



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

Proposed Changes to Title 17 - Agricultural Activities Requiring Security

TO: Kittitas County Board of Commissioners
FROM: Doc Hansen, Planning Official
DATE: April 7, 2014
SUBJECT: Proposed Changes to Title 17 Re: Agricultural Activities Requiring Security

In November of 2012 the voters of Washington State passed Initiative 502 decriminalizing the growing, processing, retailing and possession of marijuana. The Washington State Liquor Control Board (LCB) has been charged with the development of regulations, the issuance of licenses, and the oversight of all associated activities for compliance with the law. The County Prosecuting Attorney's Office (PAO), from early on in the process, maintained the position that it would be in the best interest of the County to essentially remain on the sidelines and allow the State to develop its processes and procedures both internally, and in relation to the Federal Government. Community Development Services (CDS) concurred. On July 3, 2013 the LCB, following public input on its draft rules, issued a revised set of rules for review which featured 10 major changes to be incorporated into the Washington Administrative Code (WAC). The most prevalent of these with relation to Kittitas County was the allowance for Outdoor Production (Proposed WAC 314-55-075). On August 29, 2013, the U.S. Department of Justice (DOJ) issued a memorandum which outlined the federal government's eight enforcement priorities with respect to marijuana enforcement under the Controlled Substances Act, and provided guidance for state and local jurisdictions that have enacted laws legalizing marijuana in some form. In short the DOJ stipulated that:

*"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...** 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."*

Almost immediately following the release of the DOJ memo, inquiries began at CDS with regard to the County's position on the subject, and what sorts of grow, processing, and retail activities would be allowed with respect to the zoning code. Under WAC 314-55-020(11):

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

In November of 2013 a series of study sessions were held by the Kittitas County Board of Commissioners (BOCC) in which staff presented three options to clarify the County's position with regard to I-502.

1. Ban the production, processing, and sales of marijuana in the unincorporated areas of Kittitas County.
2. Identify marijuana as an agricultural use and regulate its production and processing under existing Kittitas County Code (KCC).
3. Draft and adopt through established processes revisionary language to the KCC which defines the activity as

something other than agricultural, and provision the parameters under which it may be produced, processed, and sold.

On February 7, 2014 the BOCC directed staff to construct the proposed revisions to KCC Title 17 and initiate the established processes for consideration and adoption.

The proposed amendments presented to the Planning Commission in summary would:

1. Define **agricultural processing requiring security** and **agricultural production requiring security** (AARS for the purposes of this document).
2. **Permit** AARS in the AG-20, Commercial Agriculture, and Forest and Range zones that are licensed by the Washington State Liquor Control Board (WSLCB) on **legal conforming parcels** and require a 100 foot setback from all property lines.
3. Make AARS an **Administrative Conditional Use** in the AG-20, Commercial Agriculture, and Forest and Range zones that are licensed by the Washington State Liquor Control Board (WSLCB) on **legal non-conforming parcels** and require a 100 foot setback from side and rear property lines.
4. Make AARS in the AG-5 zone that are licensed by the Washington State Liquor Control Board (WSLCB) a **Conditional Use** on any size lot.
5. Require a 125% Bond or Assignment of Funds for AARS that are licensed by the Washington State Liquor Control Board (WSLCB) in any Rural or Resource land use designation, to ensure the survival of any landscaping necessary to screen security fencing which is not in keeping with "Rural Character".
6. **Not permit** any AARS in LAMIRDS.
7. Permit AARS in **Urban** land use - **Light Industrial** zones that are licensed by the Washington State Liquor Control Board (WSLCB) provided that **all activities take place within secure, fully enclosed, indoor facility**.
8. Require that all AARS in Kittitas County:
 - a. Meet all criteria and regulations found in WAC 314.55 and RCW 69.50.
 - b. Meet all International Fire Code and International Building Code requirements.
 - c. Agree to an annual fire protection inspection.

On February 25, 2014 The Planning Commission held a public hearing to review the matter. Public testimony was taken at that time and the comment period was left open an additional three days for written comments; 32 letters were submitted. 21 of those letters were in general opposition to the provisions of initiative 502, 6 were in favor, and five had comments specific to the provisions outlined in the proposed amendments to title 17. On March 11, 2014 the Planning Commission reconvened for deliberations. Following discussion of the issue the Commission voted (4-0) to forward a recommendation to the BOCC that the proposed changes to title 17 be further amended to reflect the following:

1. The minimum lot size for AARS in Rural Areas be established at 10 acres.
2. 100 foot setbacks in Rural Areas be enforced on all sides of all parcels.
3. AARS ***not*** be permitted in Agriculture 5 zoning.

Staff has prepared a second proposed amendment to reflect the recommendations of the Planning Commission, and respectfully places the matter before the BOCC for consideration.