



SEPA Distribution List
SEP2021-00083
Date of Issuance: September 29, 2021

Please review this determination. If you have further comments or questions, phone the responsible official at (360) 778-5900. Please submit your response by the comment date noted on the attached notice of determination.

WA State Department of Archaeology and Historic Preservation via email
Stephanie Jolivette, stephanie.jolivette@dahp.wa.gov
SEPA@dahp.wa.gov

SEPA Unit, WA State Department of Ecology, Olympia via email
sepaunit@ecy.wa.gov

WA State Department of Fish and Wildlife
Joel Ingram (All Other Freshwater) - Joel.Ingram@dfw.wa.gov

WA State Department of Natural Resources via email
Rochelle Goss, sepacenter@dnr.wa.gov
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SEPA Unit, WA State Department of Transportation, Burlington via email
Roland Storme, stormer@wsdot.wa.gov
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Lummi Nation Natural Resources
Merle Jefferson, Sr. via email - merlej@lummi-nsn.gov
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Nooksack Indian Tribe
George Swanaset, JR via email - george.swanasetjr@nooksack-nsn.gov
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Skagit River System Cooperative
Nora Kammer via email – nkammer@skagitcoop.org

City of Bellingham
Kurt Nabbeffeld via email - knabbefeld@cob.org
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City of Blaine
Stacie Pratschner, AICP via email – spratschner@cityofblaine.com

City of Ferndale
Michael Cerbone via email - michaelcerbone@cityofferndale.org

Applicant
Cliff Strong via email – cstrong@co.whatcom.wa.us

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

SEPA Determination of Nonsignificance (DNS)

File: SEP2021-00083

Project Description: Proposed amendments to the Whatcom County Code Title 20 (Zoning) regarding recreational marijuana production, processing, and retailing.

Proponent: Whatcom County

Address and Parcel #: N/A

Lead Agency: Whatcom County Planning & Development Services

Zoning: Multiple zoning districts

Comp Plan: Multiple land use designations

Shoreline Jurisdiction: Multiple environment designations

The lead agency for this proposal has determined that no significant adverse environmental impacts are likely. This proposal will also be reviewed for compliance with all applicable Whatcom County Codes (WCC) which regulates development activities, including but not limited to: WCC 15 – Buildings and Construction, WCC 16.16 – Critical Areas, WCC 17 – Flood Damage Prevention, WCC 20 – Zoning, WCC 21 - Land Division Regulations, WCC 23 – Shoreline Management Program, the Whatcom County Development Standards and/or the Washington State Stormwater Manual. Mitigation may be a requirement of Whatcom County Code. Pursuant to RCW 43.21C.030(2)(c), an environmental impact statement (EIS) is not required. This decision was made following review of a completed SEPA environmental checklist and other information on file with the lead agency. This information is available to the public on request.

X Pursuant to WAC 197-11-340(2), the lead agency will not act on this proposal for 14 days from the date of issuance indicated below. Comments must be received by October 13, 2021 and should be sent to: Cliff Strong via email at cstrong@co.whatcom.wa.us

Responsible Official: Mark Personius, mpersoni@whatcomcounty.us

Title: Director

Telephone: 360-778-5900

Address: 5280 Northwest Drive
Bellingham, WA 98226

Date of Issuance: September 29, 2021 **Signature:** _____

A handwritten signature in black ink, appearing to read "M Personius", is written over a horizontal line.

An aggrieved agency or person may appeal this determination to the Whatcom County Hearing Examiner. Application for appeal must be filed on a form provided by and submitted to the Whatcom County Current Planning Division located at 5280 Northwest Drive, Bellingham, WA 98226, during the ten days following the comment period, concluding October 25, 2021.

You should be prepared to make a specific factual objection. Contact Whatcom County Current Planning Division for information about the procedures for SEPA appeals.

WHATCOM COUNTY
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Mark Personius, AICP
Director

SEPA Determination of Nonsignificance (DNS)
Legal Notice

To be published one time only on: **September 29, 2021**

CHARGE TO: Whatcom County Planning & Development Services
5280 Northwest Drive
Bellingham, Washington 98226
Acct #AP25580

WHATCOM COUNTY GIVES PUBLIC NOTICE THAT THE FOLLOWING SEPA THRESHOLD DETERMINATION OF NON-SIGNIFICANCE (DNS) HAS BEEN ISSUED TODAY SUBJECT TO THE 14 DAY COMMENT PERIOD CONCLUDING ON OCTOBER 13, 2021.

File: SEP2021-00083

Project Description: Proposed amendments to the Whatcom County Code Title 20 (Zoning) regarding recreational marijuana production, processing, and retailing.

Proponent: Whatcom County

Address and Parcel #: N/A

Lead Agency: Whatcom County Planning & Development Services

Zoning: Multiple zoning districts

Comp Plan: Multiple land use designations

Shoreline Jurisdiction: Multiple environment designations

ANY PERSON OR AGENCY MAY APPEAL THE COUNTY'S COMPLIANCE WITH WAC 197-11 BY FILING AN APPEAL WITH THE WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES LOCATED AT 5280 NORTHWEST DRIVE, BELLINGHAM, WA 98226. APPEALS MUST BE MADE WITHIN 10 DAYS AFTER THE END OF THE COMMENT PERIOD.

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive,
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
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Mark Personius, AICP

Director

SEP2021 - 00083

SEPA Environmental Checklist

Purpose of Checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

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 Non-Project Proposals:

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the Supplemental Sheet for Non-project Actions (Part C). Please completely answer all questions that apply and note that the words “project”, “applicant”, and “property or site” should be read as “proposal”, “proponent” and “affected geographic area”, respectively. The lead agency may exclude (for non-projects) questions in Part B – Environmental Elements that do not contribute meaningfully to the analysis of the proposal.

A. Background

1. Name of proposed project, if applicable: Amendments to Whatcom County Code Title 20 (Zoning) regarding recreational marijuana facilities.
2. Name of applicant: Whatcom County
Applicant phone number: 360.778.5942
Applicant address: 5280 Northwest Drive
City, State, Zip or Postal Code: Bellingham, WA 98226
Applicant Email address: cstrong@co.whatcom.wa.us
3. Contact name: Cliff Strong, Senior Planner
Contact phone number: 360.778.5942
Contact address: 5280 Northwest Drive
City, State, Zip or Postal Code: Bellingham, WA 98226
Contact Email address: cstrong@co.whatcom.wa.us
4. Date checklist prepared: 9/13/21
5. Agency requesting checklist: Whatcom County
6. Proposed timing or schedule (including phasing, if applicable): The Planning Commission is tentatively scheduled to hold a public hearing and consider the proposed code amendments on 10/17/21. The County Council will then hold a public hearing and consider the amendments sometime later in 2021.
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? Yes No
If yes, explain:
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal:
None.
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal?
Yes No
If yes, explain.
10. List any government approvals or permits that will be needed for your proposal, if known.
Adoption of an ordinance by the County Council adopting the code amendments.
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.)*
Proposed amendments to the Whatcom County Code Title 20 (Zoning) regarding recreational marijuana production, processing, and retailing. (see attached Exhibit A)

- RE

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.

Countywide

B. Environmental Elements

NOTE: Section B has been filled out to aid SEPA review but is not required per WAC 197-11-315(1) and Whatcom County Planning and Development Services Policy PL1-83-001Z.

1. Earth

a. General description of the site:

RE

- Flat
- Rolling
- Hilly
- Steep Slopes
- Mountainous
- Other

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

N/A

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 agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. N/A

d. Are there surface indications or history of unstable soils in the immediate vicinity? Yes
No

If so, describe. N/A

e. Describe the purpose, type, total area, approximate quantities and total affected area of any filling excavation or grading proposed. N/A

Indicate source of fill. N/A

Indicate where excavation material is going. N/A

f. Could erosion occur as a result of clearing, construction, or use?

Yes No

If so, generally describe. N/A

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

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: None

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation and maintenance when the project is completed (i.e., dust, automobile, odors, or industrial wood smoke)? N/A

RE

If any, generally describe and give approximate quantities if known. N/A

- b. Are there any off-site sources of emissions or odor that may affect your proposal? Yes
No

If so, generally describe. N/A

- c. Proposed measures to reduce or control emissions or other impacts to air, if any: None

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)?

Yes No

If yes, describe type and provide names. If appropriate, state what stream or river it flows into. N/A

- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? Yes No

If yes, please describe and attach available plans. N/A

- (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. N/A

- (4) Will the proposal require surface water withdrawals or diversions?

Yes No

Give general description, purpose, and approximate quantities if known. N/A

Does the proposal lie within a 100-year floodplain? Yes No

If so, note location on the site plan. N/A

- (5) Does the proposal involve any discharges of waste materials to surface waters?

Yes No

If so, describe the type of waste and anticipated volume of discharge. N/A

b. Ground Water:

- (1) Will ground water be withdrawn from a well for drinking water or other purposes? Yes No

If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. N/A

- (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 houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. N/A

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? N/A

Will this water flow into other waters? Yes No - RE

If so, describe. N/A

- (2) Could waste materials enter ground or surface waters?

Yes No

If so, generally describe.

- (3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site:

Yes No

If so, describe.

- d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
None

4. Plants

- a. Check types of vegetation found on the site: N/A

- Deciduous tree: alder, maple, aspen, other
- Evergreen tree: fir, cedar, pine, other
- Shrubs
- Grass
- Pasture
- Crop or grain
- Orchards, vineyards or other permanent crops
- 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? N/A

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

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

- e. List all noxious weeds and invasive species known to be on or near the site. N/A

5. Animals

- a. Check any birds and animals, which have been observed on or near the site or are known to be on or near the site: N/A

Birds:

- | | |
|---------------------------------|-------------------------------------|
| <input type="checkbox"/> Hawk, | <input type="checkbox"/> Heron, |
| <input type="checkbox"/> Eagle, | <input type="checkbox"/> Songbirds; |
| <input type="checkbox"/> Other: | |

Mammals:

- | | |
|---------------------------------|----------------------------------|
| <input type="checkbox"/> Deer, | <input type="checkbox"/> Bear, |
| <input type="checkbox"/> Elk, | <input type="checkbox"/> Beaver; |
| <input type="checkbox"/> Other: | |

Fish:

- | | |
|-------------------------------------|-----------------------------------|
| <input type="checkbox"/> Bass, | <input type="checkbox"/> Salmon, |
| <input type="checkbox"/> Trout, | <input type="checkbox"/> Herring, |
| <input type="checkbox"/> Shellfish; | <input type="checkbox"/> Other: |

- b. List any threatened or endangered species known to be on or near the site. N/A
- c. Is the site part of a migration route? Yes No
- If so, explain. N/A
- d. Proposed measures to preserve or enhance wildlife, if any: None
- e. List any invasive species known to be on or near site. N/A
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. N/A
- b. Would your project affect the potential use of solar energy by adjacent properties?
Yes No - RE
If so, generally describe. N/A
- 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: None
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?
Yes No
- If so, describe. N/A
- (1) Describe any known or possible contamination at the site from present or past uses. N/A
- (2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity. N/A
- (3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the projects development or construction, or at any time during the operating life of the project. N/A
- (4) Describe special emergency services that might be required. N/A
- (5) Proposed measure to reduce or control environmental health hazards, if any: None
- b. Noise
- (1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? N/A

(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. N/A

(3) Proposed measures to reduce or control noise impacts, if any: None

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? N/A

Will the proposal affect current land uses on nearby or adjacent properties? Yes No

If so, describe. N/A

b. Has the project site been used as working farmlands or working forest lands? Yes
No

If so, describe. N/A

How much agriculture or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? N/A

If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to non-farm or non-forest use? N/A

c. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling and harvesting? Yes No

If so, how: N/A

Describe any structures on the site. N/A

d. Will any structures be demolished? Yes No

If so, what? N/A

e. What is the current zoning classification of the site? N/A

f. What is the current comprehensive plan designation of the site? N/A

g. If applicable, what is the current shoreline master program designation of the site? N/A

h. Has any part of the site been classified as a critical area by the city or county? Yes
No

If so, specify. N/A

i. Approximately how many people would reside or work in the completed project? N/A

j. Approximately how many people would the completed project displace? N/A

k. Proposed measures to avoid or reduce displacement impacts, if any: N/A

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: None

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any? None

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. N/A - RE

- High
- Middle
- Low-income

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. **N/A - RE**

- High
- Middle
- Low-income

c. Proposed measures to reduce or control housing impacts, if any: N/A

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? N/A

b. What views in the immediate vicinity would be altered or obstructed? N/A

c. Proposed measures to reduce or control aesthetic impacts, if any: None

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur? N/A

b. Could light or glare from the finished project be a safety hazard or interfere with views? N/A

c. What existing off-site sources of light or glare may affect your proposal? N/A

d. Proposed measures to reduce or control light and glare impacts, if any: None

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity? N/A

b. Would the proposed project displace any existing recreational uses? If so, describe. N/A

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: None

13. Historic and Cultural Preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state or local preservation registers located on or near the site? Yes No

If so, specifically describe. N/A

b. Are there any landmarks, features, or other evidence of Indian, historic use or occupation, this may include human burials or old cemeteries? Yes No

Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Yes No

Please list any professional studies conducted at the site to identify such resources. N/A

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples: Include consultation with tribes and the Department of Archeology and Historic Preservation, archaeological surveys, historic maps, GIS data, etc. N/A

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.
None

14. Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plan, if any. N/A
- b. Is site or geographic area currently served by public transit? Yes No
If not, what is the approximate distance to the nearest transit stop? N/A
- c. How many parking spaces would the completed project have? How many would the project eliminate? N/A
- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? Yes No
If so, generally describe (indicate whether public or private). N/A
- e. Will the project use (or occur in the immediate vicinity of)
- Water,
 - Rail, or
 - Air transportation?
- If so, generally describe. N/A
- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates? N/A
- g. Proposed measures to reduce or control transportation impacts, if any: None

15. Public Services

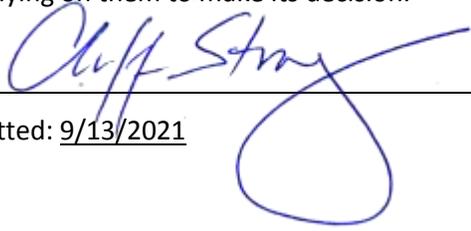
- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? Yes No
If so, generally describe. N/A
- b. Proposed measures to reduce or control direct impacts on public services, if any. None

16. Utilities

- a. Check utilities currently available at the site:
- | | |
|---|--|
| <input type="checkbox"/> Electricity, | <input type="checkbox"/> Natural gas, |
| <input type="checkbox"/> Water, | <input type="checkbox"/> Refuse service, |
| <input type="checkbox"/> Telephone, | <input type="checkbox"/> Sanitary sewer, |
| <input type="checkbox"/> Septic system, | <input type="checkbox"/> Other |
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.
N/A

Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Date Submitted: 9/13/2021

FOR OFFICE USE ONLY

Reviewed by Whatcom County Planning & Development Services Staff

Robert Eckroth, 

Staff Signature

09/27/2021

Date

C. Supplemental Sheet for Non-project Actions

(It is not necessary to 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?

None of the proposed amendments are likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise.

Proposed measures to avoid or reduce such increases are: None

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

None of the proposed amendments are likely to affect plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are: None

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

None of the proposed amendments are likely to deplete energy or natural resources.

Proposed measures to protect or conserve energy and natural resources are: None

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?

None of the proposed amendments are likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection.

Proposed measures to protect such resources or to avoid or reduce impacts are: None

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?

None of the proposed amendments are likely to affect land and shoreline use.

Proposed measures to avoid or reduce shoreline and land use impacts are: None

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

None of the proposed amendments are likely to increase demands on transportation or public services and utilities.

Proposed measures to reduce or respond to such demand(s) are: None

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

None of the proposed amendments are likely to conflict with local, state, or federal laws or requirements for the protection of the environment.

Exhibit A – Proposed Marijuana Code Amendments

WCC Title 20 Zoning

Chapter 20.36 RURAL (R) DISTRICT

20.36.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028.

...

~~.137~~ Type 1 Marijuana Production Facilities, subject to WCC 20.80.690y; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:

- ~~(1) The facility shall not be located within 1,000 feet of a community center. 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 community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility.~~
- ~~(3) On parcels smaller than four and one half acres the facility shall not exceed a total of 2,000 square feet, except where the facility is contained within a building that existed on the effective date of the ordinance codified in this section.~~

~~.138~~ Marijuana Processing Facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694 and WCC 22.05.028:

- ~~(1) The facility is accessory to the on-site production of marijuana.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility.~~
- ~~(3) On parcels smaller than four and one half acres the total area used for marijuana processing and production shall not exceed 2,000 square feet, except where the facility is contained within a building that existed on the effective date of the ordinance codified in this section.~~

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20.36.100 Accessory uses.

...

~~.110 Marijuana Processing Facilities, subject to WCC 20.80.690~~

...

20.36.150 Conditional uses.

...

~~.160 Type 2 Marijuana Production Facilities, subject to WCC 20.80.690.~~

...

Comment [P/C1]: On 9/23/21, in workshop, the P/C voted to allow Type 2 Production Facilities only in the RIM district.

Chapter 20.40 AGRICULTURE (AG) DISTRICT

20.40.050 Permitted uses.

Unless otherwise provided herein, permitted, accessory, and conditional uses shall be administered pursuant to the applicable provisions of WCC Chapter 20.80 WCC (Supplementary Requirements), and Chapter 22.05 WCC (Project Permit Procedures), Chapter 16.08 (the Whatcom County SEPA Ordinance), Title 21 (Land Division Regulations), the Whatcom County Subdivision Ordinance and Title 23 the Whatcom County (Shoreline Management Program). The following are permitted uses:

...

~~.059 Marijuana production facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:~~

- ~~(1) The facility shall not be located within 1,000 feet of a community center. 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 community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 22.05.028.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 22.05.028.~~

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...

20.40.100 Accessory uses.

...

~~.115 Marijuana Processing Facilities, subject to WCC 20.80.690 through 20.80.694:~~

- ~~(1) The facility is accessory to the on-site production of marijuana.~~
- ~~(2)(1) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any~~

~~structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 22.05.028.~~

20.40.130 Administrative approval uses.

...

~~.136 Type 1 Marijuana Production Facilities, subject to WCC 20.80.690.~~

...

20.40.150 Conditional uses.

...

~~.167 Type 2 Marijuana Production Facilities, subject to WCC 20.80.690.~~

...

Chapter 20.42 RURAL FORESTRY (RF) DISTRICT

20.42.050 Permitted uses.

Unless otherwise provided herein, permitted, accessory, and conditional uses shall be administered pursuant to the applicable provisions of WCC Chapter 20.80 WCC (Supplementary Requirements), and Chapter 22.05 WCC (Project Permit Procedures), ~~the Whatcom County Chapter 16.08 (SEPA) Ordinance, Title 21 (Land Division Regulations) the Whatcom County Subdivision Ordinance,~~ and Title 23 the Whatcom County (Shoreline Management Program).

...

~~.070 Marijuana production facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:~~

- ~~(1) The facility shall not be located within 1,000 feet of a community center. 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 community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 22.05.028.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 22.05.028.~~

...

Comment [P/C2]: On 9/23/21, in workshop, the P/C voted to allow Type 2 Production Facilities only in the RIM district.

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20.42.100 Accessory uses.

...

~~106 Marijuana processing facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:~~

- ~~(1) The facility is accessory to the on-site production of marijuana.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 22.05.028.~~

...

Chapter 20.69 RURAL INDUSTRIAL AND MANUFACTURING (RIM) DISTRICT

20.69.050 Permitted uses.

The following permitted uses shall be allowed subject to an evaluation by the Director zoning administrator pursuant to the provisions of this chapter and WCC Chapter 20.80 (Supplementary Requirements)-WCC. In a rural community designation, nonresidential uses listed below are permitted if a use of the same type existed in that same rural community designation on July 1, 1990, per WCC 20.80.100(1). In a rural business designation all uses listed below are permitted.

.051 Manufacturing/fabrication type uses.

...

- ~~(17) Type 2 M marijuana production facilities, subject to WCC 20.80.690.~~
- ~~(18) Marijuana processing facilities, subject to WCC 20.80.690.~~

...

20.69.700 Performance standards.

20.69.704 Odor, dust, dirt, and smoke.

- ~~(1) Except as specified in subsection (2), No odor, dust, dirt, or smoke shall be emitted that is detectable at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district.~~
- ~~(2) For marijuana production or processing facilities, odor shall be regulated pursuant to WCC 20.80.690(3)(g).~~

20.69.708 Marijuana odor.

~~For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to~~

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Comment [CES3]: Now covered by 20.80.690(3)(g).

~~prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.~~

Chapter 20.66 LIGHT IMPACT INDUSTRIAL (LI) DISTRICT

20.66.050 Permitted uses.

Unless otherwise provided herein, permitted and accessory uses shall be administered pursuant to the applicable provisions of WCC Chapter 20.80 ~~WCC~~ (Supplementary Requirements), Chapter 22.05 ~~WCC~~ (Project Permit Procedures), ~~Chapter 16.08 (the Whatcom County SEPA) Ordinance, Title 21 (Land Division Regulations), the Whatcom County Subdivision Ordinance and Title 23 the Whatcom County~~ (Shoreline Management Program).

...

~~087 Type 2 Marijuana Production or Processing Facilities, subject to WCC 20.80.690.~~

.088 Marijuana Processing Facilities, subject to WCC 20.80.690.

...

20.66.700 Performance standards.

...

20.66.704 Odors.

(1) Except as specified in subsection (2), No odor, dust, dirt, or smoke shall be emitted that is detectable at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district.

(2) For marijuana production or processing facilities, odor shall be regulated pursuant to WCC 20.80.690(3)(g).

~~20.66.709 Marijuana odor.~~

~~For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.~~

Comment [P/C4]: On 9/23/21, in workshop, the P/C voted to allow Type 2 Production Facilities only in the RIM district.

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Comment [CES5]: Now covered by 20.80.690(3)(g).

Chapter 20.68 HEAVY IMPACT INDUSTRIAL (HI) DISTRICT

20.68.050 Permitted uses.

Unless otherwise provided herein, permitted and accessory uses shall be administered pursuant to the applicable provisions of WCC Chapter 20.80 ~~WCC~~, (Supplementary Requirements), ~~and~~ Chapter 22.05 ~~WCC~~, (Project Permit Procedures), ~~Chapter 16.08 (the Whatcom County SEPA) Ordinance, Title 21 (Land Division Regulations), the Whatcom County Subdivision Ordinance and Title 23 the Whatcom County~~ (Shoreline Management Program). The purpose of the SIC numbers listed within this chapter is to adopt by reference other activities similar in nature to the use identified herein. (Policies of the subarea Comprehensive Plan may preclude certain permitted uses to occur in particular subareas. Please refer to

the policies of the applicable subarea plan to determine the appropriateness of a land use activity listed below.)

...

~~066 Type 2 Marijuana Production or Processing Facilities, subject to WCC 20.80.690.~~

~~.067 Marijuana processing facilities, subject to WCC 20.80.690.~~

...

20.68.700 Performance standards.

...

~~(1) Except as specified in subsection (2), No odor, dust, dirt, or smoke shall be emitted that is detectable at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district.~~

~~(2) For marijuana production or processing facilities, odor shall be regulated pursuant to WCC 20.80.690(3)(g).~~

...

~~20.68.709 Marijuana odor.~~

~~For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.~~

20.80 SUPPLEMENTARY REQUIREMENTS

~~20.80.690 Marijuana production and processing.~~

~~20.80.691 Marijuana state license required.~~

~~Prior to commencing operations, a marijuana producer, processor, or retailer shall obtain approval as a state-licensed marijuana producer, processor, or retailer under Chapter 69.50 RCW, as amended, and Chapter 314-55 WAC, as amended.~~

~~20.80.692 Application for county development permits – Timing.~~

~~Applicants for marijuana production, processing, or retailing may apply for county development permits at any time. Applicants who wish to apply for county permits, or commence construction of facilities for producing, processing, or retailing of marijuana under Chapter 69.50 RCW, prior to obtaining approval as a state-licensed marijuana producer, processor or retailer do so at their own risk. Final occupancy of the building will not be granted until a state Liquor and Cannabis Board license has been approved.~~

~~20.80.693 Production.~~

~~(1) For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The~~

Comment [P/C6]: On 9/23/21, in workshop, the P/C voted to allow Type 2 Production Facilities only in the RIM district.

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Comment [CES7]: Now covered by 20.80.690(3)(g).

Comment [CES8]: Now covered by 20.80.690(1)(b).

Comment [CES9]: Now covered by 20.80.690(1)(b).

applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.

Comment [CES10]: Now covered by 20.80.690(3)(g).

(2) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining property and the public road.

Comment [CES11]: Now covered by 20.80.690(3)(a).

(3) No traffic shall be generated by such a facility in greater volume than would normally be expected in the applicable zoning district and appropriate for the road classification which serves the property.

Comment [CES12]: Staff believes we don't need this. Firstly, there's no way to judge what "greater volume than would normally be expected." Secondly, no production facility, with normally only a few employees and no customers coming to the site, would create an inordinate amount of traffic.

(4) Any need for parking generated by the conduct of such a facility shall meet the off-street parking requirements as specified in this title. At least one additional space shall be provided for each nonresident on-site employee.

Comment [CES13]: Now covered by 20.80.690(3)(h).

(5) The proposed use shall be compatible with the general appearance and character of the surrounding area. The zoning administrator at his or her discretion may require landscape screening pursuant to the requirements of WCC 20.80.345.

Comment [CES14]: Now covered by 20.80.690(3)(b).

20.80.694 Processing.

(1) The facility employs no more than 10 permanent employees, except that in the Agriculture and Rural Forestry Zones the facility may employ no more than 20 employees.

Comment [CES15]: Not needed. Was originally included when we were treating marijuana as an agricultural product, and this mimics the language for ag processing

(2) For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.

Comment [CES16]: Now covered by 20.80.690(3)(g).

(3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining property and the public road.

Comment [CES17]: Now covered by 20.80.690(3)(a).

(4) No traffic shall be generated by such a facility in greater volume than would normally be expected in the applicable zoning district and appropriate for the road classification which serves the property.

Comment [CES18]: Staff believes we don't need this. Firstly, there's no way to judge what "greater volume than would normally be expected." Secondly, no production facility, with normally only a few employees and no customers coming to the site, would create an inordinate amount of traffic.

(5) Any need for parking generated by the conduct of such a facility shall meet the off-street parking requirements as specified in this title. At least one additional space shall be provided for each nonresident on-site employee.

Comment [CES19]: Now covered by 20.80.690(3)(h).

20.80.690 Marijuana – Production and Processing Facilities.

(1) **General.** Marijuana production or processing facilities shall comply with RCW Title 69, Chapter 314-55 WAC, and the following general standards:

a. The WSLCB must approve a marijuana license for the subject property prior to issuance of the County's certificate of occupancy for buildings proposed for marijuana production or processing. Any permitting or construction work done prior to receiving said license is done so at the applicant's own risk.

b. Consistent with WAC 314-55-015, marijuana production and processing shall not take place in a residence or other location where law enforcement access, without notice or cause, is limited.

- c. Marijuana production and processing are not allowed as home occupations or cottage industries.
- d. Marijuana production and processing operations may not be located in critical areas or their buffers (WCC Chapter 16.16, Critical Areas) or in the shoreline jurisdiction (WCC Title 23).
- e. Nonconforming Uses. This section applies to those marijuana facilities legally existing as of INSERT DATE OF ADOPTION OF THESE RULES that, due to noncompliance with these standards, become nonconforming. Legally existing facilities that meet these standards are not considered nonconforming and may continue the use or they may expand with the proper permits.
 - (i) Continuation of Nonconforming Uses. Any legally existing marijuana production or processing facility that becomes nonconforming may continue operations as a nonconforming use within the terms of their permit(s) even when those facilities do not meet the standards of this section, pursuant to WCC 20.83.010.
 - (ii) Expansion of Nonconforming Uses. Similarly, expansion may be allowed pursuant to WCC 20.83.020, EXCEPT that:
 - A. Expansion of nonconforming Type 2 marijuana production facilities is prohibited; and,
 - B. Any other expansion shall be limited to 10% (in area) unless the standards of this section are met.
 - (iii) Change to Another Nonconforming Use. WCC 20.83.040 shall not apply: Nonconforming marijuana production or processing facilities shall not be able to change to another nonconforming use.

Comment [CES20]: Note to Cliff: Fill in upon adoption

(2) District Specific Standards.

- a. Facility Size –
 - (i) In the Rural district, processing facilities or production facilities on parcels smaller than 4.5 acres shall not exceed a total of 2,000 square feet. On lots of 4.5 acres or greater production and processing facilities shall not exceed 1 acre.
 - (ii) In the Agriculture district, production and processing facilities on parcels smaller than 4.5 acres shall not exceed a total of 2,000 square feet. On lots of 4.5 acres or greater processing and production facilities shall not exceed 2 acres.
- b. Separation of Uses – In the Rural and Agriculture districts, no facility shall be located within 1,000 feet of a community center or within 300 feet of any residential unit not located on the same parcel as the facility and existing at the time of application. Said distance shall be measured as the shortest straight line distance from property lines (for community centers) or structures (for residences).
- c. Limit on Number of Licenses per Lot. In the Rural and Agriculture districts, only one Washington State Liquor and Cannabis Board (WSLCB) marijuana production license may be used per legal lot (though may be combined with one processing license).
- d. Accessory Use Only. In the Rural and Agriculture districts, processing facilities are only allowed as an accessory use to a production facility.
- e. Hazardous Materials – Marijuana processing using hazardous or flammable solvents or gases is allowed only in the LII, HII, or RIM districts. Producers and processors that will use chemicals, industrial solvents, or other noxious or hazardous substances shall comply with all federal, state, and County safety, fire, structural, storage, and disposal standards. They shall describe the

Comment [CES21]: Defined in T-20 as, "Community center" means land and/or building(s) owned by a public agency or private nonprofit entity used for social, civic, educational, religious, or recreational purposes, which serves mainly the community where located; including but not limited to community halls and centers, grange halls, senior citizen centers, teen centers, youth clubs, field houses, and churches. The facilities are available for occasional public meetings. They may also have the minimal kitchen facilities required for occasional banquets. Private clubs as defined in this title are not included."

proposed use of hazardous substances, methods, equipment, solvents, gases, and mediums identified in WAC 314-55-104 on permit applications and site plans.

(3) Facility Design Standards.

a. Lighting –

(i) Outdoor fixtures illuminating production or processing operations shall be designed and down-shielded to direct light away from adjoining properties, critical areas, shorelines, and public roads.

(ii) All structures using artificial lighting for aiding in the growth cycle of plants shall install and employ mechanisms (e.g., blackout shades) that prevent light from escaping production structures.

b. Screening – Marijuana production and processing facilities shall be landscaped and screened consistent with WCC 20.80.300, et seq. (Landscaping). Screening shall be located outside of the state’s required security fence to provide a visual barrier.

c. Security – Producers and processors shall install the security requirements of WAC 314-55-083 prior to issuance of the County’s certificate of occupancy for a marijuana operation.

d. Parking – Such facilities shall meet the off-street parking requirements of WCC 20.80.500, et seq. (Off-street Parking and Loading Requirements).

e. Water and Waste Disposal – Permit applications shall include documentation of compliance with the water system requirements and waste disposal regulations of WCC Title 24 (Health Code) and WAC 314-55-097.

f. Noise – Producers and processors shall comply with WCC 20.80.620 (Noise). Fan noise from operations shall be minimized. A mechanical engineer licensed in the state of Washington shall design the noise control system using standard industry practices such as installing fans with components listed by Underwriters Laboratories (UL) and a combination of the following techniques and components:

- (i) Short and straight line vent runs;
- (ii) Silencers and insulated vents, vent sleeves and mufflers;
- (iii) Acoustic ducting;
- (iv) Fan speed controllers;
- (v) Soundproofing boxes;
- (vi) Sound-muffling casing;
- (vii) Padded foam cushions under the fans;
- (viii) Intelligent programming motors and controllers; and
- (ix) Hanging fans hung from bungee cords from hooks in ceiling.

g. Odor –

(i) All Production and Processing – No odor, terpenes, or other similar volatile organic compounds (VOCs) shall be emitted that is detectable at or beyond the property boundaries of the facility in such a concentration or of such duration as to cause a public nuisance or threaten health or safety.

(ii) Type 2 Production – Type 2 producers shall minimize odors emitted by using best management practices and technology, and all air must go through an odor control system before being vented outdoors. A mechanical engineer licensed in the state of

Washington shall design the odor control system using guidance from the National Air Filtration Association and approved by the Building Official. The odor control plan must incorporate a combination of the following site design practices, tools, or other newly improved technologies to mitigate odors:

- A. Use of filters on exhaust air prior to dispersal;
- B. Placement of operations after consideration of predominant wind directions;
- C. Installation of additional vegetative buffers around grow areas;
- D. Reduction of passive odor escapes by tightening and sealing structures;
- E. Use of negative pressure techniques and air locks to reduce odors from escaping when doors open;
- F. Use of chillers that move water around the structure and leave air in place instead of air conditioning;
- G. Installation of carbon filter scrubbers to heating, ventilation, and air conditioning systems;
- H. Installation of dry vapor systems;
- I. Installation of ionizers;
- J. Use of mini-vapor screens on the interior, and Vapormatic and vapor screens on the exterior of structures;
- K. Installation of a piping system on perimeter fencing that neutralizes malodorous molecules;
- L. Installation of a gas phase filtration system; and/or,
- M. Installation of a fog system to disperse mixed water- and odor-neutralizing chemicals.

h. *Building Permits Required* – Building permits shall be required for any structures used in Type 2 Production Facilities.

20.80.691 Marijuana – Retail Sales Facilities.

Marijuana retail sales facilities shall comply with RCW Title 69, WAC Chapter 314-55, and the following.

1. The WSLCB must approve a marijuana retail sales license for the subject property prior to issuance of the County's certificate of occupancy for buildings proposed for marijuana retail sales. Any permitting or construction work done prior to receiving said license is done so at the applicant's own risk.
2. Consistent with WAC 314-55-015, marijuana retail sales shall not take place in a residence or other location where law enforcement access, without notice or cause, is limited. Marijuana retail sales are not allowed as home occupations or cottage industries.
3. Retail sales facilities shall install the security requirements of WAC 314-55-083 prior to issuance of the County's certificate of occupancy for a marijuana operation.
4. Such facilities shall meet the off-street parking requirements of WCC 20.80.500, et seq. (Off-street Parking and Loading Requirements).

Chapter 20.97 DEFINITIONS

20.97.010 Agriculture.

“Agriculture” means the use of land for farming, horticulture, floriculture, viticulture, and the necessary accessory uses for packing, treating or storing the produce; ~~provided, however, that, though~~ the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

~~However, the production of marijuana is not considered agriculture.~~

20.97.010.1 Agricultural Processing.

“Agricultural processing” means the transformation, either chemically or physically, of raw agricultural goods including but not limited to washing, grading, sizing, drying, extracting, icing, producing ornamental agricultural products, sorting, cutting, pressing, bagging, freezing, canning, packaging, milling, crushing, fermenting, aging, pasteurizing, preserving, storage, bottling, but excluding slaughtering of livestock. Agricultural processing includes those process steps associated with product preparation and processing. Storage, warehousing, and distributing products in conjunction with the agricultural processing activity occurring on that site shall be allowed. ~~However, the processing of marijuana is not considered agricultural processing.~~

20.97.225 Marijuana, ~~marihuana or cannabis.~~

“Marijuana,” ~~(a.k.a., “marihuana” or “cannabis”)~~ means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. 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 therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

20.97.226 Marijuana processing facility.

“Marijuana processing facility” means a facility licensed by the state Liquor and Cannabis Board to process marijuana into useable marijuana, marijuana concentrates, and marijuana-infused products; ~~;~~ package and label useable marijuana and marijuana-infused products for sale in retail outlets; ~~;~~ and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers. A marijuana processing facility shall include any structure that is associated with the processing of marijuana.

20.97.227 Marijuana production facility.

“Marijuana production facility” means a facility licensed by the state Liquor and Cannabis Board to produce, harvest, trim, dry, cure, ~~and package marijuana,~~ and sell marijuana at wholesale to state-licensed marijuana processors and other state-licensed marijuana producers. A marijuana producer may also produce and sell marijuana plants, seed, and plant tissue culture to other state-licensed marijuana producers. The area of a marijuana production facility includes all the area enclosed within a structure or fence that is required by the state Liquor and Cannabis Board for the production of marijuana. ~~Where limitations on size are imposed pursuant to §20.80.690, the “facility” shall include all structures related~~

to the production or processing of marijuana and any ground in which marijuana is grown. For the purposes of this code, Whatcom

- A. “Type 1 Marijuana ~~Outdoor~~ Production Facilities” shall mean production ~~may take~~ place outdoors, including in an expanse of open or cleared ground, or in ~~nonrigid greenhouses, other structures that have no artificial lighting for aiding in the growth cycle, or an expanse of open or cleared ground fully enclosed by a physical barrier.~~; except that Type 1 facilities may include one ~~small~~ structure with artificial lights for overwintering plants.
- B. “~~Indoor~~ Type 2 Marijuana ~~P~~roduction Facilities” shall mean production facilities that use artificial lighting for aiding in the growth cycle ~~be within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.~~

Comment [CES22]: We don't yet know the size needed for overwintering plants, though have calls out to determine and should have by the P/C's meeting.

20.97.228 Marijuana retail facility.

“Marijuana retail facility” means a facility licensed by the state Liquor and Cannabis Board to sell useable marijuana and marijuana-infused products in a retail outlet. A marijuana retail facility shall include any building or portion thereof that is associated with the sale of marijuana.