purchases
38 or attempts to purchase marijuana is guilty of a violation of this
39 section. This section does not apply to:

1 (a) Persons between the ages of eighteen and twenty-one who hold
2 valid recognition cards and purchase marijuana at a marijuana retail
3 outlet holding a medical marijuana endorsement;

4 (b) Persons between the ages of eighteen and twenty-one years who
5 are participating in a controlled purchase program authorized by the
6 state liquor and cannabis board under rules adopted by the board.
7 Violations occurring under a private, controlled purchase program
8 authorized by the state liquor and cannabis board may not be used for
9 criminal or administrative prosecution.

10 (3) A marijuana retailer who conducts an in-house controlled
11 purchase program authorized under this section shall provide his or
12 her employees a written description of the employer's in-house
13 controlled purchase program. The written description must include
14 notice of actions an employer may take as a consequence of an
15 employee's failure to comply with company policies regarding the sale
16 of marijuana during an in-house controlled purchase program.

17 (4) An in-house controlled purchase program authorized under this
18 section shall be for the purposes of employee training and employer
19 self-compliance checks. A marijuana retailer may not terminate an
20 employee solely for a first-time failure to comply with company
21 policies regarding the sale of marijuana during an in-house
22 controlled purchase program authorized under this section.

23 (5) Every person between the ages of eighteen and twenty-one who
24 is convicted of a violation of this section is guilty of a
25 misdemeanor punishable as provided by RCW 9A.20.021.

26 **Sec. 34.** RCW 69.51A.100 and 2011 c 181 s 404 are each amended to
27 read as follows:

28 (1) A qualifying patient may revoke his or her designation of a
29 specific designated provider and designate a different designated
30 provider at any time. A revocation of designation must be in writing,
31 signed and dated, and provided to the designated provider and, if
32 applicable, the medical marijuana authorization database
33 administrator. The protections of this chapter cease to apply to a
34 person who has served as a designated provider to a qualifying
35 patient seventy-two hours after receipt of that patient's revocation
36 of his or her designation.

37 (2) A person may stop serving as a designated provider to a given
38 qualifying patient at any time by revoking that designation in
39 writing, signed and dated, and provided to the qualifying patient

1 and, if applicable, the medical marijuana authorization database
 2 administrator. However, that person may not begin serving as a
 3 designated provider to a different qualifying patient until fifteen
 4 days have elapsed from the date the last qualifying patient
 5 designated him or her to serve as a provider.

6 (3) The department may adopt rules to implement this section,
 7 including a procedure to remove the name of the designated provider
 8 from the medical marijuana authorization database upon receipt of a
 9 revocation under this section.

10 NEW SECTION. Sec. 35. A new section is added to chapter 69.51A
 11 RCW to read as follows:

12 Neither this chapter nor chapter 69.50 RCW prohibits a health
 13 care professional from selling or donating topical, noningestible
 14 products that have a THC concentration of less than .3 percent to
 15 qualifying patients.

16 ****NEW SECTION. Sec. 36. A new section is added to chapter 69.51A***
 17 ***RCW to read as follows:***

18 ***Employers of a health care professional may not prohibit or limit***
 19 ***the authority of any health care professional to:***

20 ***(1) Advise a patient about the risks and benefits of the medical***
 21 ***use of marijuana or that the patient may benefit from the medical use***
 22 ***of marijuana; or***

23 ***(2) Provide a patient or designated provider meeting the criteria***
 24 ***established under RCW 69.51A.010 with an authorization, based upon***
 25 ***the health care professional's assessment of the patient's medical***
 26 ***history and current medical condition, if the health care***
 27 ***professional has complied with this chapter and he or she determines***
 28 ***within a professional standard of care or in the individual health***
 29 ***care professional's medical judgment the qualifying patient may***
 30 ***benefit from the medical use of marijuana.***

****Sec. 36 was vetoed. See message at end of chapter.***

31 NEW SECTION. Sec. 37. A new section is added to chapter 69.51A
 32 RCW to read as follows:

33 A medical marijuana consultant certificate is hereby established.

34 (1) In addition to any other authority provided by law, the
 35 secretary of the department may:

1 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary
2 to implement this chapter;

3 (b) Establish forms and procedures necessary to administer this
4 chapter;

5 (c) Approve training or education programs that meet the
6 requirements of this section and any rules adopted to implement it;

7 (d) Receive criminal history record information that includes
8 nonconviction information data for any purpose associated with
9 initial certification or renewal of certification. The secretary
10 shall require each applicant for initial certification to obtain a
11 state or federal criminal history record information background check
12 through the state patrol or the state patrol and the identification
13 division of the federal bureau of investigation prior to the issuance
14 of any certificate. The secretary shall specify those situations
15 where a state background check is inadequate and an applicant must
16 obtain an electronic fingerprint-based national background check
17 through the state patrol and federal bureau of investigation.
18 Situations where a background check is inadequate may include
19 instances where an applicant has recently lived out-of-state or where
20 the applicant has a criminal record in Washington;

21 (e) Establish administrative procedures, administrative
22 requirements, and fees in accordance with RCW 43.70.110 and
23 43.70.250; and

24 (f) Maintain the official department record of all applicants and
25 certificate holders.

26 (2) A training or education program approved by the secretary
27 must include the following topics:

28 (a) The medical conditions that constitute terminal or
29 debilitating conditions, and the symptoms of those conditions;

30 (b) Short and long-term effects of cannabinoids;

31 (c) Products that may benefit qualifying patients based on the
32 patient's terminal or debilitating medical condition;

33 (d) Risks and benefits of various routes of administration;

34 (e) Safe handling and storage of useable marijuana, marijuana-
35 infused products, and marijuana concentrates, including strategies to
36 reduce access by minors;

37 (f) Demonstrated knowledge of this chapter and the rules adopted
38 to implement it; and

39 (g) Other subjects deemed necessary and appropriate by the
40 secretary to ensure medical marijuana consultant certificate holders

1 are able to provide evidence-based and medically accurate advice on
2 the medical use of marijuana.

3 (3) Medical marijuana consultant certificates are subject to
4 annual renewals and continuing education requirements established by
5 the secretary.

6 (4) The secretary shall have the power to refuse, suspend, or
7 revoke the certificate of any medical marijuana consultant upon proof
8 that:

9 (a) The certificate was procured through fraud,
10 misrepresentation, or deceit;

11 (b) The certificate holder has committed acts in violation of
12 subsection (6) of this section; or

13 (c) The certificate holder has violated or has permitted any
14 employee or volunteer to violate any of the laws of this state
15 relating to drugs or controlled substances or has been convicted of a
16 felony.

17 In any case of the refusal, suspension, or revocation of a
18 certificate by the secretary under the provisions of this chapter,
19 appeal may be taken in accordance with chapter 34.05 RCW, the
20 administrative procedure act.

21 (5) A medical marijuana consultant may provide the following
22 services when acting as an owner, employee, or volunteer of a retail
23 outlet licensed under RCW 69.50.354 and holding a medical marijuana
24 endorsement under section 10 of this act:

25 (a) Assisting a customer with the selection of products sold at
26 the retail outlet that may benefit the qualifying patient's terminal
27 or debilitating medical condition;

28 (b) Describing the risks and benefits of products sold at the
29 retail outlet;

30 (c) Describing the risks and benefits of methods of
31 administration of products sold at the retail outlet;

32 (d) Advising a customer about the safe handling and storage of
33 useable marijuana, marijuana-infused products, and marijuana
34 concentrates, including strategies to reduce access by minors; and

35 (e) Providing instruction and demonstrations to customers about
36 proper use and application of useable marijuana, marijuana-infused
37 products, and marijuana concentrates.

38 (6) Nothing in this section authorizes a medical marijuana
39 consultant to:

1 (a) Offer or undertake to diagnose or cure any human disease,
2 ailment, injury, infirmity, deformity, pain, or other condition,
3 physical or mental, real or imaginary, by use of marijuana or any
4 other means or instrumentality; or

5 (b) Recommend or suggest modification or elimination of any
6 course of treatment that does not involve the medical use of
7 marijuana.

8 (7) Nothing in this section requires an owner, employee, or
9 volunteer of a retail outlet licensed under RCW 69.50.354 and holding
10 a medical marijuana endorsement under section 10 of this act to
11 obtain a medical marijuana consultant certification.

12 (8) Nothing in this section applies to the practice of a health
13 care profession by individuals who are licensed, certified, or
14 registered in a profession listed in RCW 18.130.040(2) and who are
15 performing services within their authorized scope of practice.

16 NEW SECTION. **Sec. 38.** A new section is added to chapter 69.51A
17 RCW to read as follows:

18 The board of naturopathy, the board of osteopathic medicine and
19 surgery, the medical quality assurance commission, and the nursing
20 care quality assurance commission shall develop and approve
21 continuing education programs related to the use of marijuana for
22 medical purposes for the health care providers that they each
23 regulate that are based upon practice guidelines that have been
24 adopted by each entity.

25 **Sec. 39.** RCW 43.70.320 and 2008 c 134 s 16 are each amended to
26 read as follows:

27 (1) There is created in the state treasury an account to be known
28 as the health professions account. All fees received by the
29 department for health professions licenses, registration,
30 certifications, renewals, or examinations and the civil penalties
31 assessed and collected by the department under RCW 18.130.190 shall
32 be forwarded to the state treasurer who shall credit such moneys to
33 the health professions account.

34 (2) All expenses incurred in carrying out the health professions
35 licensing activities of the department and implementing and
36 administering the medical marijuana authorization database
37 established in section 21 of this act shall be paid from the account
38 as authorized by legislative appropriation, except as provided in

1 subsection (4) of this section. Any residue in the account shall be
 2 accumulated and shall not revert to the general fund at the end of
 3 the biennium.

4 (3) The secretary shall biennially prepare a budget request based
 5 on the anticipated costs of administering the health professions
 6 licensing activities of the department which shall include the
 7 estimated income from health professions fees.

8 (4) The secretary shall, at the request of a board or commission
 9 as applicable, spend unappropriated funds in the health professions
 10 account that are allocated to the requesting board or commission to
 11 meet unanticipated costs of that board or commission when revenues
 12 exceed more than fifteen percent over the department's estimated
 13 six-year spending projections for the requesting board or commission.
 14 Unanticipated costs shall be limited to spending as authorized in
 15 subsection (3) of this section for anticipated costs.

16 NEW SECTION. **Sec. 40.** A new section is added to chapter 82.04
 17 RCW to read as follows:

18 (1) This chapter does not apply to any cooperative in respect to
 19 growing marijuana, or manufacturing marijuana concentrates, useable
 20 marijuana, or marijuana-infused products, as those terms are defined
 21 in RCW 69.50.101.

22 (2) The tax preference authorized in this section is not subject
 23 to the provisions of RCW 82.32.805 and 82.32.808.

24 NEW SECTION. **Sec. 41.** (1) The department of health must develop
 25 recommendations on establishing medical marijuana specialty clinics
 26 that would allow for the authorization and dispensing of marijuana to
 27 patients of health care professionals who work on-site of the clinic
 28 and who are certified by the department of health in the medical use
 29 of marijuana.

30 (2) Recommendations must be reported to the chairs of the health
 31 care committees of both the senate and house of representatives by
 32 December 1, 2015.

33 ***Sec. 42. RCW 69.50.203 and 2013 c 19 s 88 are each amended to**
 34 **read as follows:**

35 **(a) Except as provided in subsection (c) of this section, the**
 36 **commission shall place a substance in Schedule I upon finding that**
 37 **the substance:**

1 (1) has high potential for abuse;

2 (2) has no currently accepted medical use in treatment in the
3 United States; and

4 (3) lacks accepted safety for use in treatment under medical
5 supervision.

6 (b) The commission may place a substance in Schedule I without
7 making the findings required by subsection (a) of this section if the
8 substance is controlled under Schedule I of the federal Controlled
9 Substances Act by a federal agency as the result of an international
10 treaty, convention, or protocol.

11 (c) No marijuana concentrates, useable marijuana, or marijuana-
12 infused product that the department has identified in rules adopted
13 pursuant to section 10(4) of this act as appropriate for sale to
14 qualifying patients and designated providers in a retail outlet that
15 holds a medical marijuana endorsement shall be deemed to have met the
16 criteria established in subsection (a) of this section and may not be
17 placed in Schedule I.

*Sec. 42 was vetoed. See message at end of chapter.

18 *Sec. 43. RCW 69.50.204 and 2010 c 177 s 2 are each amended to
19 read as follows:

20 Unless specifically excepted by state or federal law or
21 regulation or more specifically included in another schedule, the
22 following controlled substances are listed in Schedule I:

23 (a) Any of the following opiates, including their isomers,
24 esters, ethers, salts, and salts of isomers, esters, and ethers
25 whenever the existence of these isomers, esters, ethers, and salts is
26 possible within the specific chemical designation:

27 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-
28 piperidinyl]-N-phenylacetamide);

29 (2) Acetylmethadol;

30 (3) Allylprodine;

31 (4) Alphacetylmethadol, except levo-alphacetylmethadol, also
32 known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

33 (5) Alphameprodine;

34 (6) Alphamethadol;

35 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
36 ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-
37 propanilido) piperidine);

- 1 (8) *Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-*
- 2 *piperidinyl]-N-phenylpropanamide);*
- 3 (9) *Benzethidine;*
- 4 (10) *Betacetylmethadol;*
- 5 (11) *Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-*
- 6 *piperidinyl]-N-phenylpropanamide);*
- 7 (12) *Beta-hydroxy-3-methylfentanyl, some trade or other names: N-*
- 8 *[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-*
- 9 *phenylpropanamide;*
- 10 (13) *Betameprodine;*
- 11 (14) *Betamethadol;*
- 12 (15) *Betaprodine;*
- 13 (16) *Clonitazene;*
- 14 (17) *Dextromoramide;*
- 15 (18) *Diampromide;*
- 16 (19) *Diethylthiambutene;*
- 17 (20) *Difenoxin;*
- 18 (21) *Dimenoxadol;*
- 19 (22) *Dimepheptanol;*
- 20 (23) *Dimethylthiambutene;*
- 21 (24) *Dioxaphetyl butyrate;*
- 22 (25) *Dipipanone;*
- 23 (26) *Ethylmethylthiambutene;*
- 24 (27) *Etonitazene;*
- 25 (28) *Etoxeridine;*
- 26 (29) *Furethidine;*
- 27 (30) *Hydroxypethidine;*
- 28 (31) *Ketobemidone;*
- 29 (32) *Levomoramide;*
- 30 (33) *Levophenacylmorphane;*
- 31 (34) *3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-*
- 32 *piperidyl]-N-phenylprop anamide);*
- 33 (35) *3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-*
- 34 *piperidinyl]-N-phenylpropanamide);*
- 35 (36) *Morpheridine;*
- 36 (37) *MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);*
- 37 (38) *Noracymethadol;*
- 38 (39) *Norlevorphanol;*
- 39 (40) *Normethadone;*
- 40 (41) *Norpipanone;*

- 1 (42) *Para-fluorofentanyl* (*N*-(4-fluorophenyl)-*N*-[1-(2-
2 *phenethyl*)-4-piperidinyl] propanamide);
- 3 (43) *PEPAP*(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 4 (44) *Phenadoxone*;
- 5 (45) *Phenampramide*;
- 6 (46) *Phenomorphane*;
- 7 (47) *Phenoperidine*;
- 8 (48) *Piritramide*;
- 9 (49) *Proheptazine*;
- 10 (50) *Propoperidine*;
- 11 (51) *Propiram*;
- 12 (52) *Racemoramide*;
- 13 (53) *Thiofentanyl* (*N*-phenyl-*N*-[1-(2-thienyl)ethyl-4-piperidinyl]-
14 *propanamide*);
- 15 (54) *Tilidine*;
- 16 (55) *Trimeperidine*.
- 17 (b) *Opium derivatives. Unless specifically excepted or unless*
18 *listed in another schedule, any of the following opium derivatives,*
19 *including their salts, isomers, and salts of isomers whenever the*
20 *existence of those salts, isomers, and salts of isomers is possible*
21 *within the specific chemical designation:*
- 22 (1) *Acetorphine*;
- 23 (2) *Acetyldihydrocodeine*;
- 24 (3) *Benzylmorphine*;
- 25 (4) *Codeine methylbromide*;
- 26 (5) *Codeine-N-Oxide*;
- 27 (6) *Cyprenorphine*;
- 28 (7) *Desomorphine*;
- 29 (8) *Dihydromorphine*;
- 30 (9) *Drotebanol*;
- 31 (10) *Etorphine, except hydrochloride salt*;
- 32 (11) *Heroin*;
- 33 (12) *Hydromorphanol*;
- 34 (13) *Methyldesorphine*;
- 35 (14) *Methyldihydromorphine*;
- 36 (15) *Morphine methylbromide*;
- 37 (16) *Morphine methylsulfonate*;
- 38 (17) *Morphine-N-Oxide*;
- 39 (18) *Myrophine*;
- 40 (19) *Nicocodeine*;

1 (20) Nicomorphine;

2 (21) Normorphine;

3 (22) Pholcodine;

4 (23) Thebacon.

5 (c) Hallucinogenic substances. Unless specifically excepted or
6 unless listed in another schedule, any material, compound, mixture,
7 or preparation which contains any quantity of the following
8 hallucinogenic substances, including their salts, isomers, and salts
9 of isomers whenever the existence of those salts, isomers, and salts
10 of isomers is possible within the specific chemical designation. For
11 the purposes of this subsection only, the term "isomer" includes the
12 optical, position, and geometric isomers:

13 (1) Alpha-ethyltryptamine: Some trade or other names:
14 Etryptamine; monase; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)
15 indole; α -ET; and AET;

16 (2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names:
17 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;

18 (3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other
19 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
20 DOB; 2C-B, nexus;

21 (4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-
22 dimethoxy- α -methylphenethylamine; 2,5-DMA;

23 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

24 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name:
25 2C-T-7;

26 (7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy- α -
27 methylphenethylamine; paramethoxyamphetamine, PMA;

28 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;

29 (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other
30 names: 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and
31 "STP";

32 (10) 3,4-methylenedioxy amphetamine;

33 (11) 3,4-methylenedioxymethamphetamine (MDMA);

34 (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-
35 ethyl- α -methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA,
36 MDE, MDEA;

37 (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as
38 N-hydroxy- α -methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy
39 MDA;

40 (14) 3,4,5-trimethoxy amphetamine;

- 1 (15) Alpha-methyltryptamine: Other name: AMT;
- 2 (16) Bufotenine: Some trade or other names: 3-(beta-
3 Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-
4 indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine;
5 mappine;
- 6 (17) Diethyltryptamine: Some trade or other names: N,N-
7 Diethyltryptamine; DET;
- 8 (18) Dimethyltryptamine: Some trade or other names: DMT;
- 9 (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
- 10 (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,
11 7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2)
12 azepino (5,4-b) indole; Tabernanthe iboga;
- 13 (21) Lysergic acid diethylamide;
- 14 (22) Marihuana or marijuana, except for any marijuana
15 concentrates, useable marijuana, or marijuana-infused products
16 identified by the department in rules adopted pursuant to section
17 10(4) of this act as appropriate for sale to qualifying patients and
18 designated providers in a retail outlet that holds a medical
19 marijuana endorsement;
- 20 (23) Mescaline;
- 21 (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-
22 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-
23 dibenzo[b,d]pyran; synhexyl;
- 24 (25) Peyote, meaning all parts of the plant presently classified
25 botanically as *Lophophora Williamsii* Lemaire, whether growing or not,
26 the seeds thereof, any extract from any part of such plant, and every
27 compound, manufacture, salts, derivative, mixture, or preparation of
28 such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812
29 (c), Schedule I (c)(12));
- 30 (26) N-ethyl-3-piperidyl benzilate;
- 31 (27) N-methyl-3-piperidyl benzilate;
- 32 (28) Psilocybin;
- 33 (29) Psilocyn;
- 34 (30)(i) Tetrahydrocannabinols, meaning tetrahydrocannabinols
35 naturally contained in a plant of the genus *Cannabis* (*cannabis*
36 plant), as well as synthetic equivalents of the substances contained
37 in the plant, or in the resinous extractives of *Cannabis*, species,
38 and/or synthetic substances, derivatives, and their isomers with
39 similar chemical structure and pharmacological activity such as the
40 following:

1 ~~((i))~~ (A) 1 - cis - or trans tetrahydrocannabinol, and their
 2 optical isomers, excluding tetrahydrocannabinol in sesame oil and
 3 encapsulated in a soft gelatin capsule in a drug product approved by
 4 the United States Food and Drug Administration;

5 ~~((ii))~~ (B) 6 - cis - or trans tetrahydrocannabinol, and their
 6 optical isomers;

7 ~~((iii))~~ (C) 3,4 - cis - or trans tetrahydrocannabinol, and its
 8 optical isomers;

9 (Since nomenclature of these substances is not internationally
 10 standardized, compounds of these structures, regardless of numerical
 11 designation of atomic positions covered.)

12 (ii) The term "tetrahydrocannabinols" does not include any
 13 marijuana concentrates, useable marijuana, or marijuana-infused
 14 products identified by the department in rules adopted pursuant to
 15 section 10(4) of this act as appropriate for sale to qualifying
 16 patients and designated providers in a retail outlet that holds a
 17 medical marijuana endorsement;

18 (31) Ethylamine analog of phencyclidine: Some trade or other
 19 names: N-ethyl-1phenylcyclohexylamine, (1-phenylcyclohexyl)
 20 ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

21 (32) Pyrrolidine analog of phencyclidine: Some trade or other
 22 names: 1-(1-phencyclohexyl)pyrrolidine; PCPy; PHP;

23 (33) Thiophene analog of phencyclidine: Some trade or other
 24 names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienyl analog of
 25 phencyclidine; TPCP; TCP;

26 (34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other
 27 name is TCPy.

28 (d) Depressants. Unless specifically excepted or unless listed in
 29 another schedule, any material, compound, mixture, or preparation
 30 which contains any quantity of the following substances having a
 31 depressant effect on the central nervous system, including its salts,
 32 isomers, and salts of isomers whenever the existence of such salts,
 33 isomers, and salts of isomers is possible within the specific
 34 chemical designation.

35 (1) Gamma-hydroxybutyric acid: Some other names include GHB;
 36 gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid;
 37 sodium oxybate; sodium oxybutyrate;

38 (2) Mecloqualone;

39 (3) Methaqualone.

1 (e) Stimulants. Unless specifically excepted or unless listed in
 2 another schedule, any material, compound, mixture, or preparation
 3 which contains any quantity of the following substances having a
 4 stimulant effect on the central nervous system, including its salts,
 5 isomers, and salts of isomers:

6 (1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-
 7 oxazoline; or 4, 5-dihydro-5-phenly-2-oxazolamine;

8 (2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

9 (3) Cathinone, also known as 2-amino-1-phenyl-1-propanone,
 10 alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

11 (4) Fenethylamine;

12 (5) Methcathinone: Some other names: 2-(methylamino)-
 13 propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-
 14 phenylpropan-1-one; alpha-N-methylaminopropiophenone;
 15 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone;
 16 AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and
 17 salts of optical isomers;

18 (6) (+-)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-
 19 phenyl-2-oxazolamine);

20 (7) N-ethylamphetamine;

21 (8) N,N-dimethylamphetamine: Some trade or other names: N,N-
 22 alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

23 The controlled substances in this section may be added,
 24 rescheduled, or deleted as provided for in RCW 69.50.201.

*Sec. 43 was vetoed. See message at end of chapter.

25 *NEW SECTION. Sec. 44. A new section is added to chapter 69.50
 26 RCW to read as follows:

27 (1) It is unlawful for any person to manufacture, deliver, or
 28 possess with intent to manufacture or deliver, marijuana
 29 concentrates, useable marijuana, and marijuana-infused products
 30 identified by the department in rules adopted pursuant to section
 31 10(4) of this act as appropriate for sale to qualifying patients and
 32 designated providers in a retail outlet that holds a medical
 33 marijuana endorsement, except:

34 (a) As those activities are associated with the lawful operation
 35 as a licensed marijuana producer, processor, retailer, or retailer
 36 with a medical marijuana endorsement in compliance with this chapter
 37 and chapter 69.51A RCW;

1 (b) In association with the lawful operation of a cooperative
 2 established pursuant to, and operating in compliance with, section 26
 3 of this act;

4 (c) Until July 1, 2016, in association with the lawful operation
 5 of a collection garden established pursuant to, and operating in
 6 compliance with RCW 69.51A.085; or

7 (d) As the activities of a designated provider or qualifying
 8 patient support the personal, medical use of a qualifying patient in
 9 compliance with section 27 of this act.

10 (2) Any person who violates this section is guilty of a class B
 11 felony.

*Sec. 44 was vetoed. See message at end of chapter.

12 *NEW SECTION. Sec. 45. A new section is added to chapter 69.50
 13 RCW to read as follows:

14 (1) It is unlawful for any person to possess marijuana
 15 concentrates, useable marijuana, and marijuana-infused products
 16 identified by the department in rules adopted pursuant to section
 17 10(4) of this act as appropriate for sale to qualifying patients and
 18 designated providers in a retail outlet that holds a medical
 19 marijuana endorsement, unless:

20 (a) It is obtained and possessed by a designated provider or
 21 qualifying patient in an amount that does not exceed those authorized
 22 in section 19 of this act and the substance is obtained from:

23 (i) A licensed marijuana retailer or retailer with a medical
 24 marijuana endorsement operating in compliance with this chapter and
 25 chapter 69.51A RCW;

26 (ii) A cooperative established pursuant to, and operating in
 27 compliance with, section 26 of this act;

28 (iii) Until July 1, 2016, a collective garden established
 29 pursuant to, and operating in compliance with RCW 69.51A.085; or

30 (iv) The designated provider or qualifying patient in compliance
 31 with section 27 of this act; or

32 (b) It is obtained and possessed by a person in an amount that
 33 does not exceed those authorized in RCW 69.50.360 and was obtained
 34 from a licensed marijuana retailer or retailer with a medical
 35 marijuana endorsement operating in compliance with this chapter.

36 (2) Any person who violates this section is guilty of a class C
 37 felony.

*Sec. 45 was vetoed. See message at end of chapter.

1 *Possession of Ephedrine,*
 2 *Pseudoephedrine, or Anhydrous*
 3 *Ammonia with intent to*
 4 *manufacture*
 5 *methamphetamine (RCW*
 6 *69.50.440)*

7 *Selling for profit (controlled or*
 8 *counterfeit) any controlled*
 9 *substance (RCW 69.50.410)*

10 *II Create, deliver, or possess a*
 11 *counterfeit controlled substance*
 12 *(RCW 69.50.4011)*

13 *Deliver or possess with intent to*
 14 *deliver methamphetamine (RCW*
 15 *69.50.401(2)(b))*

16 *Delivery of a material in lieu of a*
 17 *controlled substance (RCW*
 18 *69.50.4012)*

19 *Maintaining a Dwelling or Place for*
 20 *Controlled Substances (RCW*
 21 *69.50.402(1)(f))*

22 *Manufacture, deliver, or possess with*
 23 *intent to deliver amphetamine*
 24 *(RCW 69.50.401(2)(b))*

25 *Manufacture, deliver, or possess with*
 26 *intent to deliver narcotics from*
 27 *Schedule I or II or flunitrazepam*
 28 *from Schedule IV (RCW*
 29 *69.50.401(2)(a))*

30 *Manufacture, deliver, or possess with*
 31 *intent to deliver narcotics from*
 32 *Schedule III, IV, or V or*
 33 *nonnarcotics from Schedule I-V*
 34 *(except marijuana, amphetamine,*
 35 *methamphetamines, or*
 36 *flunitrazepam) (RCW*
 37 *69.50.401(2) (c) through (e))*

1 *Manufacture, distribute, or possess*
 2 *with intent to distribute an*
 3 *imitation controlled substance*
 4 *(RCW 69.52.030(1))*

5 ***I Forged Prescription (RCW 69.41.020)***

6 *Forged Prescription for a Controlled*
 7 *Substance (RCW 69.50.403)*

8 *Manufacture, deliver, or possess with*
 9 *intent to deliver marijuana (RCW*
 10 *69.50.401(2)(c))*

11 *Manufacture, deliver, or possess with*
 12 *intent to deliver marijuana*
 13 *pursuant to section 44 of this act*

14 *Possesses marijuana pursuant to*
 15 *section 45 of this act*

16 *Possess Controlled Substance that is a*
 17 *Narcotic from Schedule III, IV,*
 18 *or V or Nonnarcotic from*
 19 *Schedule I-V (RCW 69.50.4013)*

20 *Possession of Controlled Substance*
 21 *that is either heroin or narcotics*
 22 *from Schedule I or II (RCW*
 23 *69.50.4013)*

24 *Unlawful Use of Building for Drug*
 25 *Purposes (RCW 69.53.010)*

****Sec. 46 was vetoed. See message at end of chapter.***

26 NEW SECTION. **Sec. 47.** All references to the Washington state
 27 liquor control board must be construed as referring to the Washington
 28 state liquor and cannabis board. The code reviser must prepare
 29 legislation for the 2016 legislative session changing all references
 30 in the Revised Code of Washington from the Washington state liquor
 31 control board to the Washington state liquor and cannabis board.

32 NEW SECTION. **Sec. 48.** The following acts or parts of acts are
 33 each repealed:

1 (1) RCW 69.51A.020 (Construction of chapter) and 2011 c 181 s 103
2 & 1999 c 2 s 3;

3 (2) RCW 69.51A.025 (Construction of chapter—Compliance with RCW
4 69.51A.040) and 2011 c 181 s 413;

5 (3) RCW 69.51A.047 (Failure to register or present valid
6 documentation—Affirmative defense) and 2011 c 181 s 406;

7 (4) RCW 69.51A.070 (Addition of medical conditions) and 2007 c
8 371 s 7 & 1999 c 2 s 9;

9 (5) RCW 69.51A.090 (Applicability of valid documentation
10 definition) and 2010 c 284 s 5;

11 (6) RCW 69.51A.140 (Counties, cities, towns—Authority to adopt
12 and enforce requirements) and 2011 c 181 s 1102; and

13 (7) RCW 69.51A.200 (Evaluation) and 2011 c 181 s 1001.

14 NEW SECTION. **Sec. 49.** RCW 69.51A.085 (Collective gardens) and
15 2015 c ... s 32 (section 32 of this act) and 2011 c 181 s 403 are
16 each repealed.

17 NEW SECTION. **Sec. 50.** Sections 12, 19, 20, 23 through 26, 31,
18 35, 40, and 49 of this act take effect July 1, 2016.

19 NEW SECTION. **Sec. 51.** Sections 21, 22, 32, and 33 of this act
20 are necessary for the immediate preservation of the public health, or
21 safety, or support of the state government and its existing public
22 institutions, and take effect immediately.

23 ****NEW SECTION. Sec. 52. This act takes effect on the dates***
24 ***provided in sections 50 and 51 of this act if House Bill No. 2136, or***
25 ***any subsequent version of House Bill No. 2136, is enacted into law by***
26 ***October 1, 2015.***

****Sec. 52 was vetoed. See message at end of chapter.***

Passed by the Senate April 14, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 24, 2015, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 25, 2015.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 36,
42, 43, 44, 45, 46, and 52, Second Substitute Senate Bill No. 5052
entitled:

"AN ACT Relating to establishing the cannabis patient protection act.

After tremendous deliberation, compromise and hard work from our outstanding bipartisan sponsors and co-sponsors, committee chairs and ranking members from both houses, we have a measure that will create a medical marijuana system that works for our state.

I am committed to ensuring a system that serves patients well and makes medicine available in a safe and accessible manner, just like we would do for any medicine. That's what this bill strives to provide. It will help families of patients in real need.

As significant an accomplishment as this bill is for our state — and for patients to be ensured of having a safe place to get medicine they need — I know some remain concerned. These perspectives are important and compelling. I recognize the solution is not perfect. However, I do think this is far better than today's wholly unregulated system.

We will have options for patients and a system of strong enforcement to ensure public safety, especially for children. It is a good thing that this bill allows immediate enforcement of dispensaries to ensure they are not selling marijuana to kids.

I want to be clear that I am committed to implementing this law effectively by ensuring cooperatives are safe for patients in need, not sources of illicit diversion in our communities. To this end, I have directed the Liquor Control Board to work with the Attorney General's Office and local law enforcement to consider all options to ensure patient and public safety.

I also want to reassure you that the Department of Health will create an authorization form that will continue to honor the doctor-patient relationship.

While this bill takes a tremendous step forward, a large volume remains of unfinished work on marijuana tax policy, enforcement, local revenue sharing and funding for public health prevention programs. I strongly support efforts to address these items — and call on legislators to finish the job and provide the tools necessary to ensure a well-regulated and functioning marijuana market in our state.

I am vetoing the following sections:

Section 36. This section prohibits employers of health care providers from limiting medical marijuana recommendations to patients. This is an employment law provision that may cause confusion and potential unintended consequences. This section was added without adequate input.

The sponsors of this legislation have also requested this provision be vetoed to allow time for further discussion to develop appropriate policy.

Sections 42 and 43. These sections remove from Schedule I of our state's Controlled Substances Act any medical marijuana product. This is a laudable idea and I appreciate the intent to reduce the stigma of medical marijuana by rescheduling it from a Schedule I — an illegal — controlled substance to something more appropriate. However, our state's rescheduling system has very limited effect, and rescheduling just medicinal marijuana — not the entire cannabis plant and derivatives — may cause serious problems such as having the

unintended effect of limiting the types of marijuana that are considered medicine. To that end, I have instructed the Department of Health to thoroughly consider this idea in consultation with medical professionals and stakeholders, and bring an appropriate resolution to me and the Legislature by next year. Furthermore, I will continue to advocate for the federal government to consider a national rescheduling solution, which may be most beneficial, considering the limited power that state rescheduling has in this respect.

Sections 44, 45 and 46. These sections create new felonies in our criminal code. Washington state does not need additional criminal penalties related to medical marijuana. Moreover, these sections were added as part of the same amendment that created sections 42 and 43 that would have rescheduled medical marijuana. Because I have vetoed sections 42 and 43, sections 44, 45, and 46 are also unnecessary.

Section 52. This section makes Senate Bill 5052 contingent on the enactment of some version of House Bill 2136 by October 1, 2015. This contingent effective date causes confusion and potentially conflicts with other effective dates in Senate Bill 5052. In addition, if the Legislature is unable to pass a version of House Bill 2136, the Code Reviser's Office has advised me that this provision acts as a null and void clause, in which case we risk jeopardizing the integrity of the system created in this bill. I strongly agree with the need for additional policy and administrative changes to ensure a well-regulated and functioning marijuana market. However, this bill should not be made contingent on those changes.

For these reasons I have vetoed Sections 36, 42, 43, 44, 45, 46, and 52 of Second Substitute Senate Bill No. 5052.

With the exception of Sections 36, 42, 43, 44, 45, 46, and 52, Second Substitute Senate Bill No. 5052 is approved."



Senate Bill 5052: The Cannabis Patient Protection Act

On April 24, 2015, Governor Jay Inslee signed into law **SB 5052**, the cannabis patient protection act. The act establishes a medical marijuana oversight body, guidance for rules and regulation, licensing, and defines cooperatives and personal grows. The law has various enactment dates over the course of the next year and a half.

Oversight

SB 5052 establishes the Liquor Control Board as the regulatory agency overseeing medical marijuana, and renames the board the Liquor and Cannabis Board (LCB).

Regulation

Medical use of marijuana is regulated through the same structure as provided through Initiative 502 (legalization of recreational marijuana). The LCB shall adopt comprehensive rules and regulations similar to that of the recreational market to regulate the medical marijuana market.

To qualify for the “medical use” of marijuana, the terminal or debilitating conditions must be severe enough to significantly interfere with activities of daily living and must be able to be objectively assessed and evaluated.

A voluntary medical marijuana authorization database is created. Qualifying patients and designated providers who *do not* sign up for the database may grow marijuana for their medical use but are limited to four plants and six ounces of useable marijuana. They are provided an affirmative defense to charges of violating the law on medical use of marijuana.

Those who *do* register in the database may grow up to 15 plants for medical use, are provided arrest protection, and may possess a combination of the following:

- Forty-eight ounces of marijuana-infused product in solid form;
- Three ounces of useable marijuana;
- Two hundred sixteen ounces of marijuana-infused product in liquid form; or
- Twenty-one grams of marijuana concentrates.

Licensing

Marijuana retail establishments may apply for a medical marijuana endorsement through the LCB. The endorsement may be issued concurrently with the retail license and medical marijuana–endorsed

stores must carry products identified by the Department of Health (DOH) as beneficial to medical marijuana patients.

DOH must also adopt safe handling requirements for all marijuana products to be sold by endorsed stores and must adopt training requirements for retail employees.

The LCB must reopen the license period for retail stores and allow for additional licenses to be issued in order to address the needs of the medical market. The LCB must establish a merit based system for issuing retail licenses.

- First priority must be given to applicants that have applied for a marijuana retailer license before July 1, 2014, and who have operated or been employed by a collective garden before November 6, 2012.
- Second priority must be given to applicants who were operating or employed by a collective garden before November 6, 2012 but who have not previously applied for a marijuana license.

Use by minors

Minors may be authorized for the medical use of marijuana if the minor's parent or guardian agrees to the authorization. The parent or guardian must have sole control over the minor's marijuana. Minors may not grow marijuana, nor may they purchase from a retailer, but they may enter the premises of a medical marijuana retailer if they are accompanied by their parent or guardian who is serving as the designated provider. Patients who are between ages 18 and 21 may enter medical marijuana retail outlets.

Cooperatives and personal grows

Those who are registered in the medical marijuana database may grow marijuana in their domicile. No more than 15 plants may be grown in a housing unit, unless the housing unit is the location of a cooperative. No plants may be grown or processed if any portion of the activity may be viewed or smelled by the public or the private property of another housing unit.



Senate Bill 5052: The Cannabis Patient Protection Act

The provision authorizing collective gardens is repealed, effective July 1, 2016. In their place, four member cooperatives are permitted. A maximum of 60 plants (15 plants x 4 members) may be grown at the cooperative location.

Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least 21 years old. The designated provider of a qualifying patient who is under 21 years old may be a member of a cooperative on the qualifying patient's behalf.

Cooperatives may not be located within one mile of a marijuana retailer and they must be registered with the LCB.

If a member of the cooperative leaves, he or she must notify the LCB within 15 days of the date he/she ceases participation. Additional qualifying patients or designated providers may not join the cooperative until 60 days has passed.

Cooperatives may not sell, donate or otherwise provide marijuana to a person not participating in the cooperative.

The location of the cooperative must be a domicile of one of the participants. Only one cooperative may be located per domicile.

The LCB may adopt rules regulating cooperatives, including a seed to sale traceability model that is similar to the model in the recreational market.

The LCB or law enforcement may inspect a cooperative.

Local authority

Cities, towns, counties, and other municipalities may create and enforce civil penalties, including abatement procedures, for the growing or processing of marijuana and for keeping marijuana plants

beyond or otherwise not in compliance with the rules and regulations of cooperatives.

Enactment

July 24, 2015, except for the following:

Immediately:

- Contracting with an entity to create, administer and maintain the patient database.
- Exempting disclosure of records in the database, including patient names and personally identifiable information.
- The LCB conducting controlled purchase programs to ensure marijuana is not being sold to minors, minors are not selling marijuana in retail and medical establishments and whether collective gardens and cooperatives are providing minors with marijuana.

July 1, 2016

- Minors, between the ages of 18-20, with recognition cards may begin buying medical marijuana.
- The amount of marijuana medical patients may acquire goes into effect.
- Health care professionals may begin authorizing qualifying patients under the age of 18 to use medical marijuana. Their parent or guardian shall act as their designated provider.
- Various provisions related to the security of the medical marijuana authorization database.
- Criminal protections for the medical use of marijuana.
- Group cooperatives are allowed.
- Collective gardens are eliminated.
- Allowing minors who are eligible to consume medical marijuana on school grounds.

ORDINANCE NO. 1685

AN ORDINANCE OF THE CITY OF OAK HARBOR:

WHEREAS, the voters of Washington State approved Initiative 502 (I-502) in November 2012 legalizing under State law the taxing and regulating of recreational use of marijuana, codified in Chapter 69.50 RCW ; and

WHEREAS, under I-502, the Washington State Liquor Control Board (LCB) was tasked with the responsibility to adopt the rules governing the licensing and operations of marijuana producers, processors, and retailers, and the rules went into effect on Nov. 16, 2013; and

WHEREAS, on August 29, 2013, the U.S. Department of Justice distributed a guidance memo to U.S. Attorneys regarding state implementation of recreational marijuana ballot measures and setting forth the federal government enforcement priorities, essentially acknowledging that as long as state regulation and enforcement is sufficiently robust and consistent with federal priorities, the federal government may choose not to interfere; and

WHEREAS, the 1,000-foot separations from sensitive uses required by I-502 and included in the adopted licensing rules are principally about protecting children, which the City Council and the citizens of Oak Harbor support; and

WHEREAS, the LCB has created three categories of state licenses and prohibits holders of a retail license from also holding a production or processing license;

WHEREAS, the Oak Harbor City Council finds that establishment of marijuana related uses without appropriate regulations could lead to negative secondary impacts to the community, including but not necessarily limited to:

1. Conversion of residential uses into cannabis cultivation and processing facilities removing valuable housing stock from the community.
2. Degraded neighborhood aesthetics due to shuttered-up homes, offensive odors, increased nighttime traffic, and parking.
3. Environmental damages from chemicals being discharged into surrounding and off-site soils, and into storm and sanitary sewer systems.
4. Risk of fire hazard due to overloaded service connections used to operate grow lights and fans.
5. Illegal structural modifications.
6. Criminal issues such as burglary, theft and property damage.

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WHEREAS, an undue concentration of licensed marijuana facilities in the City of Oak Harbor could be detrimental to the quality of life of Oak Harbor residents and the economic well-being of the city; and

WHEREAS, in order to address secondary impacts of such businesses, the Oak Harbor City Council deems it to be in the public interest to establish zoning regulations related to state-licensed marijuana facilities and to require all such facilities to obtain a City of Oak Harbor business license; and

WHEREAS, the intent to amend development regulations to allow state-licensed marijuana facilities and a SEPA Determination of Non Significance were noticed in accordance with City of Oak Harbor procedures and regulations; and

WHEREAS, a Determination of Non Significance was issued on December 28, 2013; and

WHEREAS, the City of Oak Harbor Planning Commission held a public hearing on November 26, 2013, December 10, 2013 and January 28, 2014 to consider this ordinance and forwarded a recommendation of approval to the City Council; and

WHEREAS, the City of Oak City Council held a public hearing on February 4, 2014 to consider this ordinance; and

WHEREAS, nothing in this Ordinance is intended, nor shall be construed, to authorize or approve violation of federal or state law;

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

Section One. There is hereby added a new Chapter 19.22 to the Oak Harbor Municipal Code which shall have the following title and sections:

Chapter 19.22
MARIJUANA RELATED USES

Sections:

19.22.010 Purpose and Intent

19.22.020 Definitions

19.22.030 Locations Allowed

19.22.040 Development Standards

19.22.050 Non-conforming Use

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Section Two.

There is hereby added new Section 19.22.010 entitled “Purpose and Intent” to the Oak Harbor Municipal Code to read as follows:

The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Oak Harbor is an authorization to circumvent federal law or provide permission to any person or entity to violate federal law. Only state-licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Oak Harbor and then only pursuant to a license issued by the State of Washington and only when in full compliance with the local regulations contained in herein. These regulations are solely intended to acknowledge the enactment by Washington voters of Initiative 502 and state licensing procedure and to permit, but only to the extent required by state law, marijuana producers, marijuana processors, and marijuana retailers to operate in designated zones of the City. These provisions are intended to mitigate potential secondary impacts of marijuana related uses on nearby properties and the community and to promote the public health, safety and welfare through the application of appropriate locational criteria, zoning and development standards.

Section Three.

There is hereby added new Section 19.22.020 entitled “Definitions” to the Oak Harbor Municipal Code to read as follows:

- (1) “Child care center” means an entity that regularly provides child day care, preschool and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under Chapter 170-295 WAC.
- (2) “Elementary school” means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.
- (3) “Game arcade” means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
- (4) “Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
- (5) “Marijuana” or “marihuana” means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds

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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. The term 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 there from), fiber, oil, or cake, or the sterilized seeds of the plant which is incapable of germination.

- (6) “Marijuana facility” means a state-licensed marijuana production, processing, or retail facility.. Marijuana facilities shall not be a home occupation as defined in OHMC 19.08 -Definitions and as authorized under OHMC 19.34.
- (7) “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.
- (8) “Marijuana processing facility” means an entity licensed by the State of Washington to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. A marijuana processing facility shall not be a home occupation as defined in OHMC 19.08 – Definitions and as authorized under OHMC 19.34.
- (9) “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 useable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products at wholesale to marijuana retailers.
- (10) “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.
- (11) “Marijuana production facility” means an entity licensed by the State of Washington to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producers. A marijuana production facility shall not be a home occupation as defined in OHMC 19.08 - Definitions and as authorized under OHMC 19.34.
- (12) “Marijuana retailer” means a person licensed by the state liquor control board to sell usable marijuana and marijuana-infused products in a retail outlet.

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- (13) “Marijuana retail facility” means an entity licensed by the State of Washington to sell only usable marijuana, marijuana-infused products and marijuana paraphernalia to persons twenty-one years of age and older. A marijuana retail facility shall not be a home occupation as defined in OHMC 19.08 – Definitions and as authorized under OHMC 19.34.
- (14) “Playground” means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.
- (15) “Public park” means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.
- (16) “Public transit center” means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.
- (17) “Recreation center or facility” means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.
- (18) “Retail outlet” means a location licensed by the State Liquor Control Board for the retail sale of usable marijuana and marijuana-infused products.
- (19) “Secondary school” means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.
- (20) “Useable marijuana” means dried marijuana flowers. The term “usable marijuana” does not include marijuana-infused products.

Section Four.

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There is hereby added new Section 19.22.030 entitled "Locations Allowed" to the Oak Harbor Municipal Code to read as follows:

- (1) State licensed marijuana producers and marijuana processors may locate in the city pursuant to the following restrictions:
 - (a) Marijuana producers and marijuana processors must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.
 - (b) Marijuana producers and marijuana processors may locate only in the Planned Industrial Park or Industrial district(s).
 - (c) Marijuana producers and marijuana processors shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any zone other than the Planned Industrial Park or Industrial district(s).
 - (d) Marijuana producers and marijuana processors shall not operate as an accessory to a primary use or as a home occupation.
 - (e) Marijuana producers and marijuana processors shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed above.

- (2) State licensed marijuana retailers may locate in the city pursuant to the following restrictions:
 - (a) Marijuana retailers must comply with all requirements of state law and the Washington State Liquor control Board's regulations.
 - (b) Marijuana retailers may locate only in the C-4 and Industrial district(s).
 - (c) Marijuana retailers shall not locate in a building in which non-conforming retail uses have been established in any residential or office zone.
 - (e) Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation.
 - (f) Marijuana retailers shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not

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restricted. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed above.

Section Five.

There is hereby added new Section 19.22.040 entitled “Development Standards” to the Oak Harbor Municipal Code to read as follows:

- (1) Marijuana retail, processing and production facilities. In addition to the standards of the underlying zoning district and all other applicable Municipal Code regulations, all state-licensed marijuana facilities shall meet the following development standards:
 - (a) All facilities must be state-licensed and comply with all of the standards for state licensed marijuana facilities.
 - (b) No marijuana facility shall be allowed as a home occupation.
 - (c) The definitions set forth in RCW 69.50.101-.102, WAC 314-55-010 and OHMC Section 19.22.020 shall control.
 - (d) Location.
 - (i) No more than one facility shall be located on a single parcel.
 - (ii) Marijuana retail and processing facilities shall be located fully within a permanent structure designed to comply with the city building code and constructed under a building and/or tenant improvement permit from the city regardless of the size or configuration of the structure.
 - (iii) Marijuana production facilities shall be located:
 - (A) Within a permanent, fully enclosed structure designed to comply with the city building code and constructed under a building and/or a tenant improvement permit from the city regardless of the size or configuration of the structure; or
 - (B) In non-rigid greenhouses, other structures, or an expanse of open or clear ground fully enclosed by a physical barrier enclosed by a sight obscuring wall or fence eight (8) feet high.
 - (iv) Marijuana facilities shall not be located in a mobile structure or vehicle.
 - (v) No state-licensed marijuana facility shall be located within 1,000 feet of the perimeter of the parcel on which any of the entities listed below are located. The distance shall be measured as the shortest straight line distance from property line of the proposed building/business location to the property line of the entities listed below.
 - (A) Elementary or secondary school (public or private);
 - (B) Playground;
 - (C) Recreation center or facility;
 - (D) Child care center;

- (E) Public park;
 - (F) Public transit center;
 - (G) Library;
 - (H) Any game arcade venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
- (vi) No state-licensed marijuana retail facility shall be located within 1,000 feet of the perimeter of a parcel on which a state-licensed marijuana production or processing facility is located. The distance shall be measured as the shortest straight line distance from property line of the marijuana retail facility to the property line of the marijuana production or processing facility.
- (e) No production, processing or delivery of marijuana may be visible to the public nor may it be visible through windows.
 - (f) Marijuana retail uses shall not include drive-throughs, exterior, or off-site sales.
 - (g) All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter either a sanitary sewer or a stormwater sewer system nor be released into the atmosphere outside of the structure where the facility is located.
 - (h) No odors resulting from the use of those substances noted in 19.22.040(1)(g) or from the activities conducted within the structure shall be allowed to migrate beyond the interior portion of the structure where a marijuana facility is located.
 - (i) A City of Oak Harbor business license pursuant to Chapter 5.03 OHMC and a state license pursuant to Chapter 314-55 WAC shall be obtained prior to the start of operations of the facility.
 - (j) All facilities shall comply with Chapter 19.27 RCW, State Building Code Act and Title 17 Buildings. Appropriate permits shall be obtained for all changes of use, tenant improvements, mechanical system improvements, electrical upgrades and similar work.

Section Five.

There is hereby added new Section 19.22.040 entitled “Non-conforming Uses” to the Oak Harbor Municipal Code to read as follows:

- (1) No use that constitutes or purports to be a marijuana producer, marijuana processor, or marijuana retailer as those terms are 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 non-conforming status.

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Section Six. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Seven. Effective Date. This Ordinance shall be in full force and effect five days after publishing.

PASSED by the City Council this 4th day of February 2014.

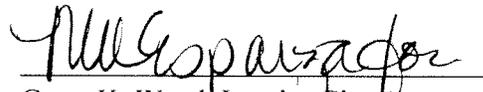
CITY OF OAK HARBOR


SCOTT DUDLEY, MAYOR

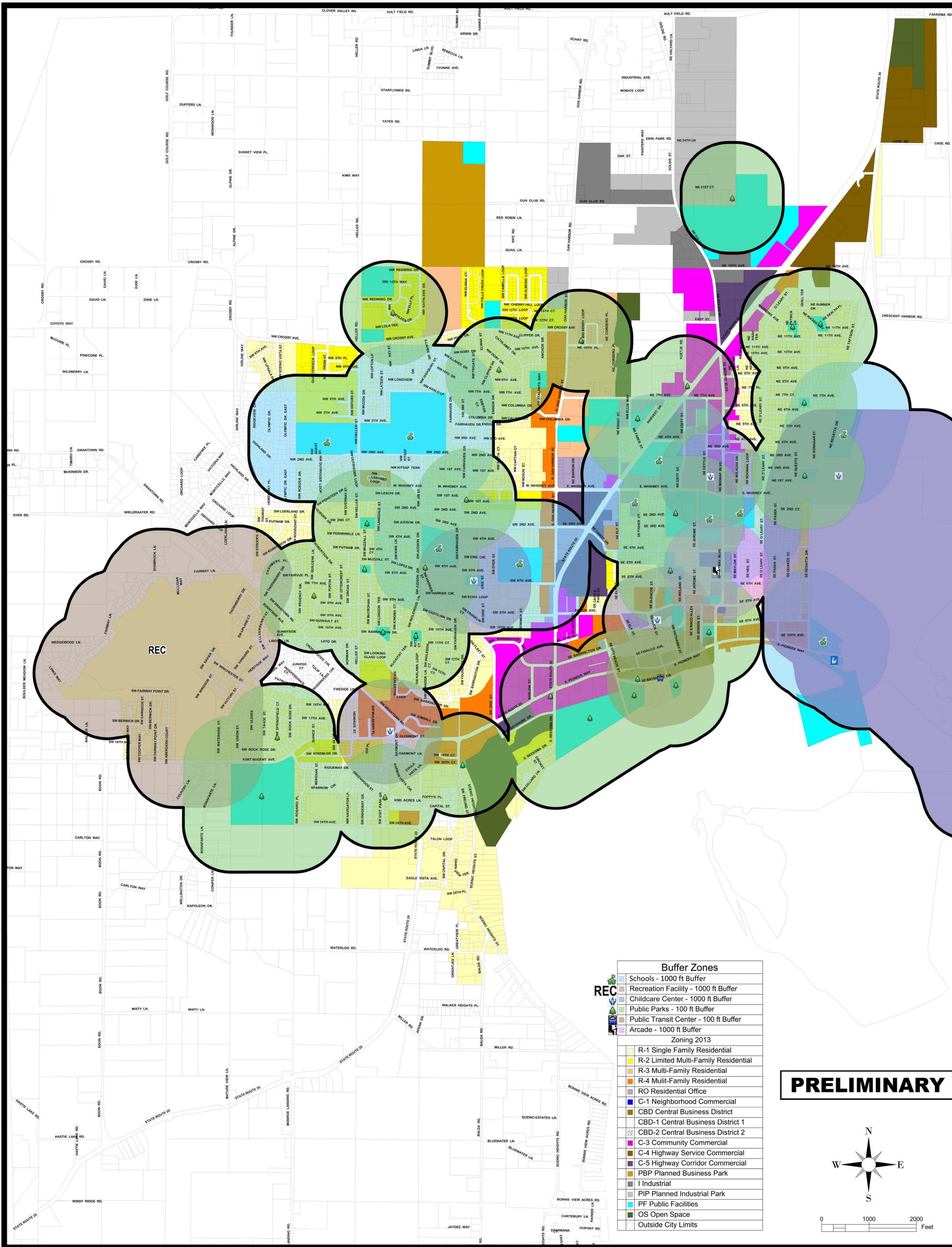
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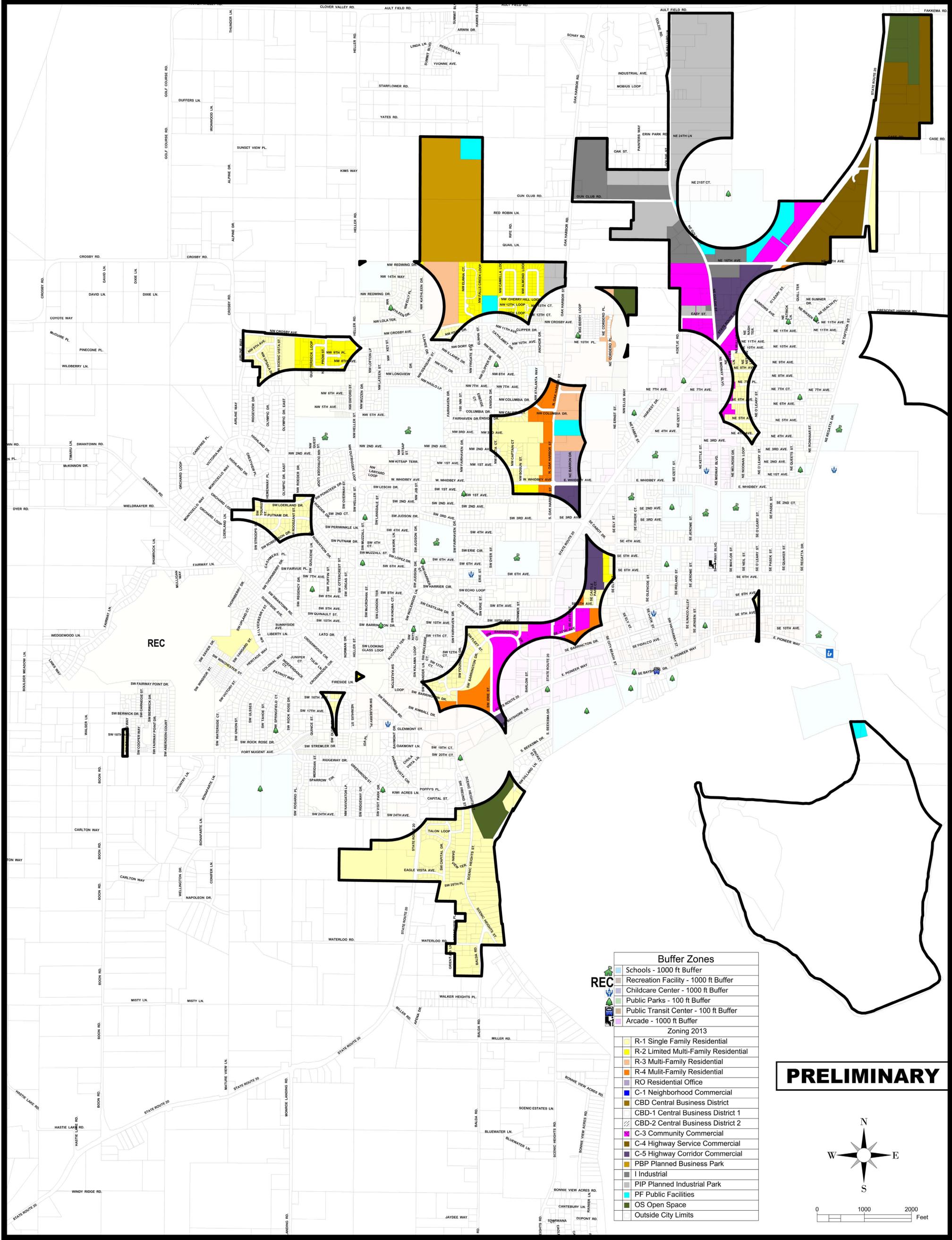

Anna Thompson, City Clerk

Approved as to Form:


Grant K. Weed, Interim City Attorney

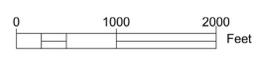
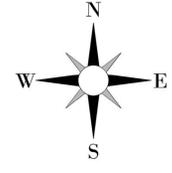
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- Buffer Zones**
- Schools - 1000 ft Buffer
 - Recreation Facility - 1000 ft Buffer
 - Childcare Center - 1000 ft Buffer
 - Public Parks - 100 ft Buffer
 - Public Transit Center - 100 ft Buffer
 - Arcade - 1000 ft Buffer
- Zoning 2013**
- R-1 Single Family Residential
 - R-2 Limited Multi-Family Residential
 - R-3 Multi-Family Residential
 - R-4 Multi-Family Residential
 - RO Residential Office
 - C-1 Neighborhood Commercial
 - CBD Central Business District
 - CBD-1 Central Business District 1
 - CBD-2 Central Business District 2
 - C-3 Community Commercial
 - C-4 Highway Service Commercial
 - C-5 Highway Corridor Commercial
 - PBP Planned Business Park
 - I Industrial
 - PIP Planned Industrial Park
 - PF Public Facilities
 - OS Open Space
 - Outside City Limits

PRELIMINARY



2016
COMPREHENSIVE PLAN
UPDATE

Public Meeting

**City of Oak Harbor
Planning Commission Report**

Date: June 23, 2015
Subject: 2016 Comprehensive Plan
Major Update – Land Use
Element

FROM: Cac Kamak, AICP
Senior Planner

Staff will continue the discussion on the update to the Land Use Element of the Comprehensive Plan. At the last meeting, staff presented a framework for considering updates to the goals and policies updates of the Element. At the upcoming meeting, information and follow up action based on the June 17th workshop will be presented.