



# Skagit County Planning & Development Services

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## Supplemental Staff Report II

From: Dale Pernula, AICP, Director  
Re: Proposed Permanent Regulations on Marijuana Facilities  
Date: April 29, 2015

This second supplemental staff report provides additional background information on topics related to marijuana facilities based on questions raised by the Planning Commission at its April 21 deliberations.

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### Update on Medical Marijuana Legislation

Last Friday, April 24, Governor Inslee signed [2SSB 5052](#), described in the April 16 supplemental staff report.<sup>1</sup> The remaining bill in the Legislature, HB 2136, deals almost exclusively with revenue. We now know with precision what the new state regulatory regime is for both medical and recreational marijuana.

The Department’s revised recommendation, as expressed in the April 16 staff report, is to prohibit all medical marijuana facilities except (a) those licensed by the Liquor Control Board, and (b) the new four-person cooperatives system authorized by the new legislation, and (c) individual growing of medical marijuana at home for one’s own use.

The legislation includes many significant constraints on the new marijuana “cooperatives” that will significantly limit their size and desirability:<sup>2</sup>

- Only up to four people over age 21 may participate.

<sup>1</sup> The governor partially vetoed the bill, but the [partial veto](#) only affects how employers of physicians, including hospitals, medical groups, clinics, nursing homes, and others from implementing standards around how their providers prescribe medical marijuana.

<sup>2</sup> 2SSB 5052 § 26.

- Each member must be a “qualifying patient” or designated provider for a qualifying patient.
- Members must provide assistance in growing plants. A monetary contribution or donation is not to be considered assistance. Participants must provide nonmonetary resources and labor in order to participate.
- Members may not sell, donate, or otherwise provide marijuana products to a person who is not a member.
- Members may grow and process ONLY at the cooperative, and may only participate in only one cooperative.
- Members may not switch out of the cooperative without waiting 60 days.
- Location and names of all the cooperative members must be registered with the LCB.
- Location cannot be within a mile of a marijuana retailer.
- Location must be the home of at least one of the members, and may only have one cooperative per tax parcel.
- Cooperatives may grow only the number of plants that the (up to) four members are authorized to grow via their patient cards, which is a maximum of 60 plants. Regardless of how many qualifying patients live together in the same housing unit, without registering a cooperative, they may not grow more than 15 plants total.
- Cooperatives may possess no more than 72 ounces of “useable marijuana,” i.e., dried marijuana flowers.

The LCB is authorized to adopt rules to implement the cooperatives system, including additional security requirements, seed traceability model, and provision for inspections. The Department anticipates that marijuana cooperatives will have minimal neighborhood impacts.

### **Liquor Control Board Marijuana Facility Siting and Advertising Rules**

Based on direction from the federal Department of Justice, the Liquor Control Board has rules that impose significant limits on the siting of marijuana facilities. These rules have been in place since the LCB begin issuing licenses. All three types of marijuana facilities must comply with the following restrictions:

- Per RCW 69.50.331 and WAC 314-55-050, facilities may not locate within 1000 feet (measured as the shortest straight line distance from the property line of the proposed facility to the property line of the entities listed below) of:
  - elementary or secondary school
  - playground
  - recreation center or facility
  - child care center
  - public park (not including trails)
  - library
  - game arcade
- Per WAC 314-55-155, licensees may not advertise within 1000 ft of those facilities.

- Each retail facility is limited to one sign identifying the retail outlet by the licensee's business name, on the outside or windows of the premises that is visible to the general public from the public right of way but not more than sixteen hundred square inches—less than 3½ feet square.

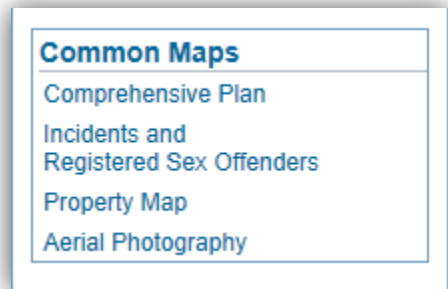
The rules do not prevent one of the listed entities from moving in next to the marijuana facility.

## Maps of Regions and Zones

Skagit County GIS has generated a map book that shows the locations of each of the commercial zones in the Department proposal that would allow marijuana facilities with an overlay showing the areas within 1000-ft of the entities prohibiting siting by LCB rules. The maps are an approximation; please carefully read the description on the first page of the map book. Download the map book at [www.skagitcounty.net/marijuana](http://www.skagitcounty.net/marijuana). All Hamilton-Industrial zoning has been incorporated into the Town of Hamilton, so no maps are included of that area.

### How to use iMap to see zones

The County's iMap tool, at [www.skagitcounty.net/maps/imap](http://www.skagitcounty.net/maps/imap), can be used to examine the various zones where facilities are proposed to be allowed. Once you've navigated to the website, choose your map display from the left side. "Comprehensive Plan" will show you the various zones in several colors. Zoom by clicking the magnification control at the left side of the map or by using your mouse wheel until the zone names appear. Switch back to "Property Map" to see parcel boundaries, or "Aerial Photography" to see the landscape.



The proposed zones and review levels again are:

<i>Zone</i>	<i>Retail</i>	<i>Production/Processing in an <b>Opaque</b> Structure</i>	<i>Production/Processing in a <b>Transparent</b> Structure</i>
Agricultural—Natural Resource Lands (Ag-NRL)	X	P, only in structures existing as of 1/1/2014	HE, only in structures existing as of 1/1/2014
Bayview Ridge Light Industrial (BR-LI)	X	P	P; HE when within 1000 ft of a residential zone
Bayview Ridge Heavy Industrial (BR-HI)	X	P	P
Hamilton Industrial (H-I)	X	P	P
Natural Resource Industrial (NRI)	X	P	P
Rural Business (RB)	P	X	X
Rural Center (RC)	P	X	X
Rural Freeway Service (RFS)	P	X	X
Rural Resource—Natural Resource Lands (RRc-NRL)	X	P; except prohibited on Guemes Island	AD; except prohibited on Guemes Island
Rural Village Commercial (RVC)	P	AD	X
Urban Reserve Comm-Industrial (URC-I)	P	P	HE

P = Permitted; AD = Admin Special Use Permit; HE = Hearing Examiner Special Use Permit; X = Prohibited

## Existing WSLCB Marijuana Licensees in Unincorporated Skagit County

The Liquor Control Board allocated four **retail** licenses to Skagit County at-large, which includes unincorporated Skagit County and the incorporated areas that did not receive their own allocations (i.e., Lyman, Hamilton, and La Conner). **Producer and processor** facilities are not numerically limited by county. Licensees can have combined producer and processor licenses, but retail facilities may not produce or process. There is currently a significant incentive to combine production and processing to avoid having to pay the marijuana excise tax on both.

<i>Facility</i>	<i>License Type</i>	<i>Zoning</i>	<i>Address</i>
Flower of Life Farms	Producer-3; Processor	RI	3431 Old Highway 99 North, Burlington
Miller Marijuana Farms	Producer-3; Processor	RRv	5735 Homestead Ln, Anacortes (Guemes)
221	Retailer	RVC	18729 Fir Island Rd, Mount Vernon
Dank Dynasty	Producer-1; Processor	Ag-NRL	9268 Soren Rd, Sedro-Woolley
Duke's Hill Canna	Producer-2; Processor	RRv	5675 Brookings Rd, Sedro-Woolley
Glen's Plant Farm	Producer-2; Processor	Ag-NRL	17447 Peterson Rd, Burlington
Northwest Grown Products	Producer-2; Processor	RRc-NRL	24862 Benham Rd, Mount Vernon
Oracle Acres	Producer-1; Processor	RB	3533 Chuckanut Dr, Bow
Sugarleaf Farm	Producer-3; Processor	Ag-NRL	18254 W McCorquedale, Mount Vernon

## Special Use Permits

### Overview

Special use permits (also known as conditional use permits) are common provisions in zoning codes that allow the approval of certain uses that are inconsistent with the overall zone or need additional location-specific controls to ensure property placement in the community and limit possible adverse effects on neighboring properties. A conditional use is a permitted use, but is permitted only if certain conditions set forth in the code are met. As long as the proposed special use meets the requirements described in the zoning code, the use will be granted a special use permit.

### Criteria for Approval

SCC 14.16.900(1)(b)(v) provides that the applicant for an SUP must prove the following:

- (A) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (B) The proposed use complies with the Skagit County Code.
- (C) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.
- (D) The proposed use will not generate intrusions on privacy of surrounding uses.
- (E) The proposed use will not cause potential adverse effects on the general public health, safety, and welfare.

(F) For special uses in Industrial Forest—Natural Resource Lands, Secondary Forest—Natural Resource Lands, Agricultural—Natural Resource Lands, and Rural Resource—Natural Resource Lands, the impacts on long-term natural resource management and production will be minimized.

(G) The proposed use is not in conflict with the health and safety of the community.

(H) The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

(I) The proposed use will maintain the character, landscape and lifestyle of the rural area. For new uses, proximity to existing businesses operating via special use permit shall be reviewed and considered for cumulative impacts.

The proposal adds the following special additional criteria. Special use permits for marijuana facilities must:

(a) address impacts on surrounding properties, including but not limited to the appropriate distance of the facility from residences, schools, daycare facilities, public parks, other public facilities, and other marijuana facilities;

(b) include appropriate controls on odor;

(c) include appropriate screening or other requirements to avoid lighting impacts and the visual impacts of security fencing;

(d) include protections against security cameras infringing on neighbors' privacy;

(e) include any additional controls on hazardous processing methods with potential to injure neighboring properties;

(f) mitigate other impacts.

### **Distinguished from Variances**

Variances are exceptions that allow specific relief from the zoning code and are intended to handle situations where zoning for a particular parcel affects that parcel more significantly than others. In Skagit County, variances are allowed only from dimensional standards, for example in situations where special conditions and circumstances particular to the land, which are not the fault of the applicant, deprive the applicant of rights commonly enjoyed by other properties in the same zone. Variances may not allow a use that is not otherwise permissible under the County's zoning code.

## Process for SUP Approval

Skagit County has two kinds of special use permits: administrative SUPs and hearing examiner SUPs. The review process for each is defined in SCC 14.06 and summarized in the following table:

	<i>Admin SUP</i>	<i>Hearing Examiner SUP</i>
Application level	I	II
Base application fee (plus publication costs, SEPA, etc.)	\$2,520	\$3,000 in residential zones \$6,000 in commercial zones
Decision-maker	Planning Director	Hearing Examiner
Mail to neighbors	300 ft (or 500 ft if needed)	300 ft (or 500 ft if needed)
Publication in newspaper	Yes	Yes
Comment period	> 15 days but ≤ 30 days	> 15 days but ≤ 30 days
Typical time to decision (less time if SEPA not required)	3-4 months	4-6 months
Administrative appeal body	Hearing Examiner, then BOCC	BOCC

## Next Steps

### Remaining Issues for Planning Commission Consideration

Based on the last meeting, the Department suggests that the next questions for the Planning Commission to consider for its recommendation are:

- **What zones** do you want to allow **which types** of marijuana facilities in?
- What **level of review** do you want to require for each zone/facility?
- What **considerations** do you want the special use permit process to evaluate for marijuana facilities?
- What do you want to recommend with respect to **medical marijuana growing at home**, and in **cooperatives**?

## Timelines

In Interim Ordinance O20150001, the Board of Commissioners directed the Planning Commission to provide to the Department its recommendation no later than April 21, 2015. If the Planning Commission does not finalize a recommendation at its May 5 meeting, we will schedule a follow up meeting for May 12.