

# Exhibit A – Proposed Marijuana Code Amendments

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## 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.

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~~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:

The facility is accessory to the on-site production of marijuana.

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.

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.

**20.36.100 Accessory uses.**

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.110 Marijuana Processing Facilities, subject to WCC 20.80.690

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**20.36.150 Conditional uses.**

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

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**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:~~

~~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.~~

~~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.~~

...

**20.40.100 Accessory uses.**

...

~~.115 Marijuana Processing Facilityies, 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.**

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~~[.136 Type 1 Marijuana Production Facilities, subject to WCC 20.80.690.](#)~~

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**20.40.150 Conditional uses.**

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~~[.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:~~

~~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.~~

~~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.~~

...

**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:~~

~~The facility is accessory to the on-site production of marijuana.~~

~~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 Mm](#) 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~~

**Comment [CES1]:** 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 M~~ [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 [CES2]:** Now covered by 20.80.690(3)(g).

### Chapter 20.68 HEAVY IMPACT INDUSTRIAL (HII) 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 Indoor 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.~~

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

**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.~~

**Comment [CES4]:** Now covered by 20.80.690(1)(b).

~~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.~~

**Comment [CES5]:** Now covered by 20.80.690(1)(b).

~~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~~

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.

(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.

(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.

(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.

(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 [CES6]:** Now covered by 20.80.690(3)(g).

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

**Comment [CES8]:** 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.

**Comment [CES9]:** Now covered by 20.80.690(3)(h).

**Comment [CES10]:** 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.

(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 [CES11]:** Not needed. Was originally included when we were treating marijuana as an agricultural product, and this mimics the language for ag processing

(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 [CES12]:** Now covered by 20.80.690(3)(g).

(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 [CES13]:** Now covered by 20.80.690(3)(a).

(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 [CES14]:** 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.

**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.

**Comment [CES15]:** Now covered by 20.80.690(3)(h).

- 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 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 [CES16]:** 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. Limitations on Liquor & Cannabis Board Tiers – In the Rural and Agriculture districts, for Type 2 Production Facilities, only Tier 1 or Tier 2 licensed production facilities are allowed; Tier 3 licensed production facilities are prohibited.
- c. 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).
- d. 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).
- e. Accessory Use Only. In the Rural and Agriculture districts, processing facilities are only allowed as an accessory use to a production facility.

**Comment [CES17]:** 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."



f. *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 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) Type 2 production facilities 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. 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.

**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; ~~z~~ package and label useable marijuana and marijuana-infused products for sale in retail outlets; ~~z~~ 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 Production Facilities” shall mean production facilities that use artificial lighting for aiding in the growth cycle within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

**Comment [CES18]:** 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.