



# **Marijuana Uses Advisory Workgroup Report**



**April 22, 2014**

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## INTRODUCTION

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The City of Pacific passed an Interim Zoning Ordinance, Ordinance No. 2014-1855, on February 3, 2014, that prohibited the siting, establishment and operation of any structures, property or uses relating to recreational or medical marijuana production, processing, cultivation, storage, sale, delivery, exchange or bartering, to be in effect until the City adopts “permanent” zoning regulations on the same subject, which includes a prohibition on the submission of business license applications for such uses. This interim ordinance went into effect immediately, setting six months as the effective period of the Interim Zoning Ordinance.

Several marijuana-related land use issues prompted the City Council’s decision to enact the Interim Zoning Ordinance. The first issue focused on the rules outlined by the Washington State Liquor Control Board relating to the production, processing, and sales of marijuana for recreational use. These administrative rules implement Initiative 502, approved by Washington’s voters in November 2012. However, the State provided no clear direction or templates for local jurisdictions to allow these businesses. Also, the State provided no funding or means to recover costs imposed on local jurisdictions that allow these businesses to operate. The City of Pacific, like many cities and counties throughout the state, needs to decide where to site these newly allowed uses within its jurisdiction. The City Council felt a six-month prohibition on the future development of marijuana-related land uses would give sufficient time for the City to adequately study, develop and pass suitable land use controls.

The second justification for the Interim Zoning Ordinance was that issuing business licenses may be problematic since City of Pacific business licenses are typically only issued to businesses that operate within all federal, state and local laws. Marijuana use is still illegal at the federal level. This may create a dilemma for the City to overcome.

The third justification for the Interim Zoning Ordinance was the opening of a few medical marijuana collective gardens within city limits. These collective gardens were serving as access points to multiple qualified patients seeking medical marijuana. Given the vague language authorized by the legislature within Chapter 69.51A RCW, these collective gardens function essentially as dispensaries to a large number of qualified patients. Collective gardens acting as “storefront-like dispensaries” do this by allowing qualified patients to become members of a collective garden for a short duration to facilitate the distribution of medical marijuana and marijuana infused products. State law is unclear regarding a patient’s tenure in a garden or the number of collective gardens that may locate at a single site. The current city zoning code (outside of this Interim Zoning Ordinance) does not address marijuana collective gardens, making it unclear which zoning districts they can or cannot locate in and to what extent. Chapter 69.51A RCW does allow zoning restrictions. Recognizing the potential for land use conflicts, the City Council included medical marijuana in the newly passed Interim Zoning Ordinance until it completed an analysis of the situation.

## **WORK PROGRAM APPROACH**

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While RCW 36.70.795 allows cities to enact moratoria, case law generally has placed limitations on how long a municipal corporation can maintain one. A jurisdiction must show good faith and progress towards resolving the issues that prompted a moratorium. Keeping this in mind, the City Council accepted a work plan that eventually could lead to the adoption of new land use controls before the expiration of the Interim Zoning Ordinance. Their work program relied on a three step process:

- 1) Form a marijuana uses advisory workgroup through the Planning Commission that prepares findings on the list of items that the workgroup needed to determine for marijuana land use within the City of Pacific.
- 2) Present the findings to the City Council to allow the City Council to determine if it would allow these marijuana businesses to operate within the City of Pacific as it currently has the authority to deny these businesses the right to operate within the City.
- 3) Utilize the Planning Commission to:
  - a. Review the workgroup findings and draft a zoning ordinance for consistency and long-range planning goals and policies.
  - b. Hold a public hearing to take public comment.
  - c. Prepare a zoning recommendation for the City Council's consideration.

If the City Council chooses to allow these businesses to operate within the City of Pacific and upon receipt of the written recommendations for a new zoning ordinance from the Planning Commission, the City Council would then hold a final public hearing and take appropriate action.

This report focuses solely on the findings of the workgroup. The City Council and Planning Commission will examine the report when it is complete and utilize the findings as a reference in deciding all matters related to marijuana businesses in the City of Pacific.

## **WORKGROUP FORMATION AND PROCESS**

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The City Council agreed to assign the Planning Commission the task of forming a committee to collect factual information regarding marijuana that will assist the City address the feasibility of

allowing marijuana related businesses to operate within the City of Pacific at the February 10, 2014 meeting. The Planning Commission agreed to form the committee at its February 25, 2014 meeting. The committee was identified as the *Marijuana Uses Advisory Workgroup*. Paula Wiech (City Planner) and Vic Kave (City Council member) screened applicants and appointed the following members to the workgroup representing a broad range of interests and expertise:

<b>APPOINTEE</b>	<b>REPRESENTING</b>
VIC KAVE (CO-CHAIR)	City Council
SCOTT NEWBOLD (CO-CHAIR)	Planning Commission
KATIE GARBERDING	Citizen
JUSTIN NEWLUN	Citizen
DON THOMPSON	Citizen
JAMES DUSEK	Recreational Industry (production and processing)
ANTHONY GILBERT	Medical Industry (collective gardens and retail)

In addition to this workgroup, several city staff members were available for consultation to include: Paula Wiech, City Planner; Ken Barnett, Public Works Director; John Calkins, Public Safety Director.

In anticipation of the potential for conflicting opinions within the workgroup as it responds to the issues regarding marijuana businesses and use, a work plan was written to help guide the workgroup on what work needed to be completed. The workgroup’s focus was to find the facts to help the group vet the concerns that arise from the assigned determinations outlined in the work plan. This approach asks the participants to focus on the facts and not their opinions or positions. By focusing on the facts, codes and the law, concerns are vetted as an issue to be dealt with or no issue at all. A list of pros and cons can then be created and weighted accordingly by each City Council member to decide the merits of allowing these businesses to operate within the City. Also, the Planning Commission can use the information to draft a zoning ordinance to allow these businesses to operate free from bias.

## **LEGAL FOUNDATION FOR MARIJUANA PRODUCTION, PROCESSING, DISTRIBUTION AND RETAIL SALES**

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The legal framework for the State’s medical and recreational marijuana laws was the basis for the need to research the issue. Each member had to familiarize themselves with the law. A synopsis of the laws and topics reviewed are outlined below:

## Medical Marijuana

### Chapter 69.51A RCW

- History of medical marijuana legislation in Washington State
- Definition of qualified patient and designated provider, including allowable quantities of medical cannabis under Washington State law
- Definitions of a collective garden and limitations Washington State law placed on them
- Authority for cities to zone, require business licenses, health and safety requirements, and business taxes
- Vagueness of Washington State law that complicates local laws regulating collective gardens

## Recreational Marijuana

### Initiative 502

- Legalizes individual possession and use of marijuana for those 21 years and over
- Sets up a system for licensing producers, processors, and retailers
- Excise taxes on producers, processors, and retailers, plus local taxing ability
- Limits the number of retail outlets, but not producers and processors in a geographical area
- Gives Washington State Liquor Control Board the right to pass administrative procedures for licensing and regulating

### Chapter 314-55 WAC

- Gives the Washington State Liquor Control Board controls on applications for awarding and managing licenses for production, processors, and retailers
- Provides distance requirements from certain land uses
- Provides security requirements for production, processors, and retailers
- Provides requirements for waste disposal
- Provides requirements for extraction processes

The workgroup received a reading list throughout the process that included pertinent Washington State laws, City of Pacific ordinances and codes, fact sheets by independent bodies, legal opinions and articles regarding legalized medical and recreational marijuana. A list of these reading materials follows in Appendix A. Each workgroup member also researched other material to either educate themselves on the subject matter or site as references in the areas of concern. Therefore, the appendix should not be viewed as a complete list of resources.

## WORK PLAN

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**Adopted work plan to collect information regarding marijuana to be used for determining the feasibility of allowing the production, processing, distribution, and retail sales of both recreational and medical marijuana within the City of Pacific**

- Purpose:** Collect data that will be used to determine the feasibility of allowing the production, processing, distribution, and retail sales of both recreational and medical marijuana within the City of Pacific.
- Direction:** A workgroup shall be organized with members from the City Council, Planning Commission, citizens and industry. Limited staff time is available to answer questions and ensure notifications are posted regarding meeting times. This work will be done in a manner that promotes the following guiding values which are Pride of City, Integrity, Courage and Respect. This workgroup will address any and all concerns presented to it to determine the legal issues with allowing marijuana based businesses to operate in the City of Pacific.
- Desired results:** Answer any and all possible questions regarding these types of businesses using facts, laws, regulations and statistical analysis to allow a list of pros and cons to be weighted by each City Council member who has the task of deciding whether to allow or disallow these businesses to operate within the City of Pacific. Also, collect enough information to allow the Planning Commission and city staff to draft proposed regulations for City Council to consider.
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This committee will serve as an advisory committee to the Planning Commission who has been tasked with developing and recommending zoning regulations regarding marijuana based businesses to the City Council. This workgroup has the following duties and responsibilities:

- A. Review current practices.
- B. Define each type of marijuana business and categorize them for regulatory purposes.
- C. Collect information that will be used to help determine a course of action that is in compliance with State and Local laws.
- D. Such other advisory duties as may be assigned by the Planning Commission, Mayor and/or City Council.

To fulfill the above duties and responsibilities within budget and staff limitations, this workgroup will follow the work plan outlined below:

- Determine the legality of allowing these businesses to operate within city limits and determine any needed changes to allow them to operate.
- Determine if current zoning allows these businesses to operate and determine any needed changes if necessary to allow them to operate.
- Determine if building, electrical, and fire codes are adequate for such businesses.
- Determine how waste will be dealt with, both waste water and solid waste.
- Determine how odors will be dealt with to prevent nuisance complaints.
- Determine what security measures should be required to ensure product safety, employee safety and public safety.
- Determine impacts on City resources, include possible costs.

- Determine if requirements are needed for folks growing marijuana for people with prescriptions for medical marijuana to report to the fire, police and the City that they are growing marijuana plants to better monitor these collective gardens as well as home grow operations and have premise warnings in place to advise incoming emergency units of the possibility for the need for heightened awareness.
- Determine what social concerns exist and does the City have any social responsibilities regarding use and consumption within the City.
- Determine types of inspections that should take place to ensure compliance with the law and who is responsible for doing the inspections.
- Determine if regulations are required regarding the level of sterility needed to ensure product safety.
- Determine if there are other jurisdictions allowing these businesses to operate and if they have any ordinances that could be used as a model to craft our own ordinances.

## Concerns to be addressed

**DETERMINE THE LEGALITY OF ALLOWING THESE BUSINESSES TO OPERATE WITHIN CITY LIMITS AND DETERMINE THE NEEDED CHANGES TO ALLOW THEM TO OPERATE**

Short Response	Resources/References
<ul style="list-style-type: none"> <li>◆ <b>Both Recreational and Medical Marijuana are legal in the State of Washington.</b></li> <li>◆ <b>The Federal government continues to monitor Washington’s legalization effort.</b></li> <li>◆ <b>Pacific Municipal Code (PMC) Title 5.02.135 states that the City may deny or revoke a business license for any business that violates any applicable city, state or federal law.</b></li> <li>◆ <b>PMC Title 5.02.138 C (2) states that every licensee under this chapter “shall comply with all federal, state and city statutes, laws, ordinances and regulations relating to the business premises and the conduct of the business thereon”.</b></li> <li>◆ <b>City of Pacific Business License indicates that issuance “shall not constitute an assurance or representation that the business, or its location, complies with applicable local, state or federal laws. All licensees shall be responsible for complying fully with all such laws.”</b></li> <li>◆ <b>I-502, WAC and RCW sets minimum distance requirements for all recreational marijuana locations. The businesses will have to comply with existing land use and zoning regulations.</b></li> <li>◆ <b>It appears that revisions to PMC Title 5.02 may be required.</b></li> </ul>	<ul style="list-style-type: none"> <li>◆ Initiative 502 legalized adult possession of certain amounts of marijuana and created a state-regulated marketplace for the production, processing, and retail sale of marijuana.</li> <li>◆ RCW 69.51A provides an affirmative defense for the production and use of medical marijuana by and for qualified patients.</li> <li>◆ PMC Title 5.02</li> <li>◆ City of Pacific Business license application</li> <li>◆ I-502 Section 6 - (8) page 14</li> <li>◆ WAC 314-55-050 (10)</li> <li>◆ RCW 69.50.331 (8)</li> </ul>

## Concerns to be addressed continued

DETERMINE IF CURRENT ZONING ALLOWS THESE BUSINESSES TO OPERATE AND DETERMINE ANY NEEDED CHANGES IF NECESSARY TO ALLOW THEM TO OPERATE

Short Response	Resources/References
<ul style="list-style-type: none"> <li>◆ <b>Marijuana businesses are frequently permitted in commercial and industrial zones.</b></li> <li>◆ <b>Marijuana production and processing typically goes in Light Industrial</b></li> <li>◆ <b>Recreational Marijuana and Medical Marijuana retail locations are in Commercial and Light Industrial zoned areas. (Monroe, Bellingham, Ephrata, Covington).</b></li> <li>◆ <b>Current zoning allows for Crop production 1 (growing row crops) in PMC Title 20.56C Commercial and Crop production 2 (Processing crops) in PMC Title 20.60 LI Light Industrial.</b></li> <li>◆ <b>Other jurisdictions have elected to allow retail sale of marijuana in Commercial zoned areas and production and processing in Industrial and Light Industrial zoned areas. All have to meet the Liquor Control Boards requirements. The City could take on a more specific zoning allocation to provide guidance.</b></li> <li>◆ <b>It appears that adequate zoning exists to allow these businesses.</b></li> </ul>	<ul style="list-style-type: none"> <li>◆ <b>PMC Title 20-20.60.020 - Light Industrial Zoned buildings can be used for #10 Crop Production (Level 2) and #32 Sales of General Merchandise.</b></li> <li>◆ <b>PMC Title 20 -20.56.020 – allows for #15 Crop Production (Doesn't specify level 1 or 2, which could mean both are allowed)</b></li> <li>◆ <b>PMC Title 20 Zoning</b></li> <li>◆ <b>City of Monroe Ordinance # 026/2012</b></li> <li>◆ <b>Snohomish County Ordinance # 13-085</b></li> <li>◆ <b>Seattle - 23.42.058.D Sec D paragraph 1, 2</b></li> <li>◆ <b>Covington – Ord. No. 10-13 Sec 18.XX.040, (2)</b></li> <li>◆ <b>Ephrata - Ordinance 13-22 Sec 2, C. line 2</b></li> <li>◆ <b>Bellingham - Section 3, (B) Line 1-8</b></li> <li>◆ <b>Pierce County Ordinance 2013-111s</b></li> </ul>

## Concerns to be addressed continued

### DETERMINE IF BUILDING, ELECTRICAL, AND FIRE CODES ARE ADEQUATE FOR SUCH BUSINESSES

Short Response	Resources/References
<ul style="list-style-type: none"> <li>◆ <b>The City of Pacific has adopted the International Building Code (IBC) for most of its building regulations. Portions of the IBC not adopted by the City are covered in WAC 51-50 and Pacific Municipal Code (PMC).</b></li> <li>◆ <b>The City of Pacific uses Washington Department of Labor and Industries for all of its electrical regulations.</b></li> <li>◆ <b>The Valley Regional Fire Authority (VRFA) has adopted the International Fire Code (IFC) for its fire, health and safety regulations. Portions of the IFC not adopted by the VRFA in the City is covered by WAC 51-54A, NFPA, and PMC.</b></li> <li>◆ <b>Discussion with enforcement officials that specialize in the areas listed above have not expressed any concerns that require special attention not already covered in the sited references listed to the right.</b></li> <li>◆ <b>It appears that all existing codes and standards are adequate to allow these businesses to operate. As with any code or standard, the City could be more restrictive in portions of the adopted codes or standards that it feels necessary for any safety or other defined reason.</b></li> </ul>	<ul style="list-style-type: none"> <li>◆ City of Pacific                             <ul style="list-style-type: none"> <li>○ International Building Code</li> <li>○ WAC 51-50</li> <li>○ PMC</li> </ul> </li> <li>◆ Washington Department of Labor &amp; Industries                             <ul style="list-style-type: none"> <li>○ National Electrical Code</li> <li>○ RCW 19.28</li> <li>○ WAC 296-46B</li> </ul> </li> <li>◆ Valley Regional Fire Authority                             <ul style="list-style-type: none"> <li>○ International Fire Code</li> <li>○ WAC 51-54A</li> <li>○ NFPA</li> <li>○ PMC</li> </ul> </li> <li>◆ Discussion with City of Pacific building official</li> <li>◆ Discussion with electrical official</li> <li>◆ Discussion with VRFA Fire Marshal's Office</li> </ul>

## Concerns to be addressed continued

### DETERMINE HOW WASTE WILL BE DEALT WITH, BOTH WASTE WATER AND SOLID WASTE

Short Response	Resources/References
<p>◆ <b>WAC 314-55-097</b> requires licensee’s compliance with local laws and addresses both liquid and solid waste as well as wastewater. The general requirement is handling “in accordance with applicable State and local laws and regulations.” Specific instructions are given for (a) evaluating whether waste is hazardous, (b) rendering non-hazardous marijuana waste unusable, and (c) disposing of unusable marijuana waste via permitted solid waste facilities. It also states that marijuana plant waste must be mixed with 50% LCB approved material to render it unusable. This section also requires that certain wastes from marijuana processing, extraction, and quality assurance testing must be evaluated against the State’s Dangerous Waste Regulations (WAC 173.303) to determine if they designate as dangerous wastes.</p> <p>◆ <b>Title 14 of Pacific Municipal Code (PMC)</b> addresses Water and Sewer issues.</p> <p>◆ <b>Title 28 of the King County Municipal Code 28.84.060 Industrial Waste rules and regulations</b> (addresses sewer disposal of liquid waste). Discussion with King County Industrial Waste Division from two work group members revealed that King County has no concerns at this time and will monitor the situation and report concerns as they arise.</p>	<p>◆ WAC 314-55-097</p> <p>◆ WAC 173.303.70(3)</p> <p>◆ WAC 173.303.090</p> <p>◆ WAC 173.303.100</p> <p>◆ Title 14 PMC</p> <p>◆ Title 28 of the King County Municipal Code 28.84.060 Industrial Waste rules and regulations</p> <p>◆ WAC 314-55-084</p> <p>◆ Discussion with King County Industrial Waste Division</p>

Short Response

Resources/References

- ◆ **WAC 314-55-084 sets forth the limited set of “soil amendments, fertilizers, other crop production aids, and pesticides” which may be used.**
- ◆ **It appears that adequate measures are in place to accommodate the wastes from these businesses.**

# Concerns to be addressed continued

## DETERMINE HOW ODORS WILL BE DEALT WITH TO PREVENT NUISANCE COMPLAINTS

Short Response	Resources/References
<ul style="list-style-type: none"><li>◆ Clean air agencies have the authority to regulate odors; <i>“Any person who shall cause or allow the generation of any odor from any source or activity which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.”</i>.</li><li>◆ Odor is scrubbed with activated carbon filters. The article from Big Buds magazine discusses Carbon filters in the grow room, Carbon filters for exhausted air. Also ozone generators which are also used depending on the situation. These methods have proven to effectively manage all odors related to indoor marijuana production. In addition, ozone generators are used in the ducting system to combat any odor particles that were not trapped by the carbon filter. The ozone eliminates any residual smell and renders the exhausted air inert.</li><li>◆ Requiring these businesses to control their odors should not be an unreasonable expectation on these businesses as technology exists to control odors.</li></ul>	<ul style="list-style-type: none"><li>◆ WAC 173-400-040 (5)</li><li>◆ <a href="http://bigbudsmag.com/grow/how/article/medical-marijuana-grow-op-odor-control-essentials-june-2012">http://bigbudsmag.com/grow/how/article/medical-marijuana-grow-op-odor-control-essentials-june-2012</a></li></ul>

## Concerns to be addressed continued

### DETERMINE WHAT SECURITY MEASURES SHOULD BE REQUIRED TO ENSURE PRODUCT SAFETY, EMPLOYEE SAFETY AND PUBLIC SAFETY

Short Response	Resources/References
<ul style="list-style-type: none"><li>◆ RCW 69.51A provides no detailed requirements for security in medical marijuana operations.</li><li>◆ WAC 314-55-083 details extensive security requirements for recreational marijuana licensees. Among the requirements is the installation of high-resolution digital camera systems capable of storing 45 days of continuous 24 hour recordings. The regulations specify precisely which areas of operation must be covered by cameras and require that camera placement “allow for the clear and certain identification of any individual” on site.</li><li>◆ Product safety that covers the safety of the plant material harvested for use as well as the extraction processes used to extract the cannabis oils is addressed in WAC 314-55-102 and WAC 314-55-104.</li><li>◆ Jurisdictions may restrict the use of some extraction processes that use hydrocarbons (flammable liquids or gases) in favor of others that do not.</li><li>◆ Professional grade closed loop extraction systems must be used with hydrocarbon based extraction processes and have a long history of use in other industries. They have been proven effective and safe.</li><li>◆ There appears to be adequate measures in place to ensure safety for recreational marijuana.</li><li>◆ There appears to be no measures in place for medical marijuana.</li></ul>	<ul style="list-style-type: none"><li>◆ RCW 69.51A</li><li>◆ WAC 314-55-083</li><li>◆ WAC 314-55-102</li><li>◆ WAC 314-55-104</li></ul>

## Concerns to be addressed continued

### DETERMINE IMPACTS ON CITY RESOURCES, INCLUDE POSSIBLE COSTS

Short Response	Resources/References
<ul style="list-style-type: none"><li>◆ <b>The impacts on City resources are no different for these businesses than that of any other business in town should these businesses be allowed to operate as any other business. These businesses would go through the same processes to license and open as any other business would. Required staff time would be similar to that of other businesses. If the City chose to allow these businesses to operate under conditional use permits, there would be additional staff time needed to ensure the businesses are adhering to the conditions outlined in the permit. However, these costs could be identified and covered by the fee required to receive and renew each permit.</b></li><li>◆ <b>There is no evidence to suggest that there would be an additional impact on police services due to allowing these businesses to operate within the City.</b></li><li>◆ <b>There appears to be no unreasonable impact on City resources and any additional costs needed to ensure compliance could possibly be recovered through permit fees.</b></li></ul>	<ul style="list-style-type: none"><li>◆ VRFA Fire Marshall's Office</li><li>◆ City of Pacific Building Official</li><li>◆ City of Pacific Director of Public Safety</li></ul>

## Concerns to be addressed continued

DETERMINE IF REQUIREMENTS ARE NEEDED FOR FOLKS GROWING MARIJUANA FOR PEOPLE WITH PRESCRIPTIONS FOR MEDICAL MARIJUANA TO REPORT TO FIRE, POLICE AND THE CITY THAT THEY ARE GROWING MARIJUANA PLANTS TO BETTER MONITOR THESE COLLECTIVE GARDENS AS WELL AS HOME GROW OPERATIONS AND HAVE PREMISE WARNINGS IN PLACE TO ADVISE INCOMING EMERGENCY UNITS OF THE POSSIBILITY FOR THE NEED FOR HEIGHTENED AWARENESS

Short Response	Resources/References
<ul style="list-style-type: none"> <li>◆ Any requirement for disclosure of personal health information may implicate privacy concerns, including the Health Insurance Portability and Accountability Act (“HIPAA”).</li> <li>◆ The US Food and Drug Administration does not recognize the value of marijuana as a medicinal drug and the federal government still classifies marijuana as a Schedule 1 controlled substance, which may render any HIPPA concerns as moot.</li> <li>◆ Currently, RCW 69.51A requires users of medical marijuana to provide proof of authorization from a qualified healthcare provider in order to qualify for an affirmative defense.</li> <li>◆ The City can control where medical marijuana is produced, processed and distributed by designated providers through zoning or even deny this activity all together.</li> <li>◆ It is unclear as to whether the City can limit or deny a citizen the right to grow his/her own medical marijuana for personal use beyond the restrictions already outlined in RCW 69.51A.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Health Insurance Portability and Accountability Act</li> <li>◆ Response letter from Michele M. Leonhart, DEA Administrator, to Michael Kennedy, representing the Coalition for Rescheduling Cannabis-dated June 21, 2011</li> <li>◆ Article from National Institute on Drug Abuse: <u><i>Drug Facts: Is Marijuana Medicine?</i></u></li> <li>◆ RCW 69.51A</li> <li>◆ ESSSB 5073</li> <li>◆ THE COURT OF APPEALS OF THE STATE OF WASHINGTON: 70396-0, Cannabis Action Coalition Et Al., Appellants V. City Of Kent Et Al., Respondents, Published Opinion dated March 31, 2014</li> </ul>

## Concerns to be addressed continued

### DETERMINE WHAT SOCIAL CONCERNS EXIST AND DOES THE CITY HAVE ANY SOCIAL RESPONSIBILITIES REGARDING USE AND CONSUMPTION WITHIN THE CITY

Short Response	Resources/References
<ul style="list-style-type: none"> <li>◆ Colorado Crime Statistics show positive impact during first three months of recreational legalization</li> </ul>	<ul style="list-style-type: none"> <li>◆ See below</li> </ul>

#### Colorado State-Wide Crime Statistic Pre- and Post-marijuana legalization

#### PART 1 CRIME IN THE CITY AND COUNTY OF DENVER BASED ON UCR STANDARDS

TYPE OF OFFENSE		JAN 1-MAR 31, 2013*	JAN 1-MAR 31, 2014*	CHANGE		JAN 1-MAR 31, 2014 Including USC	
		#	#	#	%	#	% Change
<b>VIOLENT CRIME</b>	Homicide	12	7	-5	-41.7%	7	-41.7%
	Sexual Assault	82	67	-15	-18.3%	67	-18.3%
	Robbery	279	252	-27	-9.7%	252	-9.7%
	Aggravated Assault	537	521	-16	-3.0%	525	-2.2%
SUBTOTAL		910	847	-63	-6.9%	851	-6.5%
<b>PART 1 PROPERTY</b>	Burglary	1,104	1,111	7	0.6%	1,112	0.7%
	Larceny (Except Theft from MV)	1,585	1,694	109	6.9%	2,017	27.3%
	Theft from Motor Vehicle	1,816	1,121	-695	-38.3%	1,121	-38.3%
	Auto Theft	853	816	-37	-4.3%	818	-4.1%
	Arson	16	38	22	137.5%	38	137.5%
SUBTOTAL		5,374	4,780	-594	-11.1%	5,106	-5.0%
<b>PART 1 TOTAL</b>		<b>6,284</b>	<b>5,627</b>	<b>-657</b>	<b>-10.5%</b>	<b>5,957</b>	<b>-5.2%</b>

Source: PREPARED TO DEPARTMENT OF SAFETY PUBLIC INFORMATION STANDARDS --

[http://www.denvergov.org/Portals/720/documents/statistics/2014/UCR\\_Citywide\\_Reported%20Offenses\\_2014.pdf](http://www.denvergov.org/Portals/720/documents/statistics/2014/UCR_Citywide_Reported%20Offenses_2014.pdf)

Short Response continued	Resources/References
<ul style="list-style-type: none"> <li>◆ Recent survey by Pew Research Center states that Americans view alcohol as more harmful than marijuana to health and society. This report also states concerns for increased underage use and that 6 in 10 Americans would be bothered by public use of marijuana.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Pew Research Center report –dated April 2, 2014- Section 2 of: <a href="http://pewrsr.ch/1dRord5">America's New Drug Policy Landscape</a></li> </ul>

Short Response continued

Resources/References

◆ **Social Programs already in place due to Initiative 502:**

I-502 mandated certain distributions of the tax revenue to be collected from the sale of recreational marijuana. Section 28 of I-502. Under RCW 69.50.530 a “Dedicated marijuana fund” was created. After quarterly distributions of \$1.25 million for LCB administration and \$180,000 to other specific programs, the taxes will be distributed as follows:

- 50% to the state’s Basic Health Plan
- 19.07% to the state general fund
- 15% to the Department of Social & Health Services for Behavioral Health & Recovery
- 10% to the Department of Health for marijuana education & public health
- 5% to Community Health Centers
- 1% to the UW and WSU for research on the short- and long-term effects of marijuana use
- .03% to the Building Bridges Programs

It must be noted that the Legislature has looked to modify the allocations and most likely will continue to do so in future sessions to include the possibility of sharing these revenues with local jurisdictions.

◆ **Public Use Prohibitions:**

WA State-based infraction: RCW 69.50.445

Opening package of or consuming marijuana, useable marijuana, or

- ◆ I-502
- ◆ RCW 69.50.530
- ◆ RCW 69.50.445
- ◆ RCW 7.80

**marijuana-infused product in view of general public — Penalty.**

**It is unlawful to open a package containing marijuana, useable marijuana, or a marijuana-infused product, or consume marijuana, useable marijuana, or a marijuana-infused product, in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.**

- ◆ **Social concerns do exist although they are not well defined. Legalization of marijuana is new and it may take time for all of those concerns to be fully identified. Additionally, it appears that what data does exist places no more concern for marijuana issues than exist for alcohol. The State has earmarked a portion of the tax revenues collected from recreational marijuana to address social concerns. Strict enforcement of the law not allowing public use of marijuana would address the City's primary responsibility to society. This responsibility exists whether the City allows these businesses to locate here or not.**

## Concerns to be addressed continued

### DETERMINE TYPES OF INSPECTIONS THAT SHOULD TAKE PLACE TO ENSURE COMPLIANCE WITH THE LAW AND WHO IS RESPONSIBLE FOR DOING THE INSPECTIONS

Short Response	Resources/References
<ul style="list-style-type: none"><li>◆ A marijuana business is subject to the same inspections that any business in the City should expect.</li><li>◆ In addition, for a “502 business,” the LCB will have conducted a site-inspection to ensure compliance with WAC 314-55 et seq.</li><li>◆ The types of inspections appear to be well defined by all of the regulatory agencies. However, if these businesses are only allowed to operate under a conditional use, then any additional inspections required under those conditional uses need to be defined by the City.</li></ul>	<ul style="list-style-type: none"><li>◆ WAC 314-55</li><li>◆ RCW 69.51A</li><li>◆ IBC</li><li>◆ Washington Department of Labor and Industries</li><li>◆ IFC</li><li>◆ PMC</li><li>◆ VRFA Policy</li><li>◆ Washington LCB Policy</li></ul>

## Concerns to be addressed continued

### DETERMINE IF REGULATIONS ARE REQUIRED REGARDING THE LEVEL OF STERILITY NEEDED TO ENSURE PRODUCT SAFETY

Short Response	Resources/References
<ul style="list-style-type: none"><li>◆ <b>WAC 314-55-102 contains extensive requirements for quality assurance testing of marijuana products, which must be conducted by an accredited and LCB approved third-party lab. These tests include: Moisture analysis, foreign matter inspection, and microbiological screening.</b></li><li>◆ <b>All businesses processing marijuana infused edible and liquid products designed to be ingested shall comply with all health department regulations regarding food safety.</b></li><li>◆ <b>It appears as though the State has adequately addressed this issue and it should not be a concern for the City.</b></li></ul>	<ul style="list-style-type: none"><li>◆ WAC 314-55-102</li><li>◆ WAC 314-55-082</li><li>◆ WAC 246-215</li></ul>

## Concerns to be addressed continued

**DETERMINE IF THERE ARE OTHER JURISDICTIONS ALLOWING THESE BUSINESSES TO OPERATE AND IF THEY HAVE ANY ORDINANCES THAT COULD BE USED AS A MODEL TO CRAFT OUR OWN ORDINANCES**

Short Response	Resources/References
<ul style="list-style-type: none"><li>◆ <b>Several jurisdictions throughout the State have adopted zoning ordinances to both allow and disallow these businesses to operate within their respective jurisdictions. Some of those that allow these businesses are listed here to the right.</b></li><li>◆ <b>Zoning ordinances from jurisdictions in Colorado could also be gathered as well to get a well-rounded look at how other jurisdictions have approached this issue.</b></li></ul>	<ul style="list-style-type: none"><li>◆ City of Longview - Ordinance # 3262</li><li>◆ City of Monroe - Ordinance # 026/2012</li><li>◆ Snohomish County - Ordinance # 13-085</li><li>◆ City of Covington - Ordinance # 10-13</li><li>◆ City of Ephrata - Ordinance # 13-22</li><li>◆ City of Bellingham - Ordinance# 2013-08-061</li><li>◆ Grays Harbor County - Ordinance # 410</li></ul>

## SUMMARY

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A workgroup was formed through the Planning Commission to research concerns outlined by the City Council to assist the City determine the feasibility of allowing marijuana related businesses to operate within the City of Pacific. A lot of work and reading was done by each member of the workgroup. The workgroup met five times. Each member was tasked with finding information to vet listed concerns and provide the resources for reference. Other members of the group then checked the work for accuracy.

It was determined that a significant advantage to the legislation that allows the production, processing, and retailing of marijuana for recreational use is the administrative code that Washington State adopted. Chapter 314-55 WAC does an excellent and thorough job of mitigating potential impacts that production, processing, and retailing could create. As a result, the City only needs to consider which zoning districts it should allow these activities to locate that are not already covered in its zoning ordinances.

Medical marijuana is significantly different in that the State has done little to regulate those processes. However, RCW 69.51A does allow the City to control which zoning districts those businesses/collective gardens could operate if the City chooses to allow them at all. A recent appellate court decision affirmed the right of Kent, and so too other cities, to control whether these businesses/collective gardens should exist within city limits. See 70396-0, Cannabis Action Coalition Et Al., Appellants V. City Of Kent Et Al., Respondents (Wash. Ct. Appeals, Decided March 31, 2014). RCW 69.51A only provides an affirmative defense against prosecution for growing and using marijuana for medical reasons.

The mission was to vet concerns regarding marijuana related businesses. A significant amount of time has been put into completing this document and the information herein is accurate. However, it should be noted that while this workgroup vetted all of the concerns presented to it, there may be other concerns that were not thought of or forwarded to the workgroup to look into. With that said, it is the workgroup's belief that there would not be any concerns that would reduce the effectiveness of this document to help the City determine the feasibility of allowing marijuana related businesses to operate within the City of Pacific.

## APPENDIX A

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The workgroup received the following list of reading materials throughout the process working to complete this report. This list is not a complete list of all of the material referenced in this report. The group met five times and the meetings were open to the public to attend. The workgroup allowed audience participation to gather as much information as possible to provide a complete document. Some information from the audience was used and references were checked by workgroup members for accuracy and reported at the following meeting. The following list was provided by city staff or workgroup members to encourage all members to get educated on the issues.

### Documents that started this process

- February 3, 2013 letter to the City Council from council member Kave
- Proposed draft work plan to the Planning Commission from council member Kave

### Federal Fact Sheets/Opinions

- U.S. Department of Justice- Memorandum for all U.S. Attorneys, from James M. Cole  
*Subject: Guidance Regarding Marijuana Enforcement- dated August 29, 2013*
- Response letter from Michele M. Leonhart, DEA Administrator, to Michael Kennedy, representing the Coalition for Rescheduling Cannabis- dated June 21, 2011

### State Law and Administrative Code

- Chapter 69.51A RCW, Medical Cannabis
- Initiative 502, Recreational Cannabis
- Chapter 314-55 WAC, Recreational Cannabis

### Liquor Control Board Fact Sheets

- Distance from restricted entities
- Regulatory/Permitting Guidance for Indoor Marijuana Producers
- Regulatory/Permitting Guidance for Marijuana Processor Operations
- Regulatory/Permitting Guidance for Greenhouse Marijuana Producers
- Draft Recommendations of the Medical Marijuana Work Group

### City of Pacific Ordinances and Municipal Code

- Ordinance No. 13-1848, Extending the moratorium on medical marijuana
- Ordinance No. 14-1855, Adopting an Interim Zoning Ordinance prohibiting marijuana businesses.
- PMC Chapter 5.02, Business Licenses
- PMC Chapter 20.06, Use Categories

- PMC Chapter 20.56, Commercial District
- PMC Chapter 20.60, Light Industrial District

## **Governor's Office for Regulatory Innovation and Assistance**

- Sheila Hosner's Power Point presentation

## **Independent Fact Sheets/Legal Opinions**

- MRSC Insight article- Dated August 29, 2013  
*Marijuana – No Federal Roadblocks*
- AWC article- Dated July 2011  
*Medical Marijuana*
- Attorney General of Washington Opinions Article- Dated January 16, 2014  
*Whether Statewide Initiative Establishing System for Licensing Marijuana Producers, Processors, and Retailers Preempts Local Ordinances*
- Legal Opinion by Carol A. Morris- Dated November 18, 2011  
*Medical Marijuana Uses Local Regulation*
- Legal Opinion by Jay Berneburg- Dated January 31, 2014  
*Marijuana-Moratorium-State Constitution*
- Washington Department of Agriculture Letter- Dated September 2013  
*Criteria for Pesticides Used for the Productions of Marijuana in Washington*
- Pew Research Center report –dated April 2, 2014  
*America's New Drug Policy Landscape*  
<http://pewrsr.ch/1dRord5>