



Walla Walla Joint Community Development Agency

55 E. Moore Street, Walla Walla, WA 99362 / 509.524.4710 Main

WALLA WALLA COUNTY PLANNING COMMISSION AGENDA

Meeting Location: Board of County Commissioners (BoCC) Meeting Room
County Public Health and Legislative Building
314 W Main Street, 2nd Floor

**March 5, 2014
7:00 p.m.**

- A. CALL TO ORDER
- B. ROLL CALL
- C. ESTABLISH A QUORUM
- D. CONFLICT OF INTEREST / APPEARANCE OF FAIRNESS
- E. APPROVAL OF MINUTES – February 5, 2014
- F. APPROVAL OF AGENDA
- G. STAFF UPDATE / DISCUSSION
 - 1. Discussion on Existing Bed and Breakfast Regulations and possible revisions.
 - 2. Discussion on Revised Principles for Recreational Marijuana Regulations.
- H. NEW BUSINESS
- I. ADJOURNMENT



and Associates

PLANNING, LAND USE
AND DEVELOPMENT SERVICES

**Walla Walla County Planning Commission
Recreational Marijuana (I-502)
Workshop Agenda
March 5, 2014**

Item 1 Presentation and Discussion of Recreational Marijuana (I-502) Work Plan approved by the board of county commissioners

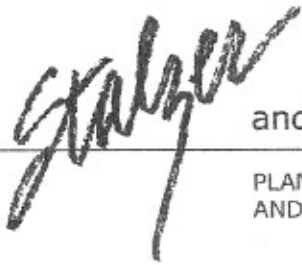
Item 2 Presentation and Discussion of Recreational Marijuana Proposed Meeting Schedule

Item 3 Presentation and Discussion of Principles for Recreational Marijuana Regulations approved by the board of county commissioners

Item 4 Presentation and Discussion of United State Department of Justice Marijuana Priorities

Item 5 Presentation and Discussion of Washington State Liquor Control Board Buffer Requirements and Maps of 1,000 Buffer Zones

Item 6 Discussion of Topics for April Workshop



and Associates

PLANNING, LAND USE
AND DEVELOPMENT SERVICES

Memorandum

Date: February 26, 2014
To: Walla Walla County Planning Commission
From: Bill Stalzer, planning consultant **BS**
Cc: Jesse Nolte, Deputy Prosecuting Attorney, Jon Maland and Steve Donovan, Walla Walla Joint Community Development Agency
Re: Workshop on Recreational Marijuana Regulations

Attached is a proposed workshop agenda and materials relating to establishing regulations for the production, processing and sale of recreational marijuana for review and discussion at the workshop on March 5th:

- Agenda
- Attachment 1: Recreational Marijuana (I-502) Work Plan approved by the board of county commissioners
- Attachment 2: Recreational Marijuana (I-502) Proposed Meeting Schedule
- Attachment 3: Principles for Recreational Marijuana Regulations approved by the board of county commissioners
- Attachment 4a: United States Department of Justice Marijuana Priorities
- Attachment 4b: United States Department of Justice August 29, 2013 Memorandum on Guidance Regarding Marijuana Enforcement
- Attachment 5: Recreational Marijuana (I-502) Washington State Liquor Control Board Buffer Requirements

**Recreational Marijuana (I-502)
Work Plan**

BACKGROUND

- Prepare a summary of the Washington State Liquor Control Board rules for recreational marijuana
- Prepare a background paper on the issues to be considered when regulating the production, processing, and retail sale of recreational marijuana

COMPREHENSIVE PLAN AND ZONING

- Determine if existing policies address issues related to the production, processing, and retail sale of recreational marijuana. Propose modified or new policies if necessary
- Review the land use designations and propose those appropriate for the production, processing, and retail sale of recreational marijuana
- Review the zoning districts and propose those appropriate for the production, processing, and retail sale of recreational marijuana
- Determine if existing development regulations other than zoning address issues related to the production, processing, and retail sale of recreational marijuana. Propose modified or new regulations if necessary

LEGAL

- Review how the production, processing, and retail sale of recreational marijuana conflicts with federal law (it does) and recommend measures to ensure that the County is addressing the Federal Priorities set forth by the August 2013 Department of Justice memo.
- Research and recommend strong and effective regulatory and enforcement systems that have been demonstrated to be effective in practice;
- Review any Federal law enforcement responses to I-502
- Prepare a summary of any Court decisions dealing with I-502.

SEPA (Non-Project Action)

- Prepare a SEPA checklist that includes proposed mitigation measures, as necessary

MISCELLANEOUS

- Provide staffing to the planning commission with assistance from the Walla Walla Joint Community Development Agency as needed

Note: All work will be based on existing available documents and information from online sources such as MRSC, WSCLB, DOJ, WAAG, WAAPA, City/County websites, etc.

Attachment 2

Walla Walla County Planning Commission Recreational Marijuana (I-502) Proposed Meeting Schedule

March 5 (workshop):

- Discussion of Project Principles approved by the Board of County Commissioners
- Discussion of background items on the work plan
- Discussion of maps of 1,000 foot buffer zones

April 2 (workshop):

- Follow-up on work items from March meeting
- Update on I-502 status in selected jurisdictions
- Discussion of comprehensive plan policies and purposes of land use designations
- Discussion of purpose zoning districts
- Discussion of effective law enforcement solutions in other jurisdictions
- Presentation by county sheriff/staff (potential)
- Update on status of legal issues
 - Discussion of how I-502 conflicts with Federal law
 - Discussion of federal law enforcement responses to I-502
 - Summary of court decisions re I-502

May 7 (workshop):

- Follow-up on work items from April meeting
- Update on status in other jurisdictions and legal situation
- Discussion of preliminary staff recommendations

June 4 (public hearing):

- Follow-up on work items from May meeting
- Update on status in other jurisdictions and legal situation
- Public hearing on staff recommendations

July 2 (regular meeting):

- Follow-up on work items from June meeting
- Update on status in other jurisdictions and legal situation
- Responses to public testimony
- Recommendations by the planning commission

Walla Walla County Principles for Recreational Marijuana Regulations

The following project principles apply only to the land use regulation of recreational marijuana as permitted under the rules promulgated by the WSLCB in WAC 314-55. The planning commission shall provide a recommendation to the Board of County Commissioners that addresses the regulation of the production, processing, and retail sale of recreational marijuana and that meets all of the following principles. The recommendation should be consistent with the policies in the County Comprehensive Plan. The recommendation should also recognize that recreational marijuana facilities are a new, untested land use in the county and state, with uncertain potential impacts.

After reviewing the following principles, the Planning Commission should make a recommendation as to:

1. What zones recreational marijuana uses should be located in.
2. Whether additional regulations are necessary for recreational marijuana uses (i.e. Conditional Use Permits, use specific regulations, similar to the County's winery standards, etc), .

After receiving the Planning Commission's recommendation, the Board will review it, and also consider whether an outright ban, or prohibition on recreational marijuana land uses until the uses are allowed by Federal Law, is a preferred option to the options set forth above.

Rural and Resource Areas are Protected

Agricultural and rural uses define the character of Walla Walla County. Recreational marijuana production and processing facilities, if allowed, should not jeopardize the continuation of uses already allowed in agricultural and rural areas or the character of those areas. Retail sales facilities should not be allowed.

Rural Activity Centers are Protected

Rural activity centers are important small communities in the county. While limited in size, they contain a mix of residential, commercial, and industrial uses thereby providing a variety of functions for area residents that should be protected. Recreational marijuana facilities, if allowed, should not adversely impact the character of rural activity centers.

Residential Urban Growth Areas are Protected

Residential urban growth areas are zoned for urban-density residential uses to accommodate the planned population growth of the cities. Ensuring that these areas remain available for future urban residential uses is a requirement of both the comprehensive plan and the growth management Act. Recreational marijuana facilities are inconsistent with residential uses and should not be allowed in residential urban growth areas.

Adjacent City, State and County Uses are Protected

County, State and City lands that adjoin Walla Walla County lands contain a wide variety of uses. Recreational marijuana facilities, if allowed, should not adversely impact the continuation of existing uses on county or city lands adjacent to Walla Walla County lands.

Security Measures are Required

Security measures to protect both a property owner's investment and the general public should be required. Measures to prevent theft or the destruction of recreational marijuana facilities should be required.

Regulations are Specific

Recommended regulations should be specific enough that applicants, owners and the general public clearly understand what is expected for a production, processing, or retail sale facility to be allowed. Conditions, if imposed, should be easily understood and specific.

Administration and Law Enforcement Should Not be Negatively Impacted

Recommended regulations should be capable of being administered and enforced within the existing resources of the county. Public spending priorities for County services, including law enforcement, within

Attachment 3

Principles for Recreational Marijuana Regulations

rural areas are to maintain or upgrade services at rural level standards to existing, not new, development. Recreational marijuana facilities should not cause unmitigated impacts or otherwise encumber public services.

The Process should meet County Code Requirements and Include Public Participation

The process should be consistent with county code requirements for amendments to the comprehensive plan and development regulations, as applicable, and provide ample opportunity for public review and comment.

Recommendations Conform to Applicable Laws and Federal Law Enforcement Priorities

Recommendations must comply with WAC 314-55 and the following Federal law enforcement priorities in the August 29, 2013 U.S. Attorney memo:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property

**Recreational Marijuana (I-502)
United States Department of Justice
Priorities**

- Preventing the distribution of marijuana to minors
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states
- Preventing state authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands
- Preventing marijuana possession or use on federal property



U.S. Department of Justice


Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

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 set forth above. 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. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

**Recreational Marijuana (I-502)
Washington State Liquor Control Board
Buffer Requirements**

WAC 314-55-050

Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license.

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of the entities listed below:

- (a) Elementary or secondary school;
- (b) Playground;
- (c) Recreation center or facility;
- (d) Child care center;
- (e) Public park;
- (f) Public transit center;
- (g) Library; or
- (h) Any game arcade (where admission is not restricted to persons age twenty-one or older).