Dear Council Member Joe McDermott,

Thank you for responding to our letter of May 26, 2016. As a point of clarification, We are not opposed to marijuana use and the selling of this product. We are opposed to industrial growing and processing of marijuana in rural residential zones. We believe it is an activity that is incompatible with residential neighborhoods. We respect that Initiative 502 was passed by the voters and our previous letter to you is not about the legality of marijuana, but is in response to the council's request to better understand the impacts this new law has on rural residents, their homes, their families, their properties and the environment.

We appreciate your concern about access to marijuana, particularly for medical patients. However, The News Tribune on May13, 2016 published an article about a UW study on the demand for marijuana. In this study it stated: "The state now licenses 12 million square feet of "canopy," the space within which marijuana is grown either indoors or outdoors. The UW study reported that 10 million square feet would be sufficient to meet current market requirements for both recreational and medicinal marijuana." The UW marijuana study shows no need to expand the growing space in our state.

We are asking you and other council members to carefully consider the June 7th letter from the Greater Maple Valley Unincorporated Area Council sent to you titled: "Marijuana Moratorium and Proposed Ordinance 2016-0236." The rural area zone (RA-5) cannot provide the proper services for odor control, chemical and pesticide waste management, pollution control and law enforcement that industrial marijuana growing and processing needs. This type of industrial growing and processing must be placed in zones that are more suitable such as Industrial or Commercial Zones.

We think this issue is an opportunity for the King County Council to set a precedent regarding location and the size of the growing and processing facilities in a given area, while protecting the outdoor rural areas King County prides itself on. There are many more suitable places to put an industrial operation other than in a rural residential community.

Thank you for your time and consideration on this very important issue.

Sincerely,

Becky and Ron Dolce

May 28, 2016

Dear Council Members,

We oppose marijuana production and processing in residential neighborhoods of unincorporated King County. This is an activity that should be allowed only in industrial and commercial zones.

Furthermore, we feel that King County has violated our rights to reside in a safe, secure neighborhood and jeopardized our rural life style by inadequate and inappropriate zoning laws that have allowed marijuana production and processing in our neighborhood. We have resided at 20115 264 Ave SE in Maple Valley for 40 years. The marijuana site we refer to is File No: CDUP16-0002; Parcel No: 012206-9044 and located at 20241 269 Ave SE in Maple Valley.

This marijuana site is in a rural, residential setting with insufficient infrastructure such as adequate roads and law enforcement to support such an operation. The location is in the heart of the Hobart community and jeopardizes the rural nature of our community and will rob us of our current quality of life. We are a quiet, rural, residential neighborhood with many small families with young children and many retirees. Within a quarter mile of the proposed marijuana and processing plant is a church with a playground and a Christmas tree farm. Our neighborhood is home to many species of animals including a large herd of 30 plus elk and a pair of bald eagles. It is a neighborhood where walkers, joggers, horseback riders and cyclists come to exercise and enjoy the rural countryside.

The increased crime that is associated with industrial marijuana production will affect our safety, especially since we are facing cutbacks within our county law enforcement, which will further limit their resources to address the growing crime such as home invasion, theft, robberies and physical assaults associated with marijuana production.

The increased traffic, especially the truck traffic, the lack of sidewalks and the deep drainage ditches next to the road will result in increased road safety concerns and create a dangerous and unsafe environment for us and the many joggers, walkers and cyclists that use 200th for exercise and recreation.

There is the potential for a negative impact on our well and ground water due to the large usage of pesticides, fungicides and fertilizers used in marijuana production. These harmful chemicals would also have the potential to seep into culverts and ditches and from there into Issaquah Creek, a well known salmon spawning area. This would have a negative impact on the environment of our fish and wildlife that drink from these waterways. This marijuana site is home to wet lands and is a known breeding ground for elk. We have asked DPER for an environmental impact study to assess these concerns, but this has not happened.

There would be a decrease in our quality of life due to the offensive, penetrating odors associated with marijuana production and the resulting light pollution for security and our personal concerns for our physical safety.

There would be a decrease in our property value due to the above impacts of the industrial marijuana grow and production.

Please help by continuing the moratorium on marijuana production and licenses until you can implement restrictions on RA 5 zones that prohibit industrial marijuana production and processing in rural residential neighborhoods. These businesses belong in industrial or commercial zones not in my neighborhood.

We invite you to visit our neighborhood and to see personally why industrial marijuana growing and processing does not belong in our neighborhood or any other rural, residential neighborhood in our area.

Thank you for your consideration.

Sincerely,

Becky and Ron Dolce

June 16, 2016

To: King County Council TrEE Committee

Re: Proposed Ordinance 2016-0236

Dear Chairman Dembowski,

Thank you for allowing public input on marijuana growing and processing. We are requesting that this letter, our letter of May 26 that was sent to all council members, and our letter sent to Council Member Joe McDermott be our Public Comment for the subject hearings on marijuana growing and processing.

We are asking for a full ban on marijuana growing and processing in rural residential zones of unincorporated King County (RA-5). We believe this ban is necessary for the following reasons:

1. Concern for our safety: The sheriff's Office is ill-equipped to handle the increased criminal activity associated with marijuana growing. They are now facing cutbacks which will limit their resources to address the home invasions, thefts, burglaries, and physical assaults associated with this industry.

2. Concern for our wells and septic systems: There is a lack of impact studies on marijuana growing and processing and the effect it will have on our water table, septic systems and private wells. There could be a very real and negative impact due to the large usage of pesticides (some illegal), fungicides and fertilizes used in marijuana growing and processing. These harmful chemicals have the potential to seep into our culverts, ditches, and streams. Our Public Health Department and/or DPER is ill equipped to handle these important issues.

3. Concern for our environment: Wetlands, ponds, streams, and creeks are prevalent in our area and DPER code enforcement is ill equipped to identify and protect our critical areas and wildlife from the harmful effects of industrial marijuana growing and processing. These effects are (but not limited to) light pollution, run off from dangerous chemicals, and disturbance of habitat.

4. Concern for odor and light pollution: There is an offensive, permeating odor associated with marijuana growing and processing that would interfere with our use and enjoyment of our properties.

5. Concern for our property values: We retired four years ago and our home is our retirement. We can ill afford to see our property lose value due to improper zoning of industrial marijuana growing and processing.

Here is our personal story. We have lived at 20115 264th Ave SE in Maple Valley for 40 years. This address is in a beautiful, rural, residential neighborhood with small families, young children and retirees. It is a neighborhood with a community church with a playground for children and a Christmas tree farm. It is a neighborhood where walkers, joggers, cyclists and horseback riders come to enjoy the rural countryside and see just born calves grazing in fields, resident eagles nesting and wetlands where geese, ducks and many species of birds make their home. It is a neighborhood that is also home to a large (30) herd of elk that wander our fields, yards and gardens.

Now, we are forced to protect this way of life due to a marijuana growing and processing plant that has applied for a permit less than ¼ mile from our house. DPER has not granted them a permit and yet they have cleared, graded, put up an 8 foot fence and a greenhouse. They have infringed on wetlands and this marijuana grow is in a field where elk bare their young.

We ask that you ban marijuana growing and processing in rural, residential zones of unincorporated King County. We are asking that marijuana growing and processing be placed in Industrial or Commercial Zones where odor, pollution, security and safety issues, public health and environmental issues can be more successfully handled.

Thank you for considering our written comments on marijuana growing and processing in rural residential areas of unincorporated King County and taking the time to read our personal story.

Becky and Ron Dolce

Stacy Goodman, Attorney
stacy@carsonnoel.com
Todd Wyatt, Attorney,
todd@carsonnoel.com

CARSON | NOEL PLLC

June 15, 2016

King County Council's Transportation, Economy and Environment Committee ("TrEE")
The Hon. Rod Dembowski, Chair
The Hon. Claudia Balducci, Vice Chair
The Hon. Jeanne Kohl-Welles
The Hon. Kathy Lambert
The Hon. Joe McDermott
The Hon. Dave Upthegrove
The Hon. Pete Von Reichbauer

Re: Proposed Ordinance No. 2016-0236

Dear Honorable Members of TrEE Committee,

This law firm represents Adrian Medved, and Scott and Marney Valdez, who reside in unincorporated King County near Hobart and Maple Valley. Currently these clients—as well as more than a dozen other clients last year and hundreds of other citizens—are engaged in battles to protect their rural neighborhoods from the significant and serious impacts of commercial marijuana operations.

Thank you for taking the current pause to review marijuana zoning regulations. The review is much needed.

For the reasons addressed below, I and my clients respectfully request that 1) marijuana businesses be banned in the RA zone, and 2) "recreational marijuana producer" be stricken as an agricultural use.

1. Allowing marijuana activities in the Rural Area amounts to spot zoning.

King County zoning also disproportionately and unfairly burdens the Rural Area with marijuana producers and processors. Allowing such activities through zoning is a manner out of keeping with the surrounding area that amounts to illegal spot zoning, or at least is inconsistent with the principles underlying the bases for illegal spot zoning.

The Urban Residential Zone ("R") area is predominantly residential in character. The Rural Area ("RA") also is predominantly residential, although less dense with small-scale farming and other rural-character services. The R and RA zones are strikingly similar in at least one way, in that both are in unincorporated King County. That may be an obvious fact. However, it is a significant fact, because King County zoning only applies to unincorporated areas, which are generally lower in density to the incorporated areas throughout King

County. So while the R zone refers to "urban residential," it is low-density urban and not dissimilar to the RA zone. Regardless of the zoning moniker, both the R and RA zones contain primarily and relatively low-density residential communities, in comparison to their incorporated, more densely developed neighboring cities.
Currently, and according to King County's summary of regulations for marijuana businesses, marijuana processors/producers are banned in the R zone. But marijuana processors/producers are allowed in the RA zone, except as a home occupation or home industry. In other words, the intent was to protect residences and residential communities from the negative and significant effects of marijuana processor/producer activities.

Unfortunately, that scheme is patently unfair, arbitrary, unfavorable, detrimental, and unreasonable to the residents in the RA zone.

Different underlying reasons of law are commonly given that spot zones are void. At least two are present in this case. First, a zoning ordinance must have for its basis the public health, safety, morals, or general welfare and, if not, it is arbitrary, capricious, unreasonable and consequently void. *Anderson v. City of Seattle*, 64 Wash.2d 198 (1964) (court invalidated a rezone which, if allowed, would have permitted a six-story apartment house to be constructed in what was, basically, also a single family residential dwelling area.). The Court referenced *Pierce v. King County*, 62 Wn.2d 324 (1963), recognizing that not all spot zoning is illegal, only when it is "primarily for the private interest of the owner of the property affected, and not related to the general plan for the community as a whole."

Here, King County's zoning regulations for marijuana businesses clearly favor the private interests of the owners of property affected by marijuana businesses. There is no question that King County has been deluged with complaints from residents suffering the significant and negative effects of marijuana businesses in the RA zone. At the same time, allowing marijuana businesses in the RA zone is not in keeping with the general plan for the community as a whole. King County's plan, as evident by the zoning scheme, is to protect residents from the ill effects of marijuana businesses. The problem is that the plan only protects residents in the R zone, while disproportionately, significantly, and unfairly burdening residents in the RA zone. Such issues describe a denial of substantive due process to the RA residents.

The second reason is related to the first. Zoning cannot confer a discriminatory benefit upon an applicant who gets land rezone for a more intensive or valuable use to the detriment of other owners who are not treated so favorably. *Save Our Rural Environment v. Snohomish County*, 99 Wn.2d 363 (1983). For the same reasons as noted above, allowing marijuana businesses in the RA zone confers a discriminatory benefit to the detriment of the residents in the RA zone. There is a reason that marijuana businesses are springing up: they are hugely profitable. The problem is that the negative effects that always and necessarily attend marijuana producers/processors are borne entirely on the neighboring residents—constant and permeating odor, 24-hour fan noise, crime, and property devaluation. This amounts to a

denial of equal protection to residents in the RA zone, who bear the brunt while marijuana businesses thrive and the R zone is protected.

The legal determination of spot zoning is not the issue. The issue is that King County, by allowing marijuana producers/processors in the RA zone, consciously denies residents in the RA zone the same due process and equal protection that are clearly afforded to residents in the R zone. The same principles underlying illegal spot zoning should be applied for purposes of fairness, equality, and reasonableness.

2. KCC 21A.08.090 impermissibly allows marijuana as an agricultural land use.

Current zoning is problematic in another way. Marijuana is not an agricultural product or use in Washington. RCW 82.04.213(1) states in relevant part:

> "Agricultural product" does not include marijuana, useable marijuana, or marijuana-infused products, or animals defined as pet animals under RCW 16.70.020.

(emphasis added). RCW 82.04.213(5) further states:

> The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to marijuana, useable marijuana, or marijuana-infused products unless the applicable term is explicitly defined to include marijuana, useable marijuana, or marijuana-infused products.

Consistent with state law, King County Code expressly excludes marijuana as an agricultural product. KCC 21A.06.037 states that "Agricultural product sales do not include marijuana, usable marijuana or marijuana-infused products."

Yet, King County specifically includes "marijuana producers" as an allowable land use under KCC 21A.08.090. Additionally, KCC 21A.08.090 includes marijuana as an agricultural use, which directly conflicts with the definition of agriculture under KCC 21A.06.037 and statute. KCC 21A.04.030 does not address marijuana under "agriculture zone."

It is well established that any local regulation that conflicts with a statute is invalid. Generally, local jurisdictions possess constitutional authority to enact zoning ordinances as an exercise of police power; however, a local jurisdiction may not enact a zoning ordinance that is either preempted by or in conflict with state law. *City of Bellevue v. E. Bellevue Community Mun. Corp.*, 119 Wn. App. 405, 413 (2003) (city ordinance that exempted shopping center redevelopment from city's concurrency requirements concerning transportation impacts was invalid as conflicting with the Growth Management Act (GMA), under which, concurrency was a requirement); Const. Art. 11, ¶ 11.

Here, KCC 21A.08.090 directly conflicts with RCW 82.04.213 and King County's own definition, both of which exclude marijuana. King County KCC 21A.08.90 therefore is invalid as to its inclusion of "recreational marijuana producer" as an agriculture use.

I and my clients respectfully request that, in the interest of fairness and equality to all King County residents—including those in the RA zone, you support banning marijuana business in the RA zone; and in order to be consistent with state law, you support striking "recreational marijuana producer" as an agricultural use under King County Code.

Thank you,

CARSON & NOEL, PLLC

Stacy Goodman

June 13, 2016,

To:
TrEE Committee of the County Council

From:
Don and Mary Houghton
26925 SE 200th Street
Maple Valley, WA 98038

We are writing to you to express our heartfelt concern over the proposed permit to allow a 30,000 square foot outdoor marijuana growing industrial facility in a very rural area of Maple Valley, zoned RA5. Our house is within 500 feet of the proposed site. We have overwhelming concerns on many, many levels over the possibility of this being approved.

Let me begin by giving you some information on ourselves. We own 23 acres and have a small horse farm which we operate with the utmost care and adherence to King County standards as far as manure, mud and pasture management. Our pastures are well maintained, noxious weeds removed and are hayed yearly. We chose this area and this lifestyle due to the amenities a rural lifestyle offers, such as lack of traffic, lack of noise and lack of pollution and odors which are upsetting to both horses and people. In addition, we have a nine year old son who we have choses this lifestyle for and who suffers from seasonal allergies. I have great concerns over the odor of this outdoor facility on the health of our son. I am in a state of shock that such a growing facility, that greatly impacts our lifestyle, peace of mind and health of our family, could be approved without a passing glance simply because at this point in time King County has not taken a responsible stand on the issue as many counties have already done.

In addition, I cannot for the life of me understand how this type of operation could be allowed at the end of a ONE lane gravel, private road in a rural area. The traffic the land owner, Dale Alsager, generates with all of his "home

businesses" has been a on-going challenge as far as the quantity of traffic, noise and dust as well as the dangerous speeds customers travel. It has been a dangerous situation for the length of his ownership of the property (over 20 years) with no care whatsoever for the impact on his neighbors. The applicant for the permit, who does not live in this neighborhood, has greatly increased the traffic on the easement with his comings and goings, as well as the crew that has already constructed the grow site in the absence of a permit. This traffic will only increase with the addition of employees and countless unknown others driving to and from the proposed facility.

I have always had concerns over the lack of available police protection in this area especially in light of the property owners business activities over the years. The former "Doctor" Dale Alsager has had his license to practice medicine revoked due to recklessness in prescribing controlled substances as well as continuing to bill patients as a doctor during a probationary period. He was served with a Cease and Desist order by the State Health Department in March of this year due to his continued practice in medicine and prescribing drugs, all while teaming with William Cloud to grow a controlled substance. This is insane. The recent "press release" he wrote and attached to the Notice of Application Forms on the Land Use sign clearly states he will not only be providing the land to grow marijuana, but he intends to use it for his "research" as a doctor. It is clear to everyone who knows him that he intends to make a profit from the leasing of the land as well as the selling of the product. With this proposed facility the entire community is increasingly impacted by the lack of adequate police protection already present in this area.

Industrial production of a controlled substance is a far cry from preserving our rural lands. There is nothing about this business that is compatible with the rural character of this community. It puts our community at risk for increased crime. It decreases the peace, health welfare and safety of his beautiful Hobart community and places us in a position of losing not only our rural lifestyle, but the value of our well cared for property.

It states in an excerpt from the KCCP (pages 3-25)
CHAPTER 3 - RURAL AREAS AND NATURAL RESOURCE LANDS
III. Rural Densities and Development
Although low-density residential development, farming, forestry are the

primary uses in the Rural Areas, some compatible public and private uses are appropriate and contribute to rural character. Compatible uses might include small, neighborhood churches, feed and grain stores, produce stands, forest product sales and home occupations such as woodcrafters, small day care facilities or veterinary services. In addition, it may be necessary to locate some public facilities in the Rural Area such as utility installations that serve rural homes. Any allowed nonresidential uses should be designed to **BLEND WITH THE RURAL AND RESIDENTIAL DEVELOPMENT AND RESOURCE USES.**

I would like to take a very hard stand and state that **THIS INDUSTRY DOES NOT BLEND!!!!!** It does, in fact, greatly take away from this area the very thing that even the code that King County wrote is trying to protect.

Many counties in Washington state have already taken a responsible stand and have banned this type of operation in RA5. It is time for King County to take a stand on the matter and do the same. This industry does not and should not be allowed in any residential zone, RA5 in any county in the state. If this cannot be accomplished in a timely manner, at the very least, the county and state needs to recognize the insanity of providing a permit to grow a controlled substance to a man who himself has a criminal record (William Cloud) and who has leased the land from a man who has had his license to practice as a doctor revoked due to his recklessness with controlled substances.

Sincerely,
Don and Mary Houghton

Adrian Medved
Hobart, WA 98025

June 15, 2016

King County Council's Transportation, Economy, and Environment Committee
Honorable Rod Dembowski, Chair
Honorable Claudia Balducci, Vice Chair
Honorable Jeanne Kohl-Welles
Honorable Kathy Lambert
Honorable Joe McDermott
Honorable Dave Upthegrove
Honorable Pete von Reichbauer

Dear Honorable Members of the TrEE Committee,

I have written many letters at this point after spending considerable time educating myself on the ramifications, good and bad, regarding the producing and processing of marijuana.

When I first heard that an industrial marijuana producing and processing business might be coming to my neighborhood in Hobart, the first thing I did was pull up KC Code, Title 21A. I immediately noted that marijuana was not allowed as agriculture, not allowed as a home occupation, and not allowed as a home industry. So my first question, was, then what is it?

When I found that The KC Council had placed the producing and processing as a Resource Land Use, KCC 21A.08.090, under agriculture, I became very confused. The State statute, RCW 82.04.21, says marijuana is not agriculture, and the State Dept of Revenue does not recognize the production and processing of marijuana as constituting agriculture; WAC 458-30-200. The only categories under resource land use are; Agriculture, Forestry, Fisheries, Wild Life Management , and Accessory Uses. Marijuana is not a resource land use, as it is not recognized by the State Statute as agriculture. The legislators were very clear. So, my first recommended amendment to the code is to remove it from a resource land use.

My next recommended amendment to the code, is to ban this in the rural residential zones as ;

1. there is no way to control the odor, and odors that are not agricultural can be construed as public nuisances. In addition, the PSCAA requires these producers and processors to apply for a notice of construction and establish an odor management program in order to get a required permit from PSCAA. The problem with that, is that PSCAA has never permitted an outdoor grow and the indoor grows are still an odor

problem for the municipalities that have these indoor grows up and running. The technology for the odor is still a challenge. (The city of Moxee in Yakima County just announced a moratorium because of foul odors. They have several large indoor grows in an industrial park.) Clearly, every air agency in the State is struggling with the foul odor from marijuana production and processing.

2. The discharge of the industrial wastewater of these marijuana producing and processing businesses is not allowed in any septic system, which is the only waste water systems in place in the rural residential areas. These businesses use a lot of chemicals, from pesticides, to fertilizers, to fungicides, to growth retardants, and on and on. All plants need to be flushed of these chemicals prior to harvest. This is especially concerning given our protected urban salmon spawning habitat.

3. Law enforcement is limited in the rural area and facing deeper and deeper budget cuts. These businesses put further burden on the King County Sheriff's office and the WSLCB has made it very clear that they do not have compliance resources, so the illegal grows are alive and well. These businesses bring extreme concern for the health, safety, and welfare of our rural residential communities. Promoting public safety, health, or welfare by prohibiting marijuana producing and processing in the rural residential zones, is a legitimate exercise of police power and would not be preempted by Initiative 502

4. Enforcement on the part of any government entity is non existent. The WSLCB cannot even answer all the questions about to inundate them on July 1st when everything changes once again. We the residents, being impacted by all of these changes feel like " rats in the testing lab", so to speak. DPER cannot enforce these businesses. They are absolutely correct when they state they will be spending considerable time on producing and processing enforcement as these issues are very heated. Ordinances, laws, and rules that are not backed up with resources to effectively manage the onslaught of violations will continue to plaque the rural area. The WSLCB has already saddled everyone with a tremendous burden in that regard.

In conclusion, I'm offering 2 amendments to the County code: 1. Remove marijuana producing and processing from the Resource Land Use under Agriculture, and 2. Ban marijuana producing and processing in the RA5 zone, until at some point in time, when there are technologies and facilities in place to properly manage these businesses and protect our environment.

Once again, thank you all for your serious consideration of our concerns. This is a very stressful and volatile situation, that will only continue to get worse without reasonable and responsible zoning on the part of our legislators.

Respectfully submitted,

Adrian Medved

June 15, 2016

The TrEE Committee
Rod Dembowski, Chairman
Claudia Balducci, Vice Chairman
Jeanne Kohl-Welles
Kathy Lambert
Joe McDermott
Dave Upthegrove
Pete von Reichbauer

Dear Honorable Councilmen,

We have been homeowners in the Hobart area of Maple Valley for 26 years and specifically selected this area for the rural residential zoning and neighborhood in which to raise our family. We are aware there is consideration being given to allowing recreational marijuana to be grown outside and just down the street from our home, and we have serious concerns about it.

First of all, marijuana is a controlled substance that cannot be considered agricultural and has no business being grown, processed and harvested in a residential zone. Just because our area is zoned rural residential (meaning that homes may have significant property attached to them) doesn't make our neighborhood any less residential than the more densely populated neighborhoods in Issaquah, Bellevue, Seattle, Kent, West Seattle, etc. We should be afforded the same rights as any urban residential area with respect to this issue. Marijuana is an industrial product, not an agricultural one, and therefore should be grown and processed in industrial warehouse areas.

Secondly, while farming and agriculture are permitted here in our neighborhood, it is with significant restrictions in order to protect our environment and our neighbors. Please note we have far more residences than working farms in our area. In fact, many farms have been discontinued as businesses due to the restrictions placed on them by the county. From what we have read, recreational outdoor marijuana grows have a fraction of the restrictions required of farming and agriculture. Also, there is an odor to the growing and processing of marijuana plants that can be quite offensive. To our knowledge and from what we have read, there is no way to control that odor in an outdoor grow. These odors are a public nuisance and disruptive to the outside enjoyment of our homes and property. Once again we will state, marijuana is an industrial product and needs to be grown and processed in industrial warehouses, where ventilation can be controlled and the offensive odor can have far less of an impact on our communities.

Thirdly, we also understand that the processing of marijuana requires rinsing with certain toxic chemicals. We are a septic system community, which means all the wastewater from the processing of the marijuana can damage our environment. The wastewater from processing the marijuana is considered industrial waste, according to what we have read. And industrial wastewater cannot be dumped into septic systems. We are surrounded in the Hobart area with salmon streams. How can you explain all of the care taken, to date, by the county to protect these streams, only to exclude the dumping of know chemical toxins into the surrounding groundwater and streams through the septic systems used by marijuana growers and producers?

Lastly, we want to address our concerns about the public safety in allowing outdoor marijuana to be grown in our rural residential areas. We already suffer from an insufficient police presence due to budget cuts and feel this becomes even more of an issue when you factor in the growing of a controlled substance in our neighborhoods. Any kind of code enforcement (assuming there is code to enforce) would be through complaints only, rather than on a proactive basis on the part of the county.

None of this makes any sense to us as home and land owners. There appears to be very little thought given to the impact on our rural communities or the ability to address our environmental, health and safety concerns. We ask for a ban on allowing any marijuana production or processing in our rural areas. Please consider, these are our homes! No one should have to live with a damaged environment (when a ban can be put in place), safety concerns (especially when it involves a controlled substance), and the stench of this industrial product around their home.

Thank you for your consideration in these matters.

Sincerely,

Kevin & Debra Berry

Kevin and Debra Berry
19906 276th Ave SE
Maple Valley, WA 98038

Linda Harer

24603 SE 224th St, Maple Valley, WA 98038

206.557.0722

Date: June 15, 2016

Issue: Industrial Production Operations in Rural Areas

King County Council TrEE
Committee

It is more than apparent that the entire State of Washington and its various jurisdictions, including King County, did not do the prudent due diligence and necessary impact studies prior to allowing industrial marijuana plants in rural neighborhoods once legalization passed in our state. As a resident of the Hobart/Maple Valley area, I would like to express my distain for the near entire lack of environmental studies, zoning studies and consideration of the ramifications that these commercial industrial operations built next to rural homes and neighborhoods will have. This entire industry seems to have proceeded forward without the slightest research or adherence to code.

A great example of the negative impact is the fact that more than one industrial operation currently active were built close to known **environmentally sensitive areas**. Secondly, how does one correctly **dispose of waste** from processing plants in areas that are served solely by **septic systems**? What about the impact to real estate values for homeowners who now have to endure **incredible stench** from these processing plants, not to mention the huge fences and massive grow lights that are virtually next door to these small farms and ranches.

Are we, for some reason, seeing these commercial operations fast tracked in ways no other business or private entities would be allowed? Why are industrial processing plants of this type being allowed in neighborhoods? Where are the studies? Who is checking the compliance? Why are commercial operations in neighborhoods being allowed by non-resident owner/operators? The violations just continue to pile up and it is very apparent that much of the rest of our state's rural areas are being protected, but not in King County. Protecting the dwindling rural areas in our county should be a high priority because of the ever-growing scarcity. What would our nation be had we not had government officials willing to take on the protection of lands that became our National Parks. We as a nation are seeing yet another national treasure....our rural areas disappear at an alarming rate. Let's reconsider the needs to our rural residents and help protect their lifestyle.

Sincerely,

Linda Harer

June 16, 2016

Dear Councilmember,

I'm writing to you in hopes that you will come to our aid in stopping further marijuana grow and processing facilities from operating in rural King County. There are several reasons why but I will focus this letter on one of the main issues, that being the strong odor that these facilities emit during the processing of the marijuana.

I've heard testimony (as have you) from residents in our county that live near these grow and processing operations. This testimony tells of odors so strong that even inside closed homes they cannot escape it. I've also been in contact with people in Colorado who have faced similar issues with these grow and processing plants in their state, and they tell similar stories of not being able to be outside their homes to not being able to sell their homes due to the strong odor that these facilities produce. Even when odor mitigation methods are used, they still testify that the very little of the odor is diminished and their lives are negatively impacted by operations that should not take place in rural areas.

These facilities are industrial in nature and should be placed in industrially zoned areas. They do not need farmland to grow their crops since they are grown in pots, on tables, under lights and can therefore be grown anywhere.

In addition, the agency that regulates odors (Puget Sound Clean Air Agency) has very limited resources and would only deal with complaints from Monday to Friday (8:00am to 5:00pm). Since these grow and processing plants do not use sunlight to grow their product and can run 24 hours a day, enforcement of any complaints will be very difficult to accomplish.

My hope is that we can stop all these problems from plaguing rural King County by simply restricting these marijuana grow and processing operations to their proper locations. They should be placed in industrial/commercially zoned areas and not in rural King County.

Thank you for your help in this matter.

Charles Hah

Maple Valley, WA

Greater Maple Valley Unincorporated Area Council
P.O. Box 101
Maple Valley, WA 98038

June 7, 2016

To: King County Council TrEE Committee

Re: Proposed Ordinance 2016-0236

Chairman Dembowski,

On May 2, 2016, Ordinance 2016-0236 related to zoning and Marijuana production and processing facilities was proposed by Councilman Dunn. After its first reading, it was referred your Transportation, Economy and Environment (TrEE) Committee.

Proposed Ordinance 2016-0236 seeks to change King County Code (K.C.C.) 21A.08.090: A. Resource land uses. to reduce the threshold that triggers the need for a Conditional-Use permit (CUP) for Marijuana production and processing facilities from 2,000 sq ft to 500 sq ft. While this certainly is welcome, it is wholly inadequate to solve a variety of problems repeatedly identified by Rural Area citizens.

Herein we provide our comments on proposed Ordinance 2016-0236 and offer potential solution paths for your committee and the Council to consider.

Introduction

King County's Unincorporated Areas are comprised of four distinct areas: Urban Unincorporated, Rural Area, Agricultural Production District, and Forest Production District. Notwithstanding the current 4-mo Moratorium, existing King County Code allows siting of Marijuana businesses in some of these areas. The first two areas listed--Urban Unincorporated and Rural Area—primarily are residential and, thus, present unique problems which require careful consideration.

Potential Solutions

We see several paths for the TrEE Committee to explore as it considers potential changes to King County Code regarding siting of Marijuana Producers (i.e., Growers) and Processors:

1. A full ban in the Rural Area, similar to that in place in Snohomish County (its full ban covers its entire Unincorporated Area), as well as the City of Kent and many other jurisdictions. This would require Marijuana Retail Businesses within King County to obtain their product from outside King County's Rural Area, much of which is residential. Please note according to existing King County Code (K.C.C.), if one lives in an Urban Residential Area, Marijuana Production (K.C.C. 21A.08.080 Manufacturing land uses) and Processing (K.C.C. 21A.08.090 Resource land uses) are <u>not</u> allowed. So, a permanent ban already exists in residential areas, but <u>only</u> within the Urban Growth Boundary. This apparent "double standard" might be the crux of the problem that bothers so many Rural Area citizens. In addition, K.C.C. 21A.30.085 (para. J.4.) Home occupations and K.C.C. 21A.30.090 (para. J.) Home

industry both state Recreational Marijuana businesses (producers, processors, and retailers) are not allowed uses.

2. A zoning code change which requires parcel size to be at least 20, or even 40 acres (note: Current King County Code sets the minimum parcel size at 4 1/2 acres). This would obviate siting of any Marijuana Producers or Processors in "residential neighborhoods."
3. Allow Marijuana Producers or Processors to be sited only in King County's Agricultural Production District and Commercial/Industrial areas.
4. No matter what the Council decides, please update King County Code to:
   a. Allow citizens to provide Public Comment on all Marijuana Permit Applications;
   b. Allow citizens to Appeal all Marijuana Permit Applications; and
   c. Reduce the trigger for a Conditional-Use Permit (CUP) to zero.

Although proposed Ordinance 2016-0236 essentially would reduce the threshold that triggers the need for a CUP, we do not see this as a palatable solution. Yes, this would result in more CUPs, but it would still be up to the King County Department of Permitting and Environmental Review (DPER) to determine what Conditions to impose, if any, and, then, to enforce them, which it is not well-equipped to do.

We believe a ban in the Rural Area is the only viable option and, thus, recommend it be given strong consideration. Such a K.C.C. revision would make things fair, satisfy Rural Area residents concerns, and still meet Marijuana Retailers needs.

Rationale

Our detailed rationale for a full ban on siting of Marijuana Producers and Processors in the Rural Area is as follows:

1. RESIDENTIAL NEIGHBORHOODS. At the April 6 King County Council's Committee-of-the-Whole meeting held in Ravensdale, many people who live in the Rural Area voiced their very strong and reasoned opposition to the existing Zoning Code that allows Marijuana Producers and Processors in their residential neighborhoods.
2. PUBLIC SAFETY. At that same meeting King County Sheriff Urquhart described in detail that, due to continual budget cuts his office has had to absorb, he can provide very little police protection in the Rural Area. We who live in the Rural Area have known this to be the case for several years. This is possibly the biggest issue voiced by Rural Area residents. The Sheriff's Office already is ill-equipped (and suffering continual budget cuts) to meet existing safety needs in the Rural Area. Compounding such an untenable situation with the addition of Marijuana Production and Processing Operations simply makes no sense.
3. CODE ENFORCEMENT. At the same time budget cuts to King County's Department of Permitting and Environmental Review (DPER), which has made them essentially a fee-based operation, have reduced Code Enforcement a complaint-only-driven service in the Rural Area, and even at that, a very, very limited service.
4. ONSITE SEPTIC SYSTEMS. These are used throughout the Rural Area. They certainly are not the place for Marijuana Producers or Processors to dump their chemicals, pesticides, etc,. if we want to continue to improve Public Health, as well as clean up our shared environment. The "Regulatory Guidance for Cannabis Operations, Version 3.0," April 2016, p. 10 (a document prepared by a partnership of the municipalities--including King County--and industry representatives) states the following:

"Wastewater that results from any growing, manufacturing, cleaning, or rinsing processes is considered an industrial waste (industrial wastewater) and is subject to local, state and federal regulations. This includes water used in extraction, hydroponic irrigation and the manufacture of edible products."

In the same reference the King County Industrial Waste Pretreatment Program and Stormwater Services states:

"No business may discharge industrial wastewater into an onsite septic system....Industrial wastewater discharges to septic systems can damage them and cause harm to the environment."

KC DPER is understaffed to properly enforce wastewater and environmental violations of issued Marijuana production and processing permits.

5. ODOR. "Aromas" generated by Marijuana production and processing can be overwhelming. Our clean air agencies have the authority to regulate odors that "may unreasonably interfere with another property owner's use or enjoyment of his property" (ref.: WAC 173-400-040(5)). Odor complaints to KC DPER will have little potential to be addressed in a timely manner. At a minimum an Odor Management Plan (OMP) should be required for any areas of outdoor growing or processing or ventilation of any structure used to produce or process marijuana. The OMP should ensure odors from chemicals or products used in or resulting from production and/or processing are undetectable offsite.
6. NOISE. Noises associated with Marijuana production and processing have no place in residential areas. Further, odor problems cannot be "fixed" with noisy and obtrusive massive blower systems, which also have no place in residential areas. This problem is untenable.

Rural Area residents are very alarmed about siting such Marijuana operations in their neighborhoods.

Washington State WACs and RCWs

The Municipal Research & Services Center (MRSC) states:

"The state liquor and cannabis board (LCB) will not issue licenses for marijuana producers, processors, and retailers on property that is zoned residential and used as a personal residence. That is because of the LCB's need to be able to enter the premises for inspections without a warrant – see WAC 314-55-015(5)"

WAC 314-55-015 General information about marijuana licenses. states:

"(5) The board will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence."

The Washington State L&CB explicitly doesn't want to pursue search warrants for a personal residence in a residential neighborhood. Once again, existing K.C.C. 21A.08.080 and .090 already partially address this in that if one lives in an Urban Unincorporated Area, Marijuana production and/or processing is not allowed. So, a permanent ban already exists in residential areas, but on within the Urban Growth Boundary. This is both technically conflicting and inconsistent.

Finally, the following is in the MSRC's Frequently Asked Questions (FAQ's) section:

Q: "If a city has determined that all of the land within the city limits is either zoned residential or is within the 1,000-foot buffer zones provided by RCW

69.50.331(8), is the city still required to allow recreational marijuana businesses?"

A. "No, in that circumstance the state laws prohibit the locating of any recreational marijuana businesses within your boundaries...." (ref.: MSRC's "Frequently Asked Questions")

Once again, King County's Rural Area is residential and should be treated as such.

Neighboring Counties

King County's three neighboring Counties have banned Marijuana businesses from siting in their Rural Areas. Kitsap ("The proposed use shall share characteristics in common with,..., those uses listed in the land use zone in which it is to be located." Ordin. 512-2013) or Snohomish ("...compatibility...with the existing rural character." Ordin. 15-009, 5/24/15) Counties do not allow Marijuana businesses in their Rural Areas and, in fact, only allow them in their "Rural Industrial" zones. Pierce County does not allow Marijuana businesses in their Unincorporated Areas.

The MRSC provides a wealth of information on County and City Ordinances in place throughout the State including an interactive map (see http://mrsc.org/Home/Explore-Topics/Legal/Regulation/Recreational-Marijuana-A-Guide-for-Local-Governmen.aspx#table).

King County, which has a far more residential Rural Area (mostly residential housing, not farms) than any of its three neighboring counties, appears to be an outlier, as it has even more reason to not permit Marijuana businesses in its Rural Area.

Conclusions

We see a ban for siting of Marijuana Producers and Processors in the Rural Area as the only reasonable solution given the myriad of concerns voiced by so many, many citizens. Such a ban would still allow Marijuana Producers (K.C.C. 21A.08.090 Resource land uses) and Processors (K.C.C. 21A.08.080 Manufacturing land uses) in the Agriculture (A), Community Business (CB), Regional Business (RB), and Industrial (I) zones.

The overriding issues of Public Safety, Public Health, Environmental Degradation, Odor, Noise, and Code Non-enforcement make approving a permanent ban in King County's Rural Area the only reasonable choice.

Thank you in advance for your careful consideration of our Written Comments.

Sincerely,

Steve Hiester
Chairman, Greater Maple Valley Unincorporated Area Council

June 16, 2016

To: King County TrEE Committee

From: Dennis Carlson

Chairman Dembowski and TrEE Members,

Your committee has received a letter from the Greater Maple Valley Unincorporated Area Council, dated June 7, making recommendations for zoning changes for the siting of marijuana producers and processors (copy attached).

I and my neighborhood group of roughly 150 residents of the Enumclaw Plateau agree with the rationale and recommendations within this letter, with one major exception. We do not agree that marijuana businesses be sited in the Agricultural Production District as the letter recommends in Potential Solution #3 on page 2 and again in its Conclusion. Most of the Enumclaw Plateau is shown on the county maps to be zoned Agricultural. This is where we live!

Our A-35 (one residence per minimum 35 acres) and A-10 (one per minimum 10 acres) agricultural zones are residential areas, just like the Rural Areas for which the Maple Valley letter requests a ban. Furthermore, many of these properties were subdivided into 1.25, 2.5, and 5 acre parcels prior to the current zoning taking effect, so the residential density is often more like a suburban area.

Even where 10+ and 35+ parcels exist, the homes are frequently located near the county road and property lines. That creates problems of proximity and the noxious odors that are the number one objection to marijuana producers and processors in residential areas. For this reason, we also do not agree with simply increasing the minimum parcel size to 20 or 40 acres. The proximity and odor problems still exist, along with many other adverse impacts. These businesses have industrial impacts and do not belong in our residential neighborhoods.

The staff comments supporting Ordinance 2016-0254 appear to dismiss our oft stated concerns about odor as the responsibility of the Puget Sound Clean Air Agency. They recommend King County not get in the odor regulation business. Neither do we. However, the Clean Air Agency has no solution to noxious odors crossing property lines, and that is why we ask you to ban it from our residential areas.

We agree with the Maple Valley recommendation to site these businesses only in Commercial and Industrial Areas (CB, RB, and I zones). They need to be restricted from Agricultural (A) and Rural Area (RA) zones. Also, it has been well-documented that we now have enough production capacity.

Allowing these businesses in our rural residential neighborhoods has been a huge mistake. Immediate neighbors to these businesses are suffering irreparable damage to their quality of life and most likely to their property values. We ask you to correct this problem with the zoning changes we have recommended. Thank you.

Dennis Carlson

Dennis Carlson
Enumclaw Plateau Resident – 45 years

Colorado Springs

Local authorities in Pueblo, just 40 miles south of Colorado Springs, were recently alerted by a vigilant resident to a possible illegal marijuana grow operation. Within days, on March 31, sheriff's deputies from the Special Investigations Narcotics Section raided a single-family home that was in the process of being converted into a "grow house." Authorities discovered 127 marijuana plants, over $100,000 in growing equipment, and two Cuban nationals.

At first, no one seemed to take particular note of the individuals, Adriel Trujillo Daniel, 28, and Leosbel Ledesma Quintana, 41, who had recently moved to Colorado from Florida. They were arrested on felony drug charges but local authorities initially believed it was an isolated event.

But in the span of the next week and a half, local authorities would arrest at least four more individuals in the Pueblo area in similar cases, with similar backgrounds. All were recent transplants to the state. All were reported by neighbors or by other Pueblo residents who had witnessed suspicious activity. All were transforming residential homes into elaborate marijuana grow operations. And all were Cuban nationals.

"We have quite a bit of evidence" to believe they are members of "Cuban cartels," Pueblo sheriff Kirk Taylor says in an interview.

Local, state, and federal officials believe it's not just isolated to Pueblo. "It's across the entire state of Colorado," DEA assistant special agent in charge Kevin Merrill says. "It's just basically taken over the state, these residential grows."

Merrill likens the danger to that of meth labs in homes. Besides the criminal element, turning a house into a greenhouse invariably destroys the home. "The destruction of the homes and neighborhoods is even greater."

It is what Colorado Springs mayor John Suthers calls "the total nightmare" scenario, a byproduct of the state's recent legalization of first medicinal, and later recreational, marijuana.

People from out of town or even foreign countries move to Colorado and "buy or lease houses by the hundreds if not thousands," explains Suthers, who previously served 10 years as attorney general of the state.

The new residents then convert the residential homes to industrial grow operations. They're "basically trashing the houses because they're making so much freaking money they don't care, and growing hundreds and hundreds and hundreds of plants in each house. And transporting it out of state to marijuana markets nationally and internationally. Literally. Marijuana is going back to Mexico from Colorado," asserts Suthers.

This criminal activity undermines a key argument used for legalizing marijuana in the first place. "One of the big arguments was, we're going to get the cartels out of the marijuana business. Because we're going to have all these legitimate businesses selling it. The Mexican cartels are going to dry up and go away," he says.

But now things are different. "Mexican cartels are no longer sending marijuana into Colorado, they're now growing it in Colorado and sending it back to Mexico and every place else."

With legalization of medicinal and recreational marijuana came the ability for locals to grow up to six plants at home-and sometimes up to 99, if they are a designated caregiver under the state law that legalized medicinal marijuana. "That has created an enforcement nightmare for the police," the state's former top cop says. "But it's going beyond that. Because of that aura of no enforcement, organized crime has come to Colorado to grow the marijuana."

"The surprising element is Cuban-Cuban cartels," Suthers says.

The DEA official insists the international element is increasing. "It's not just Cubans. We have Vietnamese based organizations, Russian organized people. But we have seen a large influx of Cubans coming here. And we believe that all the organizations are here because we have a perceived lack of enforcement."

Thanks to the ubiquity of marijuana in the state of Colorado, when they come, "they don't really have to hide," says the DEA official. "Their [main] risk of arrest or prosecution is when they move the marijuana outside the state."

Another reason the problem is particular to Colorado-and not in the other 22 states and the District of Columbia that have some form of legal marijuana-is that Colorado has uniquely loose medical marijuana laws, which are meant to allow the ailing to grow substantial crops at home. "In Colorado, if you go to a physician and you get a recommendation, you can grow 99 plants, so if you live with four others, you can grow almost 500," says Merrill, the DEA official. He has never seen any sort of mid- to large-scale home operation actually being used for medical marijuana. It is one of "the unintended consequences of the medical marijuana" law, Merrill contends.

The state's marijuana czar appears to agree with Merrill's contention-and has called for further regulation. "There has been evidence that people will abandon the black market for a regulated market, even at higher prices. However, as long as there is both an economic incentive to grow in Colorado and ship out of state, as well as legal loopholes to allow unlicensed individuals to grow large quantities of marijuana, it will be difficult for law enforcement to shut down the black and gray markets," says Andrew Freedman, the coordinator of marijuana policy for Colorado. "Interestingly, these loopholes are found in our medical marijuana laws, not in our recreational marijuana laws."

Which suggests John Suthers may find widespread support when he soon proposes to the legislature to , eliminate the influx of foreign crime by outlawing home grows. That's a law even the legal growers and sellers of marijuana will likely support.

"A few more of these huge busts, and there will be lots of them over the next several months," Suthers predicts, and "I think they're going to say, give me a break, let's clean that problem out."

6/16/16
King County Council
TrEE Committee Meeting

Dear Council,

Thank you for continuing to accept the input of the rural resident into the legislative process as you consider additional rules regarding marijuana production and processing in residential neighborhoods.

We own property in a rural neighborhood in King County and continue to be impacted by the lack of coordination between multiple government agencies, agencies that are concerned with and only administer their own piece of the marijuana legislation. A marijuana processor and producer, without a permit to-date, continues to exploit this lack of coordinated agencies to the detriment of everyone else. This is a scenario that repeats itself throughout rural King County.

We are sure that the multi-agency workflow process for a license application looks great on paper- a little bit of paperwork from the State, a little paperwork from the County, a little paperwork with a few other local agencies and VIOLA - process completed! However, in reality, the workflow process is extremely convoluted, complex, and requires many more checks and balances between agencies than currently exists in order to ensure legally licensed operations are conducting business where and how they're supposed to.

As King County considers additional regulations for marijuana, they must also review the processes that are **not** working, especially between agencies, and revamp those as well. As an example:

- DPER's process that allows an applicant to proceed with the building and establishment of a facility before a permit is even issued
- Lack of coordination between DPER's permit and PSCAA's permit that allows a marijuana facility to operate despite not having either or both permits in place
- Lack of coordination between WSLCB and DPER that allows a permit to be issued for a residential property, violating **WAC 314-55-015(5)**
- WSLCB, DPER, and PSCAA's process that exempts ANY marijuana production and processing from a SEPA checklist
- Lack of coordination between WSLCB and DPER that allows applicants with previous permit violations to be approved regardless of that violation
-

There are too many inter-agency dependencies and there are no controls in place that prevent information from being inaccurate or misrepresented in the multi-agency licensing and permit process. An applicant can easily lie, falsify, skew, or omit information on any one of the permit documents that another agency would never have reason to question. Many of those documents

that can potentially contain misinformation are critical to the size and placement of these facilities; therefore it's even more important to have a validation process in place that ensures applications are accurate, valid, and positioned to operate within the rules.

Policy making is not about the people that follow the rules, it is about the people that don't. Good policy ensures that the playing field is even, that all people are held to the same standard, and that swift enforcement and consequence comes to those that don't.

King County has created an environment of exploitation by those that are determined to operate outside of the rules. There is no cohesive handoff between agencies, there is no documented process that is enforced, there is no option available to those that are impacted. It is time to rewrite the rules to be clear, concise, and enforceable from all of the entities responsible to provision marijuana production and processing operations. If you have no method to validate application information, previous violations, residential property addresses, and other information on each application, then you cannot possibly permit this activity in a rural zone where the burden is placed on the rural resident to hold both the State and County agencies accountable. It is time for that to stop.

Please remove marijuana processing and production from residential neighborhoods and place these facilities where they can be properly governed and enforced. Do not allow "non-conforming" uses to those that have deliberately exploited the gap that exists between agencies. Do not reward those that have sought to abuse the process by calling them "vested". Why not consider those of us that live in residential neighborhoods as "vested", those of us that have built houses and raised families, have paid their taxes and followed the zoning rules, have taken care of our land and the environment, have sought to increase the value of what we own, abide by that which does not deter from the character of the rural zone, why not consider US as vested???

Thank you for the opportunity for input. We have participated in this process in good faith that our King County Council considers ALL of the residents of the County. We are unable to attend this session but appreciate your time in reading this letter.

Respectfully submitted,

Marney & Scott Valdez

Marney and Scott Valdez

6-15-2016

To: TREE Committee

June 13, 2014

My name is Shirlee MacDonald. I live at 26631 S.E. 216th St. in Maple Valley, near Hobart. I have lived here for 47 years and attended Tahoma Schools. I am writting today to voice my concerns about growing and processing marijuana in the rural areas of King County. I am not against recreational or medical use of marijuana but I feel it should be grown and processed indoors because of the odor it produces and the odor still may be uncontrollable. That impacts the surrounding property owners where

families with children live and play.
Our water quality will be affected because of run off into our wetlands from continuous production. There are many wells and septic systems in the rural area of King County.
And then there is the criminal element. It is a cash business and a controlled substance. There isn't enough law enforcement available 24/7 in the Rural area.
Thank-you for your attention to this matter which will affect our homes and neighborhoods forever.

Shirlee Dea MacDonald

John & Lori Sutter

PO Box 143
Hobart, WA 98025

King County Council's Transportation, Economy and Environment Committee ("TrEE")
The Hon. Rod Dembowski, Chair
The Hon. Claudia Balducci, Vice Chair
The Hon. Jeanne Kohl-Welles
The Hon. Kathy Lambert
The Hon. Joe McDermott
The Hon. Dave Upthegrove
The Hon. Pete Von Reichbauer

June 16, 2016

Dear Honorable Members of TrEE Committee,

We know that the voters approved the recreational use of marijuana, and we are not objecting to this. However we believe that common sense restrictions need to be in place regarding where the marijuana is produced and processed. We are aware of a number of serious problems that have been associated with both legal and illegal marijuana production and processing activities in unincorporated King County. These include noxious, permeating odor, increased traffic, noise and light pollution, chemical use and waste, risk to public health and safety, risks to rural water systems and wells, risks to the environment, especially critical areas, lowered property values, and unjust financial burden on rural residents who are forced to take legal action to enforce neighborhood covenants.

We appreciate that King County is evaluating these issues. We believe a balanced approach that works well for everyone is the best outcome. We ask that you put in place appropriate safeguards and regulations to protect the rural residential communities and the environment. We propose that King County ban the industrial production and processing of marijuana in all residential areas, including the RA zones. We believe we are entitled to the same rights, protections, and enjoyment of our properties as those who live in the urban areas.

We are grateful for your support. Respectfully,

John Sutter

Lori Sutter

John & Lori Sutter

June 16 2016

Dear Council,

Rural areas in unincorporated King County need to be protected from the harmful environmental impacts of marijuana growth operations. Below are some facts about the ecological drain marijuana has on our natural resources.

Water

Each marijuana plant uses one gallon of water per day per pound of plant. A five pound plant needs 5 gallons of water per day.

Pollution

Researchers have found **traces of rodenticides as well as pesticides in the soil and vegetation surrounding cultivation sites.** This threatens our ground/well water systems.

Researchers also discovered **some owl species are exposed to rodenticides, likely because of a diet heavily dependent on small mammals.** Three out of four northern spotted owls and between 40 and 70 percent of barred owls had been exposed — and those estimates may be conservative. http://weedrush.news21.com/growing-marijuana-industry-raises-environmental-concerns/

Growers in remote areas **often end up destroying local creeks and other water sources, or using harmful pesticides to keep their plants healthy, which damages the surrounding environment.**

http://www.ibtimes.com/how-marijuana-farms-impact-environment-1729921

Energy

According to some estimates, **a typical grow house uses 200 watts per square foot – about the same amount of energy it takes to power a modern data center**. When growers want their plants' growth rate to accelerate, they may keep the plants under 24-hour light. Four indoor plants indoors could require as much electricity as 30 refrigerators. http://www.usatoday.com/story/news/2015/08/19/sustainable-marijuana-news21-water/31545469/

Noxious odor

While the smell is a horrible nuisance to the area, **marijuana odor can cause minor to serious side-effects** for people who are allergic to it. "Now as the prevalence [of marijuana use] is increasing, and with the legalization in many states, it is going to become increasingly more common, and all these cases will surface that were not recognized before," http://www.livescience.com/50059-marijuana-allergies.html

For all of the aforementioned reasons, marijuana growth undoubtedly needs to be kept out of residential and rural areas in order to prevent its harmful effects on people, animals, ecosystems, and our environment. These operations need to remain in controlled, industrial areas where it cannot have a direct harmful impact.

Wendy Sarino
19626 244th Ave. SE
Maple Valley, Wa 98038

Dear Honorable Council Members,

Again, our thanks to you for hearing our voices regarding grow and processing operations in rural King County. As a resident close to an approved processing plant, a mile or so "as the crow flies," I join with neighbors who express concern about the processing plant scheduled for operation off 200th Street in rural Maple Valley.

It is not marijuana that we are opposed to; it is the processing operation. It is our hope that the processing be moved to areas zoned for that purpose.

You have patiently listened to our concerns and we are grateful for that. We moved to King County expressly for leadership's concern for the environment. We, like the County's leadership, are sensitive to the land and want to be good stewards of it. We

- have wetlands on our property that we do disturb, according to County codes,
- want no pesticides or harmful chemicals to pollute the waters coming into our well,
- care for the elk and deer who migrate through our property and trails in the area,
- work hard to reduce our carbon footprint on the land, a goal also of King County.

We understand that the land proposed for marijuana processing possesses the same features as ours, as those listed above.

We are concerned homeowners.

Please bear in mind the following as you come to a decision about rural King County and processing operations:

1. In RCW 82.04.213 "Agricultural product" does not include marijuana, useable marijuana, or marijuana-infused products...." For this grow and processing operation, it is my understanding that the County permit is issued as an agricultural operation.

Furthermore, this RCW specifies: "The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to marijuana, useable marijuana, or marijuana-infused products unless the applicable term is explicitly defined to include marijuana, useable marijuana, or marijuana-infused products."

2. http://www.huffingtonpost.com/2011/04/14/marijuana-production-carbon-footprint-environment_n_848865.html Cannabis production uses 1% of the nation's entire electricity consumption, a fact not in line with the County's goal to reduce its carbon footprint.

3. http://www.lcb.wa.gov/mjlicense/air-and-odor Has the proposed processing plant obtained an Order of Approval (permit) from the Puget Sound Clean Air Agency? The PSCAA states in Regulation 1, Section 9.11: "It shall be unlawful for any person to cause or allow the emission of any air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property." The data support that those who live close to a processing operation are recipients of a violation of this PSCAA regulation. The notorious "skunk" odor lingers for years. On a "good day," we are already plagued with odors from the Cedar Grove soil processing; please don't add another sordid smell to our outdoors. See also http://www.planningpaw.org/wp-content/uploads/2014/04/Marijuana-

and-Air-Quality-Requirements.pdf; http://www.marijuanaventure.com/clean-air-regulations-impact-cannabis-business/

4. http://www.alltreatment.com/environmental-impact-marijuana-grow-houses Marijuana processing operations may be counterproductive to the County's goal to reduce its carbon footprint by 2050. See also http://www.wildcalifornia.org/blog/epictoparticipate/; http://www.ibtimes.com/how-marijuana-farms-impact-environment-1729921

In short, please remember that those of us in rural King County did not occupy our residences knowing that a processing operation would be located close to us. We are concerned with safety to our lands, our bodies, and our properties. With few County personnel to see that whatever regulations put in place are being enforced and security patrols in our area reduced, we remain concerned citizens. We ask that you wisely and considerately put yourselves in our place as you make your decisions about marijuana processing in rural King County.

Lynn & Lionel Landry

June 16, 2016

David & Effie Bidleman

42211 196th Ave. SE
Enumclaw, WA 98022
360 835 3212
bidled@msn.com

Dear County Executive Dow Constantine,

After several meetings with representatives of King County, the Administration and Law Enforcement we are now at the crossroads of a defining ruling concerning the siting of marijuana grow operations in the rural areas under your purview.

I iterate that it is not my intention to change the legality of production, use and possession of marijuana but I do oppose propagation of the plant in areas that are populated by family's and hardworking farmers.

The citizens of rural King County, when counted, make us the second largest "city" in Washington State. That is a large voting block so we do have more of a say as to what kind of conditions that will be foisted on our environs.

I support an outright ban on grow operations on agricultural land and request that the permits for those properties that are producing marijuana now be rescinded and allowed to continue only in an Industrial setting.

I'm enclosing an article written by Daniel Halper from the Weekly Standard in Colorado. It is a condemnation of the lack of foresight by State and Local officials when marijuana became legal in that state.

My biggest concern is when grow operations in our area are allowed expand, that it will bring unwanted criminal activity, as it has in Colorado. This, when our own King County Sheriff's department is being reduced in manpower. Many of the residents "out here" have armed themselves and that begs the incidence of violence. I fear that outcome.

I ask that you address these misgivings and reach the right decision.

Warm regards,

David & Effie Bidleman

207th Ave SE Enumclaw

207th Ave SE Enumclaw

208th Ave SE Enumclaw (future marijuana production permitted)

Illegal Marijuana grow 196th Ave SE Enumclaw (06/2015)

6/15/2016

From: Tori Johnson – Maple Valley

Our neighborhood consists of 8 parcels – 5 acres each with 7 homes built.

We share a well and have a private street (186th Street) that we paid to have paved. The entrance to our neighborhood is thru another private street, which we also paid to pave and we all maintain the road. There are 7 homes on 187th Street. These are various amounts of acreage, most of them 5 acres.

The homeowner at the END of our street decided to request a permit to grown pot on his parcel. (Cloud Bud)

He won the lottery and was granted the right to apply for a permit.

There are several things that happened during the course of this process that upset all of us in the neighborhood and the community.

1. King County officials began to coach " Cloud Bud" on how to get his land ready. Without the approval
2. King County officials granted variances to a wetlands on the property when it was discovered that "CB" illegally built a structure near a pond on the parcel
3. King County officials ignored the fact that the street is a dead end and to access the parcel, one must drive down TWO private roads.
4. King County officials indicated that they don't "interpret" CC&R's – when the document clearly states the operation was against the RECORDED C C & R's. (Who the HELL does KC think they are that they don't have to adhere to recorded rules of a community? Well, the judge thought better!!) He was ultimately denied his permit.
5. King County officials ignored the fact that there is not adequate police protection due to UNDER STAFFING in the area.
6. King County granted CB an agricultural well without a study to determine if there was adequate water supply in the underground system. In addition, they have NO system set up to MONITOR the 5000 gallons per day LIMIT on this well. REALLY!??? WHY HAVE THE RULES AND NO FOLLOW THRU?
7. In addition – King County did not VET this applicant – AT ALL. The Sherriff's office KNOWS the family due to past drug activity. (We in the neighborhood know of illegal drug activity)

This seems to be the way this entire system is being implemented. Set of some rules...and break or mitigate every single one of them....just to get the pot in the ground!

This neighborhood had to take Cloud Bud AND King County to hearings and court proceedings, spending in excess of $60,000 – just to enforce our CC&R's. This is UNACCEPTABLE!!!

All this to say – a NEIGHBORHOOD IS NOT THE PLACE FOR A POT FARM TO EXIST! There are PLENTY of rural areas that are zoned for growing crops and raising livestock that do not have families with children and grandchildren on PRIVATE roads or CC & R's.

KING COUNTY IS NOT EXEMPT FROM FOLLOWING THE RULES OF THE COMMUNITIES – VIA CC&R'S

When the parameters are determined for the process in growing this crop – it must be adhered to. Mitigation just to make it easier or because an applicant cannot follow the rules – is STUPID! FOLLOW THE RULES.

Thank you for considering this needless expensive event in our lives – and keep these grow operations out of rural neighborhoods. Place them in agricultural rural areas are larger parcels of land.

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Some offices are independently owned and operated.

John L. Scott REAL ESTATE

6/15/2016

I wanted to address the issues we are discussing today from a Real Estate value point of view.

As a licensed Real Estate Broker for the last 23 years, in my professional opinion, the value of the homes that house a grow operation as well as the surrounding neighbors, will diminish significantly.

The hard facts are that the operations

1. Smell like skunks just attacked.
2. Require major security measures with lights and fences and cameras
3. Require significant police availability
4. Include significant amounts of cash on property due to the vast majority of banks refusing to take deposits
5. Require public road access
6. Have a "fear" of increased criminal activity (which can be argued as proven in recent months) to the general public.

Currently, sellers are to disclose when a home is near a farm that has "farm smells" or other noxious odors. A cannibus crop will likely have that type of disclosure in the future.

I guarantee a law suit will follow– the first time a realtor sells a property to a buyer where the seller does NOT indicate a grow operation is located right next door or down the street or across the 1 acre pasure!

Currently, there can be children in every house surrounding the grow operation. My experience has taught me that most "parents" are not willing to live in a high crime area or in a home that was previously a drug house or where known sex offenders live – plus a few other negative lifestyle hinderences. I expect a pot farm will be added to the list in the future.

THE WILL LESSEN THE RESALE VALUES OF ALL OF THESE HOMES! Fewer buyers will want to buy the homes in these areas, thus reducing the sales prices, thus reducing the taxes paid on the sale of a home. The homeowners surrounding these grow operations will pay a huge price in regards to the future values of their homes.

Grow operations are better suited in rural farm land. Minimal neighborhoods. Minimal homes. Minimal overall negative impact on a community.

John L. Scott
REAL ESTATE

Date 06-16-16

To: King County Council Committee TrEE

From: Lorna Rufener- King County Resident Rural Enumclaw

Subj: Marijuana Production- Odor, health impacts, licensing, business/industry siting,

Puget Sound Clean Air Agency (PSCAA)

Good morning,

Last week I went to a residence in rural Enumclaw approx 4 miles from my house. This resident has a production marijuana grower next door. Because this was done in an existing building it did not require a permit from DPER and has been operational for over a year. This is what I saw and want to relay to you. First it was around 5 pm, and the weather had been around 70 degrees, the wind was blowing (as it frequently does in Enumclaw Plateau area) at about 15 mph. The homeowner spoke with me outside for about 30 minutes. The marijuana odor (skunk smell) was almost immediately apparent. I could hear fans coming from the building, we were about 100 ft from the growers property line.

I experienced within that half hour itchy eyes, tightening in my throat, cough and when I got home a mild headache. Prior to that I had been fine. This type of reaction is common in people near marijuana grows, I know because I have served many drug related warrants on grows as a narcotic's task force commander. This is not compatible near residences, regardless of legalizing marijuana, it is an industrial business and not agricultural and is extremely unhealthy.

How did this happen to this homeowner? This is a consequence of a lack of county licensing and adequate zoning regulations for these marijuana growers at the onset of regulations. This location is near a stream and could have already negative impacts on the waterway because King County did not plan appropriately on how to protect our waterways from this type of business. This grow was given a LCB license before PSCAA(clean air agency) got involved requiring no odor at the property line or beyond. I can tell you empathically you need to fix this. This is an indoor grow which is impinging on this homeowners property rights. Having DPER looking strictly to PSCAA for neighborhoods to complain to will not work, instead growers should be approved by PSCAA first, prior to licensing or permitting by King County.

PSCAA, apparently, to date, has permitted 50 indoor grows, and zero outdoor grows. There agency is struggling with standards for outside grows. The question is whether an outdoor grow can be held to the same standard as an indoor grow, which is "no odor at the property line or beyond". We believe this is not possible in either case and is essentially a public nuisance and a serious hazard! We are concerned for all of our zoned rural residential areas, not just R5. We have much to read on your proposals and will continue to write our comments and concerns in the hopes that you will not just mitigate but remove these flawed decisions in our rural areas.

ISSUES

The list below provides a brief breakdown of the issues that the citizens of King County have voiced. Many of the concerns have also been expressed by reputable and legal marijuana business people because many of them also agree that there are problems with the codes. Furthermore, other counties have been faced with these same issues and have attempted to resolve them.

The order is not reflective of the importance of the issue.

1. Impact to the environment: Smell/Aroma/Stench/ High use of energy, water, and unknown chemicals.
    a. The smell is not able to be effectively mitigated as evidenced by personal testimony, environmental studies, and inspections. Setbacks, filters and other processes may provide some relief, however, it is nuisance that increases with growing stages, temperature, and structure/design of the grow.
    b. The impact of runoff and other aspects of marijuana production and processing are well known and established by respected authorities. Studies have been conducted for several years, prior to the legalization of marijuana. The danger of the impacts relate back to the lack of oversight. If the county is not able to monitor the businesses, it should not be authorizing licenses.

2. Noise: Industrial fans are used in most setups. As noted above, buffers/mufflers and so forth can be installed on the fans but because most are temperature and humidity driven, the noise increases throughout the day. On warm or hot days the fan noise can prevent a person from having a normal conversation.

3. Security/Safety: As testified to by community members

4. Property Values: As testified to by community members

5. Legal Costs: Property owners who are being impacted by these operations are having to seek legal advice. These owners are more vested in their respective properties than the producers and processors, yet they are being treated as having a smaller voice. The current approach to marijuana is causing costs to citizens as well as to the County and the State. These costs will only increase for all parties if the County continues to allow producers and processors to be in residential areas inclusive of rural residential.

6. Conflict of State statute and County code: Laws and Zoning – see enclosed.

7. Lack of funds to provide oversight by the LCB, law enforcement, and general monitoring
    a. We keep being told that unincorporated King County has no money to handle the issues with marijuana. So it makes one pause and question why we keep making the problem worse if we cannot handle what we have.

8. This is still a federally illegal drug - although the feds have said they will not act against the state, it has reserved the right to act in the absence of sound decisions and appropriate oversight. The County's handling of marijuana appears to fall short of the federal government's directive. See enclosed for the complete memorandum from DOJ.
    a. The Department of Justice stated, "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," it reads. "A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice."

9. Lack of actual and physical oversight.
    a. Minimal permitting requirements
        i. Grows are being allowed in sensitive areas. See FPP and Open land use. Yet, how would the county know where it is being grown if it is not requiring active involvement in identifying and permitting the locations for processors and producers?
    b. Inspections of operations – per DPER and other members, minimal inspections occur due to lack of resources
    c. Waste management – written guidelines are provided to the producers and processors, however, as stated above, due to lack of resources and confusion with who can enforce the code, inspections are not regularly occurring.

THE LAW

The Legislature enacted many statutes with regard to marijuana. Below is a summary of many of the relevant statutes and an attempt to clarify where confusion and conflict may be present.

After speaking with several members of the KC Council and the LCB it has become apparent that there is confusion with what is considered AGRICULTURE. The Legislators clearly defined marijuana in the statutes with regard to agriculture. Additionally, agriculture had been defined by the state long before the legalization of marijuana came into play. The law and definition is not ambiguous or unclear.

RCW 82.04.213 "Agricultural product," "farmer," "marijuana", states that marijuana is not an agricultural product. This is where much of the challenge lies. Because it is not agriculture, it should not be allowed to be grown in agriculturally specific and/or protected lands, nor be allowed in residential areas.

RCW 69.50.334. The statutes also provide guidance for renewal and denial of licenses. It provides for denial of renewal of a license for the reasons that many of the county citizens have testified to as occurring - i.e. chronically illegal activity and public safety and well-being. *See section 6.*

In many of the RCWs the Legislature included its intent. Again, it is clear that the Legislature wants this industry to be HIGHLY REGULATED and to protect state revenues AND the safety and welfare of its citizens. For example, **RCW 69.50.334** notes the intent, in relevant part:

> *The legislature further finds that it is crucial that the state continues to ensure a safe, highly regulated system in Washington that protects valuable state revenues while continuing efforts towards disbanding the unregulated marijuana markets. The legislature further finds that ongoing evaluation on the impact of meaningful marijuana tax reform for the purpose of stabilizing revenues is crucial to the overall effort of protecting the citizens and resources of this state.*
>
> *The legislature further intends to share marijuana tax revenues with local jurisdictions for public safety purposes and to facilitate the ongoing process of ensuring a safe regulated marijuana market in all communities across the state.*
>
> *. . . this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions,. . .*

The intent as noted under **RCW 69.50.101 Intent**—2013 c 3 (Initiative Measure No. 502):

> *(3) Takes marijuana out of the hands of illegal drug organizations and brings it under a tightly regulated, state-licensed system similar to that for controlling hard alcohol.*

The "tightly regulated", "highly regulated" , and "concern for the safety and health of its citizens" aspects appear to be lacking as evidenced through the unreasonably relaxed and unrestricted licensing approval process . The actions of King County and LCB fly in the face of the legislature's intent.

Below are the relevant sections of the mentioned RCWs. Full versions of the RCWs are enclosed.

RCW 82.04.213 "Agricultural product," "farmer," "marijuana" in relevant part:

(1) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to: A product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020; plantation Christmas trees; short rotation hardwoods as defined in RCW 84.33.035; turf; or any animal including but not limited to an animal that is a private sector cultured aquatic product as defined in RCW 15.85.020, or a bird, or insect, or the substances obtained from such an animal including honey bee products. "Agricultural product" does not include marijuana, useable marijuana, or marijuana infused products, or animals defined as pet animals under RCW 16.70.020.

(3) The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to marijuana, useable marijuana, or marijuana infused products unless the applicable term is explicitly defined to include marijuana, useable marijuana, or marijuana infused products.

(4) "Marijuana," "useable marijuana," and "marijuana infused products" have the same meaning as in RCW 69.50.101.

RCW 69.50.101 Definitions, in relevant part:

(e) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.

(v) "Marijuana" or "marihuana" 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.

(w) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than ten percent.

(x) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana infused products, package and label marijuana concentrates, useable marijuana, and marijuana infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana infused products at wholesale to marijuana retailers.

(y) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(z) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana infused products as defined in this section.

(tt) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana infused products or marijuana concentrates.

It should be noted that the RCW for application for marijuana businesses falls under the **Chapter 69.50 RCW for UNIFORM CONTROLLED SUBSTANCES ACT**. It is clear that the legislature intended that Marijuana industry have active oversight and regulation and not be considered agriculture or to fall under the protections of agriculture.

RCW 69.50.331 Application

(10) In determining whether to grant or deny a license or renewal of any license, the state liquor and cannabis board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means

(a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest

RCW 69.50.334 Denial of application—Opportunity for hearing.

(1) The action, order, or decision of the state liquor and cannabis board as to any denial of an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any license to produce, process, or sell marijuana, or as to the administrative review of a notice of unpaid trust fund taxes under RCW 69.50.565, must be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(2) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(3) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as provided in subsection (6) of this section, prior to the suspension of any license.

(4) An opportunity for a hearing must be provided to any person issued a notice of unpaid trust fund taxes under RCW 69.50.565.

(5) No hearing may be required under this section until demanded by the applicant, licensee, or person issued a notice of unpaid trust fund taxes under RCW 69.50.565.

(6) The state liquor and cannabis board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The state liquor and cannabis board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the state liquor and cannabis board.

RCW 82.04.213

"Agricultural product," "farmer," "marijuana."

(1) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to: A product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020; plantation Christmas trees; short-rotation hardwoods as defined in RCW 84.33.035; turf; or any animal including but not limited to an animal that is a private sector cultured aquatic product as defined in RCW 15.85.020, or a bird, or insect, or the substances obtained from such an animal including honey bee products. "Agricultural product" does not include marijuana, useable marijuana, or marijuana-infused products, or animals defined as pet animals under RCW 16.70.020.

(2)(a) "Farmer" means any person engaged in the business of growing, raising, or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product to be sold, and the growing, raising, or producing honey bee products for sale, or providing bee pollination services, by an eligible apiarist. "Farmer" does not include a person growing, raising, or producing such products for the person's own consumption; a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard or a slaughter or packing house; or a person in respect to the business of taking, cultivating, or raising timber.

(b) "Eligible apiarist" means a person who owns or keeps one or more bee colonies and who grows, raises, or produces honey bee products for sale at wholesale and is registered under RCW 15.60.021.

(c) "Honey bee products" means queen honey bees, packaged honey bees, honey, pollen, bees wax, propolis, or other substances obtained from honey bees. "Honey bee products" does not include manufactured substances or articles.

(3) The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to marijuana, useable marijuana, or marijuana-infused products unless the applicable term is explicitly defined to include marijuana, useable marijuana, or marijuana-infused products.

(4) "Marijuana," "useable marijuana," and "marijuana-infused products" have the same meaning as in RCW 69.50.101.

[2015 3rd sp.s. c 6 § 1102; 2014 c 140 § 2. Prior: 2001 c 118 § 2; 2001 c 97 § 3; 1993 sp.s. c 25 § 302.]

NOTES:

Effective dates—2015 3rd sp.s. c 6: See note following RCW 82.04.4266.

Tax preference performance statement—Tax preference intended to be permanent—2015 3rd sp.s. c 6 §§ 1102-1106: See notes following RCW 82.04.330.

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

RCW 69.50.603

Uniformity of interpretation.

This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it.

[1971 ex.s. c 308 § 69.50.603.]

RCW 69.50.608

State preemption.

The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality.

[1989 c 271 § 601.]

RCW 69.50.331

Application for license.

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW **69.50.385**, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW **69.50.385**, or sell marijuana, the state liquor and cannabis board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The state liquor and cannabis board must develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. The state liquor and cannabis board must give preference between competing applications in the licensing process to applicants that have the following experience and qualifications, in the following order of priority:

(i) First priority is given to applicants who:

(A) Applied to the state liquor and cannabis board for a marijuana retailer license prior to July 1, 2014;

(B) Operated or were employed by a collective garden before January 1, 2013;

(C) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(D) Have had a history of paying all applicable state taxes and fees;

(ii) Second priority must be given to applicants who:

(A) Operated or were employed by a collective garden before January 1, 2013;

(B) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(C) Have had a history of paying all applicable state taxes and fees; and

(iii) Third priority must be given to all other applicants who do not have the experience and qualifications identified in (a)(i) and (ii) of this subsection.

(b) The state liquor and cannabis board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor and cannabis board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor and cannabis board and a criminal history record information check. The state liquor and cannabis board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW **9.95.240** and of chapter **9.96A** RCW do not apply to these cases. Subject to the provisions of this section, the state liquor and cannabis board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor and cannabis board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

(c) No license of any kind may be issued to:

(i) A person under the age of twenty-one years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license

as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor and cannabis board may, in its discretion, subject to the provisions of RCW **69.50.334**, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

(b) The state liquor and cannabis board must immediately suspend the license of a person who has been certified pursuant to RCW **74.20A.320** by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the state liquor and cannabis board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor and cannabis board may request the appointment of administrative law judges under chapter **34.12** RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor and cannabis board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW **34.05.446**. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor and cannabis board or a subpoena issued by the state liquor and cannabis board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the state liquor and cannabis board. Where the license has been suspended only, the state liquor and cannabis board must return the license to the licensee at the expiration or termination of the period of suspension. The state liquor and cannabis board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the state liquor and cannabis board to implement and enforce this chapter. All conditions and restrictions imposed by the state liquor and cannabis board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of twenty-one years.

(7)(a) Before the state liquor and cannabis board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, has the right to file with the state liquor and

cannabis board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor and cannabis board may extend the time period for submitting written objections.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor and cannabis board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor and cannabis board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor and cannabis board representatives must present and defend the state liquor and cannabis board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor and cannabis board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (d) of this subsection, the state liquor and cannabis board may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The state liquor and cannabis board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within one thousand feet but not less than one hundred feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to marijuana producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a marijuana research facility.

(9) Subject to *section 1601 of this act, a city, town, or county may adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the state liquor and cannabis board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or

other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW **46.61.502** associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

[2015 2nd sp.s. c 4 § 301; **2015 c 70 § 6**; 2013 c 3 § 6 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

***Reviser's note:** Section 1601 of this act is a reference to a section in an earlier version of Second Engrossed Second Substitute House Bill No. 2136.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW **69.50.334**.

Short title—Findings—Intent—References to Washington state liquor control board —Draft legislation—2015 c 70: See notes following RCW **66.08.012**.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW **69.50.101**.

RCW 69.50.334

Denial of application—Opportunity for hearing.

(1) The action, order, or decision of the state liquor and cannabis board as to any denial of an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any license to produce, process, or sell marijuana, or as to the administrative review of a notice of unpaid trust fund taxes under RCW **69.50.565**, must be an adjudicative proceeding and subject to the applicable provisions of chapter **34.05** RCW.

(2) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(3) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as provided in subsection (6) of this section, prior to the suspension of any license.

(4) An opportunity for a hearing must be provided to any person issued a notice of unpaid trust fund taxes under RCW **69.50.565**.

(5) No hearing may be required under this section until demanded by the applicant, licensee, or person issued a notice of unpaid trust fund taxes under RCW **69.50.565**.

(6) The state liquor and cannabis board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The state liquor and cannabis board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the state liquor and cannabis board.

[2015 2nd sp.s. c 4 § 201; 2013 c 3 § 7 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Findings—Intent—2015 2nd sp.s. c 4: "(1)(a) The legislature finds the implementation of Initiative Measure No. 502 has established a clearly disadvantaged regulated legal market with respect to prices and the ability to compete with the unregulated medical dispensary market and the illicit market. The legislature further finds that it is crucial that the state continues to ensure a safe, highly regulated system in Washington that protects valuable state revenues while continuing efforts towards disbanding the unregulated marijuana markets. The legislature further finds that ongoing evaluation on the impact of meaningful marijuana tax reform for the purpose of stabilizing revenues is crucial to the overall effort of protecting the citizens and resources of this state. The legislature further finds that a partnership with local jurisdictions in this effort is imperative to the success of the legislature's policy objective. The legislature further finds that sharing revenues to promote a successful partnership in achieving the legislature's intent should be transparent and hold local jurisdictions accountable for their use of state shared revenues. Therefore, the legislature intends to reform the current tax structure for the regulated legal marijuana system to create price parity with the large medical and illicit markets with the specific objective of increasing the market share of the legal and highly regulated marijuana market. The legislature further intends to share marijuana tax revenues with local jurisdictions for public safety purposes and to facilitate the ongoing process of ensuring a safe regulated marijuana market in all communities across the state.

(b) The legislature further finds marijuana use for qualifying patients is a valid and necessary option health care professionals may recommend for their patients. The legislature further finds that while recognizing the difference between recreational and medical use of marijuana, it is also imperative to distinguish that the authorization for medical use of marijuana is different from a valid prescription provided

by a doctor to a patient. The legislature further finds the authorization for medical use of marijuana is unlike over-the-counter medications that require no oversight by a health care professional. The legislature further finds that due to the unique characterization of authorizations for the medical use of marijuana, the policy of providing a tax preference benefit for patients using an authorization should in no way be construed as precedent for changes in the treatment of prescription medications or over-the-counter medications. Therefore, the legislature intends to provide qualifying patients and their designated providers a retail sales and use tax exemption on marijuana purchased or obtained for medical use when authorized by a health care professional.

(2)(a) This subsection is the tax preference performance statement for the retail sales and use tax exemption for marijuana purchased or obtained by qualifying patients or their designated providers provided in RCW **82.08.9998**(1) and **82.12.9998**(1). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to accomplish the general purposes indicated in RCW **82.32.808**(2)(e).

(c) It is the legislature's specific public policy objective to provide qualifying patients and their designated providers a retail sales and use tax exemption on marijuana purchased or obtained for medical use when authorized by a health care professional.

(d) To measure the effectiveness of the exemption provided in chapter 4, Laws of 2015 2nd sp. sess. in achieving the specific public policy objective described in (c) of this subsection, the department of revenue must provide the necessary data and assistance to the state liquor and cannabis board for the report required in RCW **69.50.535**." [2015 2nd sp.s. c 4 § 101.]

Effective dates—2015 2nd sp.s. c 4: "(1) Except as provided otherwise in this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

(2) Except for section 503 of this act, part V of this act takes effect October 1, 2015.

(3) Sections 203 and 1001 of this act take effect July 1, 2016.

(4) Sections 302, 503, 901, 1204, and 1601 of this act and part XV of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 24, 2015." [2015 2nd sp.s. c 4 § 1605.]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW **69.50.101**.

King County Code and the Conflict with State Statute

There additionally is a conflict between state statutes and King County code. However, that also appears to be caused by a lack of understanding and interpretation of state statute. In RCW 69.50.608, State Preemption, the legislature noted that the state fully occupies and preempts the entire field. Although this is in reference to penalties, based on how the legislature has written the marijuana statutes coupled with notes on intent, it can be reasonably inferred that the intent is for all areas of the industry. Historically, State statute will preempt county or municipal codes if in conflict. Additionally, a county may add to a statute, but cannot take away. Meaning that if the state defines a product in a particular manner, the county or city cannot ignore that definition, however, it can add to the definition.

State statute notes that Marijuana is not Agriculture. King County code additionally says it is not agriculture. The only section that indicates that it is permitted as agriculture is in the Table. Again, historically verbiage will preempt when there is conflict. In the present matter, this is precisely what is at issue.

KC Code 21A.08.080 Manufacturing land uses indicates in the table that marijuana recreational I is allowed, however that conflicts with both state and county code. The code states it is NOT agriculture therefore it cannot be allowed in agriculturally protected lands.

Relevant Codes:

21A.06.040 Agricultural product sales. Agricultural product sales: the retail sale of items resulting from the practice of agriculture, including primary horticulture products such as fruits, vegetables, grains, seed, feed and plants, primary animal products such as eggs, milk and meat, or secondary and value added products resulting from processing, sorting or packaging of primary agricultural products such as jams, cheeses, dried herbs or similar items. Agricultural product sales do not include marijuana, usable marijuana or marijuana-infused products. (Ord. 17710 § 1, 2013: Ord. 15032 § 1, 2004: Ord. 10870 § 48, 1993).

21A.06.7341 Marijuana. Marijuana: all parts of the plant cannabis, whether growing or not, with a percentage concentration of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant cannabis, or per volume or weight of marijuana product 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. Marijuana 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. (Ord. 17710 § 2, 2013).

21A.06.7342 Marijuana greenhouse. Marijuana greenhouse: a structure with a glass or rigid plastic roof and glass or rigid plastic walls designed and used to create an artificial climate for the growing of

marijuana as licensed by the Washington state Liquor Control Board for the marijuana production that is of sufficient strength and stability to comply with the structural design load requirements of the building code and that is not used as a place for human habitation or by the general public. (Ord. 17710 § 3, 2013).

21A.06.7344 Marijuana processor, recreational. Marijuana processor, recreational: a facility licensed by the Washington state Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers. Recreational marijuana processors are classified as follows: A. Recreational marijuana processor I -- processing which is limited to: 1. Drying, curing, and trimming; and 2. Packaging. B. Recreational marijuana processor II -- all elements of processing including: 1. All recreational marijuana processor I activities; 2. Extracting concentrates and infusing products; 3. Mechanical and chemical processing; and 4. Packaging. (Ord. 17710 § 4, 2013).

21A.06.7346 Marijuana producer, recreational. Marijuana producer, recreational: a facility licensed by the Washington state Liquor Control Board for the production and sale at wholesale of marijuana to marijuana processors and other marijuana producers. (Ord. 17710 § 5, 2013).

Summary overview of the FARM PRESERVATION PROGRAM AND LAND PROTECTION PROGRAMS

The FARM PRESERVATION PROGRAM explicitly states that the only uses for the property within the FPP land is for Agriculture, horticulture, Animal husbandry and Open land use. Enclosed you will find the full history of the FPP and other land use protections created by the state and county. These programs have been funded by the citizens of the state and by the county. They have been litigated up to the Washington Supreme Court and held to be constitutional.

The FPP came into use in the late 1970's. It is a voluntary program that allowed land owners to sell their development rights to the county. The purpose of the program was to protect agricultural land for future use. It created restrictions for the use of the land by the current owner and restricted the minimum size of parcels. Most areas required 10 acres or more and allowed only one residence to be built on the land. Additionally, the land had to have no less than 5% untillable land. The only uses allowed are as noted previously: AGRICULTURE, HORTICULTURE, ANIMAL HUSBANDRY, and OPEN LAND USE. Much of the Enumclaw Plateau is under the FPP along with other areas of unincorporated King County. Other land protection programs cover a large portion of unincorporated King County.

Enclosed are screen prints of maps that show these areas.

Why is this important?:

The licensing of producers and processors without regard to size (up to a limit) and location has caused the problems we face today. Had the LCB and/or county required notice on ALL marijuana businesses, these issues would have been brought forward. The LCB and other licensing and permitting agencies should have been knowledgeable and informed about the land protections programs put in place many years ago. The programs are in place for the purpose of protecting land and citizens. It is unreasonable and unjust for the LCB and County to ignore the programs put in place by the County, approved and paid for by the people of the county, litigated to the Supreme Court and upheld, and enforced by the County when other types of violations have occurred, such as land transfer undersize.

Marijuana is not an agricultural product. The legislators were clear when they wrote the statutes for Marijuana. There is no need to even have to attempt to interpret their intent. RCWs clearly and in plain language state that marijuana is not and will not be considered an agricultural product. So one has to ask, why the county would allow marijuana to be grown in these areas that the county bought in order to protect it.

San Juan County addressed concerns about "right to farm" provisions and other protections for agricultural products and its connection with marijuana. The final ruling was against the proposed producer due to that lack of mitigation ability of odors, noise and increased activity associated with the business. The examiner held that the impacts of marijuana would not fall under the protections of agriculture or right to farm.

Below is the link to a ruling by the hearing examiner.

http://www.sanjuanco.com/DocumentCenter/Home/View/7376

King County

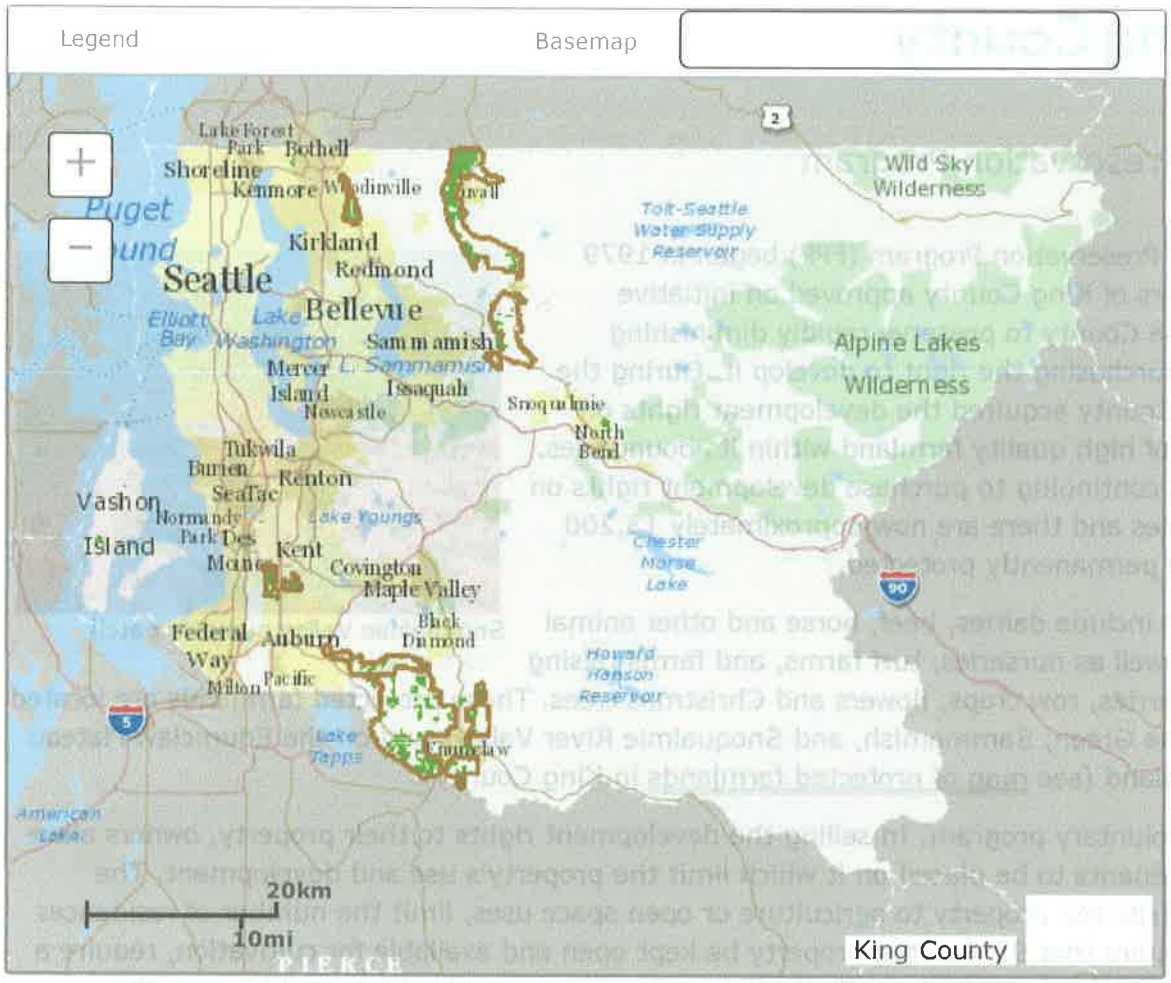
Farmland Preservation Program

The Farmland Preservation Program (FPP) began in 1979 when the voters of King County approved an initiative authorizing the County to preserve rapidly diminishing farmland by purchasing the right to develop it. During the 1980's, King County acquired the development rights on 12,600 acres of high quality farmland within its boundaries. The County is continuing to purchase development rights on select properties and there are now approximately 13,200 acres that are permanently protected.


Snoqualmie Valley pumpkin patch

FPP properties include dairies, beef, horse and other animal operations as well as nurseries, turf farms, and farms raising hay, silage, berries, row crops, flowers and Christmas trees. These protected farmlands are located primarily in the Green, Sammamish, and Snoqualmie River Valleys and on the Enumclaw Plateau and Vashon Island (see map of protected farmlands in King County).

The FPP is a voluntary program. In selling the development rights to their property, owners allow restrictive covenants to be placed on it which limit the property's use and development. The covenants restrict the property to agriculture or open space uses, limit the number of residences permitted, require that 95% of the property be kept open and available for cultivation, require a minimum lot size if the property is subdivided, and restrict activities that would impair the agricultural capability of the property. The restrictive covenants are contained in a conveyance instrument called the Deed Of and Agreement Relating to Development Rights (Click to view a copy of a blank Deed and Agreement in MS Word format).



Staff Contact:

Ted Sullivan
FPP Program Manager

For more information about the King County Farmland Preservation Program, please contact Ted Sullivan, Project Program Manager III, King County Rural and Regional Services Section.

Related information

- Agriculture in King County, Washington
- Rural services directory
- Business services

Related agencies

- Water and Land Resources Division
- Department of Natural Resources and Parks

Last Updated June 19, 2015

King County

Agriculture in King County, Washington

Website mini-survey

Is this web page useful?
◉ Yes | ○ No | ○ Other

What are you trying to accomplish?
FPP info

Send

Customer Service Guide

"Prompt, Fair, Results-Oriented Service for All"

The Customer Service Guide (pdf) is designed to help you quickly locate the service you need.

Guía de Servicio al Cliente

Map of protected farmlands in King County

Farm related facts for King County as of 2011:

- Number of farms: **1,800**;
- Acres of farmland in production: **50,000**;
- Number of farmers markets in King County: **41**;
- Acres of farmland preserved through the Farmland Preservation Program: **13,200**;
- There are approximately **1,000 miles of agricultural ditches** in King County;

HistoryLink File #7691

King County Farmland Preservation Program

King County's Farmland Preservation Program protects farmland and open space in the rapidly developing county by using tax money to buy development rights on farms. It is one of the oldest such programs in the nation and the first to be enacted by public vote. Voters overwhelmingly approved a $50 million bond measure to fund the program in 1979, following two earlier measures that narrowly missed technical requirements despite gaining majority support. Lawsuits and rising interest rates delayed the first purchases of development rights until 1984. Eventually more than 13,000 acres comprising more than 200 farms were protected from development. Not all the preserved land is still actively farmed -- some parcels have been sold as multi-million dollar rural estates. But all remain open space, and many continue to be working farms, some now operated by new, first-time farmers.

Disappearing Farms

Much of King County's growth since World War II has occurred in suburban and rural areas, as subdivisions and shopping malls replaced farms and berry fields. By the late 1970s, 80 percent of the farms that existed in 1945, and half of the farmland available in 1959, had disappeared. As development pressures intensified, county residents and civic leaders sought ways to protect the open space that remained.

In 1977, the King County Council initiated efforts to protect farmland by establishing agricultural districts in areas where farming was concentrated, including the Snoqualmie, Sammamish, and Green River valleys, Vashon Island, and the Enumclaw plateau. The council designated 32,500 acres in those areas as prime agricultural land and imposed a moratorium that temporarily banned subdivision of that land while efforts for permanent preservation were explored.

The following year, King County Executive John Spellman (b. 1926) proposed a $25 million bond issue (soon increased to $35 million) to raise money with which to buy development rights from farmers who agreed to sell them. Although some critics questioned why the county should spend tax money when it could simply restrict the land to agricultural use through zoning, Spellman and other proponents argued that historically zoning restrictions had failed to protect farms, in part because zoning is subject to change as development pressures increase. Additionally, supporters argued, farmers should not be deprived of the right to profit from the increasing value of their land.

Campaigning for Preservation

Voters in the November 1978 election strongly favored the $35 million farmland bond, but it fell several hundred votes short of the 60 percent margin required to approve bond measures. In 1979, the Farmlands and Open Space committee, chaired by James Ellis (b. 1921) -- who had spearheaded the creation of Metro in the 1950s and the Forward Thrust bonds in the 1960s -- tried again with a new, $50 million farmland bond measure.

The committee, which included farmers, preservationists, and developers, proposed that the bond money be used to purchase development rights to some of the areas designated as prime agricultural lands. With the county owning development rights, buildings and pavement would be limited to 5 percent of the protected land, with no more than one house per 10 to 35 acres, ensuring that most of the land remained open and available for farming.

The County Council voted in June 1979 to put the bond measure on the September primary election ballot. Ellis and other backers had asked for the primary date, believing that the measure would be more likely to garner the needed 60 percent approval. They were right -- 77 percent of those voting approved the bonds. Unfortunately, the total votes cast on the measure fell just short of the number needed (40 percent of those who had voted in the last general election) to validate the bonds. Led by councilmember Bernice Stern, a strong supporter of the farmland proposal, the County Council made the decision to put the bond measure back on the November ballot for a third try.

One of the leading campaigners for the farmland preservation measure was Snoqualmie Valley dairy farmer Scott Wallace, who had been a County Commissioner in the 1960s. Wallace had lost his Commissioner's seat to newcomer John Spellman, but the two became allies on preserving farmland, and Wallace helped convince other farmers to support Spellman's development rights purchase plan.

Third Try is the Charm

On November 6, 1979, the Farmland Preservation bond passed with 181,872 votes for and 104,138 against. Both the approval margin (63.6 percent) and the turnout were sufficient this time and the measure became law. Backers noted that the vote was historic. Although Suffolk County, New York, had earlier adopted a similar program, there the county commissioners, not the general public, made the decision. Spellman called the King County vote a "significant national landmark. It is the first time the people of any state or community have done something to stop the constant loss of farmlands and open space" (O'Connor).

The victory was all the sweeter because it followed the two near misses, and because it came in the same election that voters in King County and across the state overwhelmingly approved Initiative 62, imposing limits on state spending. Ellis said:

> "It took a lot of hanging in by a lot of dedicated people, but we made it, and it was worth the struggle ... Just look at what happened. While voters were saying 'yes' to limiting state spending, they turned right around and voted to increase their taxes to save our farmland. I think it says something profoundly positive about the voters in King County" (MacLeod).

Litigation Delays

Although Spellman said after the vote, "We don't intend to waste any time getting started" (MacLeod), multiple lawsuits and rising interest rates delayed the Farmland Preservation Program long enough that Spellman had left the Executive's office for the governor's mansion, and nearly completed his gubernatorial term, before the first farm-development rights were purchased under his successor as Executive, Randy Revelle.

The first lawsuit, challenging the constitutionality of the farmland program, was filed even before the election. The state Supreme Court held in 1980 that the program was constitutional, but ruled that the interest on the bonds could not exceed the 8 percent in effect at the time of the 1979 vote. This made it difficult to find buyers for the bonds, since interest rates rose rapidly in the inflationary, stagnating economy of the late 1970s and early 1980s.

After another lawsuit, the County Council sold $15 million in councilmanic bonds, which generated cash used to purchase prime "priority one" farmland in the Sammamish and Green River valleys and on Vashon Island. The first purchases of development rights, protecting 2,100 acres from development, were made in 1984.

Finally, in 1985, the Supreme Court resolved yet another lawsuit in favor of the county, authorizing it to use short term bonds, and to average interest rates, in order to meet the 8 percent interest limitation. This cleared the

way for issuance of the remaining $35 million in bonds to fully fund the program, allowing the purchase of "priority two" land in the Snoqualmie Valley and on the Enumclaw plateau. The local bonds were supplemented by grants from the United States Department of Agriculture Farm and Ranch Lands Protection Program, which added nearly $1.4 million more to the King County program.

Making a Difference

The Farmland Preservation Program's last major purchase came in December 1986, when the County paid $1.5 million for development rights to the Magnolia Dairy in Bothell. In total, the program has protected over 13,000 acres on more than 200 farms from future development, and occasional development-rights purchases are still made. The program did not stop the loss of farmland and open space but it has made a noticeable difference. Between 1992 and 1997, only 2 percent of King County farmland was lost, a significantly lower rate of loss than in Snohomish County (18 percent) or Pierce County (13 percent).

The farmland program also brought new people into farming by making family farms available close to major urban markets. Although some critics had warned that farmers who sold development rights to their land would not be able to sell the farms when they wanted to retire or leave the business, farms in the program have sold readily, often to newcomers who had never farmed before. Judy Taylor and her husband Gary had no farming experience before 1988, when they bought preserved farmland in the Green River Valley where they raised Angora goats and rare sheep. Taylor learned to bale hay, shear sheep and goats, and feed and medicate her herd. Within 10 years she was chairing the county Agriculture Commission.

New farmers helped transform agriculture in the county, introducing different and non-traditional crops. Some raised organic produce for upscale city restaurants or grew flowers, fruit, and vegetables for sale in Pike Place Market on former dairies and ranches. Others produced vegetable and flower seedlings for nurseries and home stores.

Both new and long-time farmers faced challenges as preserved farms increasingly became islands surrounded by sometimes incompatible development. Surface water runoff from adjoining developments flooded farms and washed away valuable topsoil. Increased traffic interfered with movement of farm machinery. In turn, the new residents complained about slow-moving equipment, dust, odors, and other inevitable byproducts of farming.

Farms -- and Mansions

Not all the preserved farms remained in agricultural production. Even with the strict development limits, land prices rose so sharply in some areas that the open land was more valuable as sites for multi-million dollar mansions. Since the Farmland Preservation Program allowed at least one home on 35 acres, preserved farms could legally be divided into large lots and sold to wealthy buyers as rural estates.

Ironically one of the properties that went this route was the historic Snoqualmie Valley Wallace Farms, where early preservation proponent Scott Wallace, and his parents before him, had operated a dairy for years. Scott, like many other dairy owners across the country, was forced out of business by declining dairy prices in the 1990s and the new owners gained permission to divide the 225-acre farm into five building lots. The Magnolia Dairy and other preserved farms were also marketed as new home sites and one farm in the program became a polo club.

Nevertheless, active agricultural operations, including dairies, cattle and horse ranches, and farms producing row crops, berries, hay, silage, flowers, Christmas trees, and turf also thrive on lands protected under the Farmland Preservation Program. Thanks in part to the program, agriculture remains an important industry in King County, generating over $90 million in annual sales. And even the exclusive estates that have supplanted some historic farms help fulfill the goal of keeping land close to King County's growing urban areas green and open.

Although not all who approved the farmland bond in 1979 may have anticipated the ultimate results, campaign head Jim Ellis, looking back on the program 20 years after the vote, expressed satisfaction:

Farm and residence near Bellevue, ca. 1915

Courtesy UW Special Collections (Neg. A. Curtis 33387)

Horses at the Seattle city poor farm, 1919

Courtesy Seattle Municipal Archives

Northgate site, surrounded by rural farmland, ca. 1949

Courtesy Jim Douglas

Tukwila farmland, site of Southcenter Mall, 1920s

Courtesy Tukwila Historical Society

"I never anticipated that anyone was signing in blood that they would be farming forever, but I did want to hold the open space forever" (Dudley, "Preservation Program Reaps").

Sources:

"Farmland Preservation Program," King County Department of Natural Resources and Parks website accessed February 10, 2006 (http://dnr.metrokc.gov/wlr/LANDS/farmpp.htm); Daniel Carlson, "Keeping 'em Down on the Farm," *The Seattle Times*, November 12, 1977, p. A-8; Jack Broom, "Spellman Proposes Bond Issue to Preserve Land," *Ibid.*, June 23, 1978; Alex MacLeod, "77% Yes, But Farmlands Measure Fails," *Ibid.*, September 19, 1979; MacLeod, "Farmland-preservation Bonds OK'd on Third Try," *Ibid.*, November 7, 1979, p. A-5; Broom, "Court Says County Can Sell Short-term Bonds for Farms Program," *Ibid.*, June 6, 1985, p. B-5; Jill Leovy, "Putting Down New Roots -- King County Rural-preservation Program Helps First-time Farmers Begin a Challenging Lifestyle," *Ibid.*, September 25, 1991, p. F-1; Leovy, "Traffic, Surface Water Make Efforts to Farm Increasingly Difficult," *Ibid.*, September 25, 1991; Brier Dudley, "Disappearing Farmland -- Pioneering Preservationist Loses Farm; Land to Be Sold for Estates," *Ibid.*, November 16, 1998, p. A-1; Dudley, "Preservation Program Reaps Mixed Harvest After 20 Years -- Saving Farmland Was Easier Than Saving Farming," *Ibid.*, October 11, 1999; Dan Coughlin, "Another Try for Farmland Bond Issue," *Seattle Post-Intelligencer*, May 22, 1979, p. A-12; Paul O'Connor, "Historic Triumph for the Farm Measure," *Ibid.*, November 7, 1979, p. A-5; "Complete Unofficial King County Election Returns," *Ibid.*, November 8, 1979, p. A-5; Kit Oldham interview with Robert Patterson, March 15, 2006; *King County v. Taxpayers of King County*, 104 Wn.2d 1, 700 P.2d 1143 (1985). By Kit Oldham, March 15, 2006

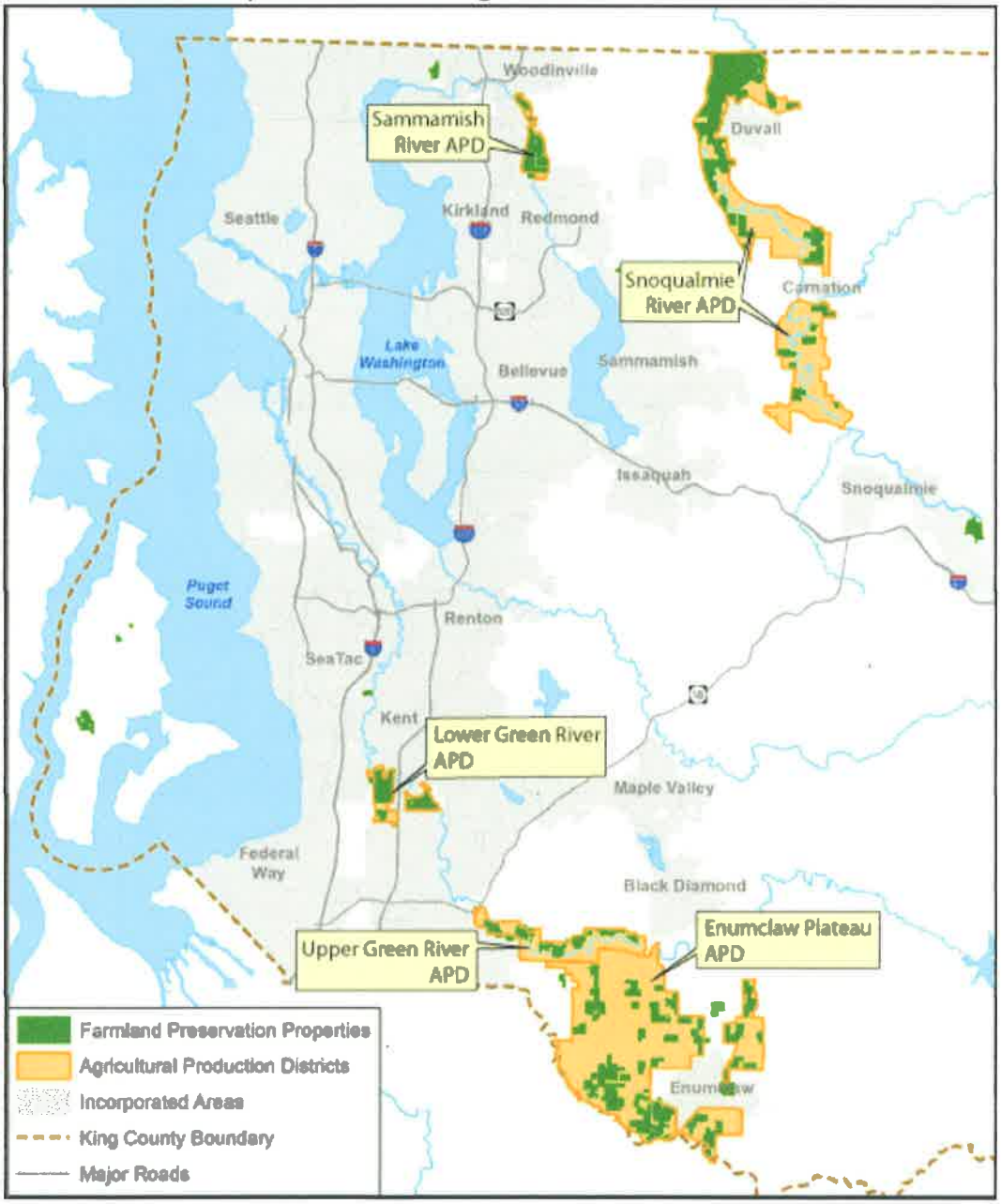
Olson Barn, Maple Valley

Photo by F. K. Brunton, Courtesy Maple Valley Historical Society

King County

Protected farmland map
King County, Washington

Please click the map to view an enlarged version



For more information about protected farmland in King County, please contact Ted Sullivan, Project Program Manager III, King County Rural and Regional Services Section.

Related information

- Agriculture in King County, Washington
- Farmland Preservation Program
- Sustainable building topics

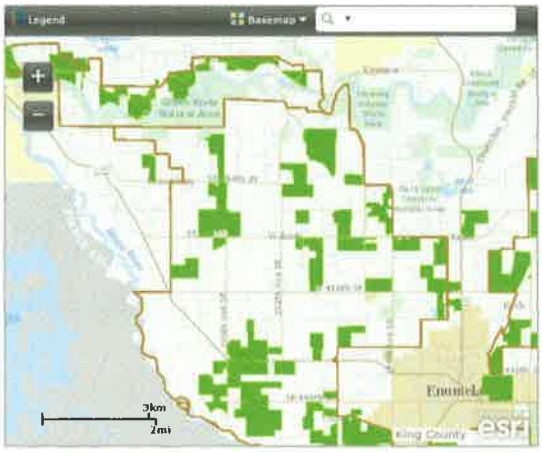
Related agencies

- Dept. of Natural Resources and Parks
- Water and Land Resources Division

Last Updated June 19, 2015

www.kingcounty.gov/depts/dnrp/wlr/sections-programs/rural-regional-services-section/agriculture-program/farmland-preservation-program.aspx?print=1

Deed Of and Agreement Relating to Development Rights (Click to view a copy of a blank Deed and Agreement in MS Word format).



Staff Contact:

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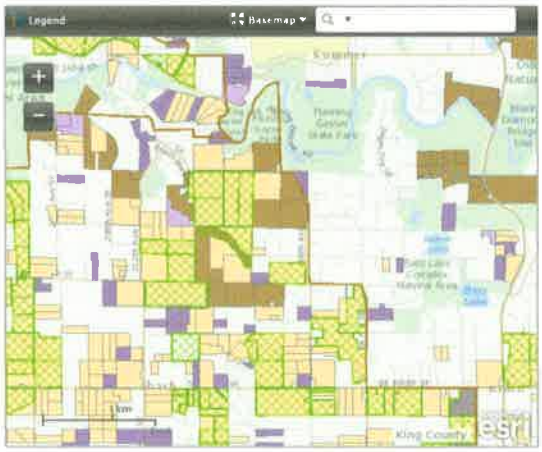

Staff Contact:

Ted Sullivan

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WHEREAS:

The Grantors are the present owners of the lands described in Exhibit A which is attached hereto and incorporated herein by reference (the "Land").

The Grantors recognize that the Land is Farmland or Open Space Land as defined in King County Ordinance No. 4341, and they desire to cooperate with the Grantee in preserving land devoted to agricultural and open space uses.

The Grantors are willing to grant and convey to the Grantee the Development Rights in the Land as such rights are defined in King County Ordinance No. 4341 (said rights being the interest in and the right to use and subdivide land for any and all residential, commercial, and industrial purposes and activities which are not incident to agricultural and open space uses), on the terms and conditions and for the purposes hereinafter set forth. The Grantee is willing to purchase the Development Rights in the Land and accept this instrument of conveyance.

The Grantee has determined that the acquisition by the Grantee of Development Rights in Farmland and Open space Land will benefit the public through the preservation of property devoted to agricultural and open space uses.

The grant and conveyance of Development Rights by the Grantors to the Grantee will preserve the Land for activities consistent with agricultural and open space uses in perpetuity in accordance with the specific terms and conditions hereinafter set forth.

NOW THEREFORE WITNESSETH, that the Grantors, for and in consideration of _____ **DOLLARS** lawful money of the United States of America, paid to the Grantors by the Grantee, the receipt whereof is hereby acknowledged, and the Grantors being therewith fully satisfied, do by these presents grant, bargain, sell, transfer and convey unto the Grantee forever all Development Rights in respect to the Land, hereby perpetually binding the Land to the restrictions limiting permitted activities to agricultural and open space uses as specifically delineated in the covenants, terms, and conditions contained herein, and do also grant such interests, rights and easements, make such covenants, and subject the land to such servitudes as are necessary to bind the Land in perpetuity to such restrictions.

The Grantors and Grantee hereby agree that the Land shall be bound by and permanently subject to the following restrictive covenants, terms, and conditions. None of these covenants, terms, and conditions shall be construed as allowing a use that is not otherwise permitted by applicable state and local laws, codes, standards, and ordinances.

RESTRICTIONS ON USE OF THE LAND

I. **Uses Restricted to Agricultural and Open Space Uses; Agricultural and Open Space Uses Defined.** Use of the Land is permanently restricted to solely agricultural and open space uses.

A. "Agricultural uses," as used herein, means:

(1) The growing, raising, and production of horticultural and agricultural crops, including, but not limited to, vegetables, berries, other fruits, cereal grains, herbs, hay, and silage, and the processing and the marketing for off-premises consumption of such crops grown, raised, or produced on the Land;

(2) All forms of animal husbandry, including the processing and marketing for off-premises consumption of the animals raised on the Land or the products of the same;

(3) The lying fallow or disuse of the Land.

Agricultural uses do not include the construction, habitation, or other use of a dwelling unit, except to the extent such use is specially reserved in this instrument.

B. "Open space uses," as used herein, means:

(1) Agricultural uses as defined above;

(2) Non-agricultural uses that conserve and enhance natural, scenic, or designated historic resources and that do not permanently compact, remove, sterilize, pollute, or otherwise impair the use of the soil on the Land for the raising of horticultural or agricultural crops.

Neither open space nor agricultural uses include the following: The construction, habitation, or other use of a dwelling unit, except to the extent such use is specifically reserved in this instrument; construction or expansion of buildings or structures for non-agricultural uses; the construction or

use of golf courses, parking lots unassociated with agricultural uses, athletic fields, campgrounds, or vehicle raceways or animal raceways other than those principally used for the exercise of animals grown, raised, or produced on the Land. Open space uses may include trails for non-motorized use by the public that are maintained and owned by or for the benefit of a government agency or are maintained and owned by a non-profit conservation agency.

II. **Reservation of Dwelling Unit(s).** The Grantors reserve the right to the use of _____single-family units(s) on the Land for the sole purpose of accommodating the Grantors and their successors in interest to the Land, the farm operator, or the families of such persons, or for accommodating agricultural employees of the owner or operator and their families. No more than _____dwelling units(s) in total will be permitted regardless of whether the Land is subdivided by the Grantors or by any successor in interest of the Grantors, If the land is subdivided, the number of dwelling units allocated to each subdivided parcel out of the total number of dwelling units specified above shall be indicated in the deed to each such parcel and on the face of any plat or other instrument creating the subdivision or conveying an interest in the Land, however, failure to indicate the number of such dwelling units thereon shall not invalidate or otherwise affect the restriction of the total number of dwelling units on the Land. The dwelling unit(s) shall be (a) permanent or mobile structure(s) designed and used for single-family residential occupancy.

III. **Further Restriction on Use of the Land.** Potential uses of the Land are limited in that the Grantors, their heirs, successors, and assigns shall only be entitled to use, lease, maintain, or improve the Land for agricultural and open space uses, and they shall comply with the following terms, conditions, restrictions, and covenants, which are permanently binding on the Land:

A. No subdivision of the Land that reduces any parcel to less than 20 acres shall be permitted. EXCEPT THAT the Grantors, their heirs, successors, and assigns may elect to subdivide the Land resulting in the creation of a parcel or parcels less than 20 acres in size where each of the following requirements are met: (1) a reserved homesite is attached to each parcel of the Land, after the subdivision; and (2) the reserved homesites on the subdivided parcels would not increase the density of housing on the Land, which means the total acreage prior to the subdivision, to more than one reserved homesite per 35 acres. All restrictions imposed by this instrument shall survive any subdivision.

B. No more than 5 percent of the Land, or of any parcel thereof resulting from a subdivision of the Land, shall be covered by structures and/or nontillable surfaces. "Structures" shall include but are not limited to residences, barns, machine sheds, permanent greenhouses, associated structures, retail and processing facilities, surfaced parking areas, surfaced driveways, surfaced roadways, and surfaced pads. Temporary shelter for soil-dependent cultivation of horticultural or viticultural crops is not considered a structure. "Non-tillable surfaces" shall include but are not limited to asphalt, concrete, gravel, and any other cover material not normally associated with cultivation of the soil.

C. No mining, drilling, or extracting of oil, gas, gravel, or minerals on or under the Land shall be permitted that causes disruption of the surface of the Land to any extent inconsistent with agricultural uses, and no part of the surface of the Land shall be used for storage or processing of gas, oil, or minerals taken from the Land, other than storage for the private use of the occupants of the Land.

D. No subsurface activities, including excavation for underground utilities, pipelines, or other underground installations, shall be permitted that cause permanent disruption of the surface of the Land. Temporarily disrupted soil surfaces shall be restored in a manner consistent with agricultural uses, including restoration of the original soil horizon sequence within a reasonable period of time after such installation.

E. No dumping or storage of non-agricultural solid or liquid waste, or of trash, rubbish, or noxious materials shall be permitted.

F. No activities that violate sound agricultural soil and water conservation management practices shall be permitted.

G. No signs shall be erected on the Land except for the following purposes:
   (1) to state the name of the property and the name and address of the occupant;
   (2) to advertise any use or activity consistent with the agricultural or open space uses as herein

rescission of contract, or damages, including attorneys' fees and court costs reasonably incurred by the Grantee in prosecuting such action(s). No waiver or waivers by the Grantee, or by its successors or assigns, of any breach of a term, condition, restriction, or covenant or of any other term, condition, restriction, or covenant contained herein.

No Alteration or Amendment. The terms, conditions, restrictions, and covenants contained herein shall not be altered or amended unless such alteration or amendment shall be made with the written consent of the Grantee, or its successors or assigns, and any such alteration or amendment shall be consistent with the purposes of King County Ordinance No. 4341, as heretofore or hereafter amended.

Restrictions Binding on Successors. The Grantors and Grantee agree that the terms, conditions, restrictions, and covenants contained herein shall be binding upon the Grantors, their agents, personal representatives, heirs, assigns, and all other successors in interest to the Land and possessors of the Land, and shall be permanent terms, conditions, restrictions, covenants, servitudes, and easements running with and perpetually binding the Land.

Transfer of Rights by Grantee. The Grantee agrees that the Development Rights to the Land shall not be sold, given, divested, transferred, or otherwise reconveyed in whole or in part in any manner except as provided in King County Ordinance No. 4341, as heretofore or hereafter amended. The Grantors, their personal representatives, heirs, successors, or assigns, shall be given the right of first refusal to purchase the Development Rights in the Land provided such disposition and reconveyance be lawfully approved.

Condemnation. If the Land is subject to any condemnation action, and if a mutually acceptable agreement as to the compensation to be provided to the Grantee is not reached between Grantee and Grantors within a reasonable period of time, the Grantors will request that the Grantee be made a party to such action in order that it be fully compensated for the loss of, or devaluation in, the Development Rights hereby conveyed.

No Affirmative Obligations; Indemnification. Grantee, in purchasing the Development Rights and related interests described herein, assumes no affirmative obligations whatsoever for the management, supervision or control of the Land or of any activities occurring on the Land. Grantors shall indemnify Grantee and hold Grantee harmless from all damages, costs (including, but not limited to, attorneys' fees and other costs of defense incurred by Grantee), and other expenses of every kind arising from or incident to any claim or action for damages, injury, or loss suffered or alleged to have been suffered on or with respect to the Land. This provision shall be binding upon the Grantors for so long as they hold fee title to the Land, and shall bind their successors in interest to the fee title to the Land.

Grantee's Right to Enter onto the Land. After giving reasonable notice to the possessors of the Land, the Grantee or its authorized representative shall have the right to enter from time to time onto the Land and into structures located thereon for the sole purposes of inspection and enforcements of the terms, conditions, restrictions and covenants hereby imposed.

Severability. If any section or provision of this instrument shall be held by any court of competent jurisdiction to be unenforceable, this instrument shall be construed as though such section or provision had not been included in it, and the remainder of this instrument shall be enforced as the expression of the parties' intentions. If any section or provision of this instrument is found to be subject to two constructions, one of which would render such section or provision invalid, and one of which would render such section or provision valid, then the latter construction shall prevail. If any section or provision of this instrument is determined to be ambiguous or unclear, it shall be interpreted in accordance with the policies and provisions expressed in King County Ordinance No. 4341.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and year first above written.

GRANTEE	GRANTORS
KING COUNTY	_____
BY_____	_____

Title 26
AGRICULTURAL AND OPEN SPACE LANDS*

UPDATED: March 2, 2015

***See also K.C.C. chapter 20.54**

Chapters:

26.04 ACQUISITION OF INTERESTS

Sections:

26.04.010 Findings and declaration of purpose. The council finds that:

A. King County is a desirable place to live and visit because of the quantity, variety and natural beauty of its open space which contributes a vital ingredient to the quality of life of the people of the county. These open space resources presently include more than fifty thousand acres of land suitable for farming, and other woodlands, wetlands and open lands adjacent to these farmlands. Such lands provide natural separation between urban areas, furnish unique, aesthetic and economic benefits to the citizens of the county and are an important part of our heritage.

B. Land suitable for farming is an irreplaceable natural resource with soil and topographic characteristics which have been enhanced by generations of agricultural use. When such land is converted to urban and suburban uses which do not require those special fertility and landscape characteristics, an important community resource is permanently lost to the citizens of King County.

C. The agricultural industry in King County provides the citizens of the county with the opportunity to harvest locally grown berries, fruit and vegetables at u-pick farms and to purchase locally produced food and dairy products through the Pike Place Market, farmers markets, roadside stands and other local outlets throughout the county.

D. It is the policy of the state of Washington and King County to protect, preserve and enhance agricultural and open space lands as evidenced by the King County comprehensive plan of 1964, as amended by Ordinance 1096, establishing open space policies in King County, RCW Chapter 84.34 and Ordinance 2537, authorizing current use taxation of agricultural and open space land, Chapter 84 Laws of 1979 limiting and deferring road and utility assessments on farm land and open space land, Ordinance 3064, as amended, establishing King County's agricultural lands policy and county and city ordinances regulating land use by zoning.

E. However, these policies and regulations, by themselves, have not been effective to provide long-term protection of farm lands and open space lands under the pressure of increasing urban development. The amount of land in agricultural use in King County has declined from more than one hundred thousand acres in 1959 to approximately fifty thousand acres in 1979, with much of this loss having been caused by actual or prospective urban development.

F. Generally, farmlands and open space lands which are close to urban centers have a greater market value for future urban development than their market value for commercial farming or other open

space uses. This fact encourages the speculative purchase of these lands at high prices for future development, regardless of the current zoning of such lands. Farmlands which have a market value greater than their agricultural value do not attract sustained agricultural investment and eventually these lands are sold by farmers and removed from commercial agricultural uses.

G. The permanent acquisition by the county of voluntarily offered interests in farmlands and open space lands within the county, as provided in this chapter and as authorized by the Constitution and statutes of the state of Washington, will permit these lands to remain in farm and open space uses in a developing urban area and provide long-term protection for the public interests which are served by farmlands and open space lands within the county.

H. The acquisition of interests in farmlands and open space lands as provided in this chapter is a public purpose of King County and financing such acquisition requires that the county issue its general obligation bonds in the principal amount of not to exceed fifty million dollars. (Ord. 4341 § 2, 1979).

26.04.020 Definitions.

A. "Agricultural rights" means an interest in and the right to use and possess land for purposes and activities related to horticultural, livestock, dairy and other agricultural and open spaces uses.

B. "Appendices A, B, C, D, E and F" of the ordinance codified in this title means the maps which describe designated areas of eligible lands for purposes of priority of acquisition as provided in Section 26.04.040. Official large scale maps describing such areas in detail are filed with the clerk of the council and incorporated herein by this reference. Smaller scale maps generally illustrating such areas are appended to the ordinance codified in this title for more readily accessible public reference.

C. "Bonds" means the general obligation bonds of the county described in Section 26.04.110.

D. "Council" means the King County council.

E. "Development rights" means an interest in and the right to use and subdivide land for any and all residential, commercial and industrial purposes and activities which are not incident to agricultural and open space uses.

F. "Eligible land" means farmland and open space land for the purchase of which bond proceeds are authorized to be used pursuant to this chapter.

G. "Executive" means the King County executive.

H. "Farmland" means:

1. "Farm and agricultural land" as now defined in RCW 84.34.020(2); or

2. Land which is in a single ownership of twenty or more contiguous acres, at least eighty percent of which is open or fallow and which has produced a gross income from agricultural uses of one hundred dollars or more per acre per year for three of the ten calendar years preceding the date of the owner's application. The "date of application" as used in (1.) or (2.) of this subsection shall be the date of the owner's application for purchase by the county.

I. "Food producing farmland" means farmland which has been used for the commercial, soil-dependent cultivation of vegetables, berries, other fruits, cereal grains and silage corn.

J. "Full ownership" means fee simple ownership.

K. "Governmental agency" means the United States or any agency thereof, the state of Washington or any agency thereof, any county, city or municipal corporation.

L. "Open space land" means "open space land" as now defined in RCW 84.34.020(1) and "open space use" means any of the uses provided in such definition.

M. "Owner" means the party or parties having the fee simple interest, a real estate contract vendor's or vendee's interest, a mortgagor's interest or a grantor of a deed of trust's interest in land.

N. "Selection committee" means the committee formed pursuant to Section 26.04.050 to advise the council in the selection of eligible lands for purchase.

O. "Value of development rights" means the difference between the fair market value of full ownership of the land, excluding the buildings thereon, and the fair market value of the agricultural rights to that land. (Ord. 4341 § 3, 1979).

26.04.030 Authorization.

A. The county is authorized to issue its general obligation bonds to acquire the farmlands and open space lands described and prioritized in Section 26.04.040. The property interest acquired may be either the development rights, full ownership or any lesser interest, easement, covenant or other contractual right. Such acquisition may be accomplished by purchase, gift, grant, bequest, devise, covenant or contract but only at a price which is equal to or less than the appraised value determined as provided in this chapter. The proceeds of the bonds shall be used to acquire such property interests only upon application of the owner and in a strictly voluntary manner.

B. If the owner so elects, the executive is authorized to pay the purchase price in a lump-sum single payment at time of closing, or to enter into contracts for installment payments against the

purchase price consistent with applicable federal arbitrage regulations. When installment purchases are made, the county is authorized to pay interest on the declining unpaid principal balance at a legal rate of interest consistent with prevailing market conditions at the time of execution of the installment contract and adjusted for the tax-exempt status of such interest.

C. The executive is further authorized to contract with other governmental agencies to participate jointly in the acquisition of interests in eligible lands on such terms as shall be approved by the council consistent with the purposes and procedures of this chapter.

D. The county may acquire full ownership in eligible lands of first priority only where the owner will voluntarily sell only the full ownership of the property. The county shall acquire only development rights or interests which are less than full ownership in eligible lands of second and third priority.

E. After county acquisition of development rights or some interest less than full ownership in any eligible lands, the county may purchase the remaining agricultural rights or other property interests in such land only when requested by the owner and when such acquisition is necessary to maintain agricultural or open space uses of the property.

F. If the county shall acquire full ownership in any eligible lands, the executive shall as soon as practicable offer the agricultural rights to such land for public sale at a price not less than the appraised value of such rights. If no offer for such rights is received at the appraised value, the executive may, with the approval of the council, either reoffer the agricultural rights for public sale or lease such land for agricultural or open space use or make such land available for publicly owned open space uses consistent with the purposes of this chapter.

G. Interests which the county owns in property other than eligible lands may be exchanged for property interests in eligible lands on an equivalent appraised value basis. If the county has acquired full ownership of any eligible lands, agricultural rights in such lands may be exchanged for the development rights to other eligible land of equal or higher priority on an equivalent appraised value basis. If the property interests exchanged are not exactly equal in appraised value, cash payments may be made to provide net equivalent value in the exchange. (Ord. 4341 § 4, 1979).

26.04.040 Eligible lands and priority of acquisition. The proceeds of the bonds shall be used to purchase property interests in the following lands in the following order of their numbered priority group. The lands described within each numbered priority regardless of the order of designation within such group.

First Priority:

A. Farmlands and open space lands located within the designated areas of the Sammamish, Lower Green or Upper Green River Valleys as shown respectively on Appendix A, Appendix B and Appendix C of the ordinance codified in this chapter;

B. Food producing farmlands located anywhere within the county except those lands removed from the agricultural district by the King County council in its affirmative action on Ordinance 3326, generally described but not limited to those lands on Appendix F but outside of the designated areas of the Sammamish, Lower Green, Upper Green and Snoqualmie River Valleys and Enumclaw Plateau as shown in Appendices A through E inclusive of the ordinance codified in this chapter.

Second Priority:

A. Farmlands in designated areas in the Snoqualmie Valley as shown on Appendix D of the ordinance codified in this chapter.

B. Farmlands in designated areas of the Enumclaw Plateau as shown on Appendix E of the ordinance codified in this chapter.

C. Approximately one thousand five hundred acres of farmlands which are larger than forty contiguous acres located anywhere within the county outside of the areas described in Appendices A through E inclusive of the ordinance codified in this chapter.

Third Priority:

All other farmlands located within presently established agricultural districts of the county and designated to be agricultural lands of county significance. (Ord. 4373 § 2, 1979: Ord. 4341 § 5, 1979).

26.04.050 Selection committee.

A. A seven-member selection committee shall be appointed within ninety days following the approval of the bonds by the voters. The selection committee shall advise the council in the selection of eligible lands offered for acquisition by their owners. Members shall be appointed by the executive and confirmed by the council and shall comply with the King County code of ethics. No member may have an ownership interest in any of the lands eligible for purchase pursuant to this chapter.

B. The selection committee shall consist of two members each of whom shall have at least five years experience in the operation and management of commercial farms; two members, each of whom shall have five years of experience in the management of either a construction or land development or

real estate business; and three members who shall be lay citizens from different geographic areas of the county. One of the lay members shall be appointed by the executive to serve as chairman. Committee recommendations shall be made by a majority of its members.

C. Members shall serve three-year terms, except that the initial term of three members shall be two years and of four members shall be three years. Members may be removed by the executive only for good cause shown. Members shall not be compensated for their services but shall be reimbursed for expenses actually incurred in the performance of their duties. Members may be reappointed to successive terms but the selection committee shall be terminated when the proceeds of the bonds have been spent and in any event no later than eight years after the bond election. (Ord. 4341 § 6, 1979).

26.04.060 Selection process. Beginning in the first year following the bond election and continuing at least once a year for a period of six years or until all bond proceeds have been expended, whichever date is sooner, the executive shall conduct a voluntary property selection process, herein called "selection round," generally as follows:

A. In the first and second selection rounds all properties offered in priority one shall be eligible for purchase. In the third selection round all properties offered in priority one and priority two shall be eligible for purchase, and in all subsequent selection rounds all properties offered in priorities one, two and three shall be eligible for purchase. In all selection rounds properties of higher priority shall be purchased with available funds before properties of lower priority are purchased.

B. The executive shall begin each selection round by giving notice in one newspaper of general circulation in each area where eligible lands are located which may be acquired in that round. The notice shall describe the properties eligible for purchase in that selection round, the procedure to be followed in the selection process, including an estimated time schedule for the steps in the process, and shall invite the owners of such properties to make application for purchase by the county and to describe the property interest which the owner is willing to sell.

C. Upon closing of the application period, the county executive shall review each application which has been received to determine the eligibility and priority classification of each property interest and to verify ownership by title search.

D. For those applications which meet the requirements of subsection C. of this section, the executive shall cause an appraisal of the applicant's property interest to be made. Two appraisals shall be made to determine the value of development rights. One appraisal shall determine the fair market value of full ownership of the land, excluding buildings thereon, and one shall determine the fair market value of the agricultural rights only. Appraisals of the fair market value of full ownership or of a property interest other than development rights shall be made by independent appraisers selected by the executive from a list of not less than ten qualified persons recommended by the county assessor. Such persons shall be deemed qualified if they have been certified to be professionally competent appraisers by a recognized professional appraisal certification organization, shall have had at least five years experience as a professional appraiser and shall not have a property interest in eligible lands. Appraisals of the fair market value of agricultural rights shall be made by independent appraisers selected by the executive with at least five years experience in the appraisal of agricultural land and who shall not have a property interest in eligible lands.

E. Appraisals shall be in writing and shall be furnished to the respective owners for review. Errors of fact in any appraisal may be called to the attention of the appraiser by the county or by owners of the property appraised but corrections of the appraisal may be made only by the appraiser. If an owner of property believes it has not been adequately appraised, such owner may, within the time allowed therefor on the selection schedule, request that a review appraisal be made at the owner's expense. The selection committee shall appoint the review appraiser or appraisers in the same manner as the original appraiser or appraisers are appointed by the executive. The review appraisal shall become the final appraisal.

The appraisal shall then be filed with the executive.

F. Terms and conditions of sale and information on the effect of the sale may be discussed by the executive with owners prior to the submission of written offers.

G. Sealed, firm, written offers by all applicants who desire to have their property purchased by the county shall then be submitted on forms provided by the county to be opened by the county executive on a day certain.

H. The executive shall review all offers and make recommendations thereon to the selection committee and the council.

I. The selection committee shall review all offers and the recommendations of the executive and make recommendations to the council.

J. Upon receiving the recommendations of the selection committee, the council shall take final action on such recommendations. (Ord. 4341 § 7, 1979).

26.04.070 Criteria for selection within same priority. Only in the event that funds are not adequate in any selection round to purchase all eligible lands of equal priority for which valid offers shall have been received by the county, the following criteria shall be considered in determining which offers to accept within such priority group:

A. An offer which is below appraisal shall be favored over an offer which is at appraisal;

B. An offer of development rights in land shall be favored over an offer of full ownership;

C. An offer of farmland producing in the twelve months preceding application shall be favored over an offer of land which lies fallow;

D. An offer of land which is more threatened by urban development shall be favored over an offer of land which is less threatened;

E. An offer of land which will form a contiguous farming area with other offered or acquired eligible land shall be favored over an offer of land which is separated;

F. An offer of land which will serve the dual purpose of urban separation and agricultural production shall be favored over an offer of land which will serve only one of such purposes;

G. An offer of farmlands in commercial production shall be favored over an offer of noncommercial farmlands.

The weight to be given to each of the above criteria shall be determined finally by the council for each parcel of property and such good faith determination shall be conclusive. (Ord. 4341 § 8, 1979).

26.04.080 Duration of acquired interests.

A.1. Development rights acquired pursuant to this chapter shall be held in trust by the county for the benefit of its citizens in perpetuity. Except as provided in K.C.C. 26.04.030 and subsection B. of this section and except as found necessary by the council to convey public road and utility easements, the county shall not sell, lease or convey any land or interest in land that it acquires with the use of bond proceeds.

2. Before any council finding of necessity in support of the exception described in subsection A.1. of this section, the executive shall notify and seek input from the agriculture commission regarding any proposal to convey development rights acquired in accordance with this chapter and held in trust by the county.

B. If the council finds that the public farm and open space purposes described in K.C.C. 26.04.010 can no longer reasonably be fulfilled as to any land or interest in land acquired with bond proceeds, the council shall submit to the voters of the county a proposition to approve of the disposition of such land or interest. Only upon a majority vote approving such a proposition may the land or interest be disposed of by the county and the proceeds of the disposition shall be used to acquire other farmlands or open space lands in the county as provided in this chapter. (Ord. 15181 § 3, 2005: Ord. 4341 § 9, 1979).

26.04.090 Related costs. The costs of appraisal, engineering, surveying, planning, financial, legal and other services lawfully incurred incident to the acquisition of interests in eligible lands by the county and incident to the sale, issuance and delivery of the bonds shall be paid from the proceeds of the bonds. (Ord. 4341 § 10, 1979).

26.04.100 Supplemental funds. Supplemental or matching funds from other governmental agencies or private sources may become available to pay a portion of the cost of acquiring development rights, full ownership or some lesser interest in eligible lands or to supplement or enlarge such acquisition. The executive is authorized to utilize such funds to purchase interests in eligible lands or to otherwise supplement the proceeds of the bonds in the manner provided by this chapter and in accordance with the applicable laws or terms governing such grant.

It is the intention of the council that proceeds of bonds available for the acquisition of interests in farmlands in the Snoqualmie Valley be used in a manner consistent with the adopted multijurisdiction agreement affecting the uses of the Snoqualmie River. (Ord. 4341 § 11, 1979).

26.04.110 County purpose. The council finds and declares that the use of county funds for the purpose of paying in whole or in part the cost of acquisition of interests in eligible lands as set forth in this chapter, including any costs necessarily incident to such acquisition, to the sale, issuance and delivery of the bonds, or to participation with any governmental agency for such purposes will promote the health, welfare, benefit and safety of the people of King County and is a strictly county capital purpose. (Ord. 4341 § 12, 1979).

26.04.120 Terms of the bonds. For the purpose of providing funds necessary to pay the cost

of carrying out the acquisition authorized by this chapter, the county shall issue the bonds in the principal amount of not to exceed fifty million dollars. The bonds shall be sold at public sale in the manner required by law, shall bear interest payable at such times, shall be issued in such series from time to time out of such authorization over a period of up to six years, and shall mature serially commencing in from two to five years from the date of issue of each series and maturing in a period which may be less than but shall not exceed thirty years from the date of issue of each series, all as hereafter authorized by the council and as provided by law. Both the principal of and interest on the bonds shall be payable out of annual tax levies to be made upon all of the taxable property within the county in excess of constitutional and statutory limits and from any other money which may become legally available and used for such purposes. Any series of the bonds may be combined with other authorized general obligation bonds of the county and issued and sold as single issues of county bonds. The exact date, form, terms, redemption options and maturities of each series of the bonds shall be as hereafter fixed by ordinance of the council. (Ord. 4341 § 13, 1979).

26.08 AGRICULTURE POLICY

Sections:

26.08.010 Agriculture land policy - review and revision. In conjunction with the implementation of the King County Comprehensive Plan, the county executive shall conduct a review of all agricultural land acquisition and land use policies promulgated by ordinance or contained in county functional plans, with a view toward revising said policies as appropriate to assure consistency with the comprehensive plan. Areas of concern include, but are not limited to, agriculture and open space land acquisition policies contained in K.C.C. 26.04, agriculture current use assessment policies in K.C.C. 20.36, agricultural lands policy in K.C.C. 20.54, and agricultural zoning classifications in K.C.C. Title 21A. A report of the review's findings accompanied by ordinances proposing to amend existing codes and plans shall be submitted to the council by August 15, 1987. (Ord. 11792 § 37, 1995: Ord. 7889 §4, 1986).

26.12 CONSERVATION FUTURES

Sections:

26.12.003 Definitions - K.C.C. 26.12.003 through 26.12.035. The definitions in this section apply throughout K.C.C. 26.12.003 through 26.12.035 unless the context clearly requires otherwise.

A. "Annual allocation" means the allocation of conservation futures tax levy funds collected in the ensuing budget year and other moneys deposited in the conservation futures fund.

B. "Citizen oversight committee" means the citizen oversight committee, established under K.C.C. 2.36.070.

C. "Conservation futures tax levy funds" means moneys collected through the tax levy upon all taxable property in King County authorized by RCW 84.34.230.

D. "Conservation futures fund" means the King County conservation futures fund established under K.C.C. 4.08.085*.

E. "Governmental agency" and "agency" mean King County, the city of Seattle or any suburban city.

F. "Open space land" means the fee simple interest in open space land, farm and agricultural land and timber land as those terms are defined in chapter 84.34 RCW, for public use or enjoyment, or any lesser interest in those lands, including development rights, conservation futures, easement, covenant or other contractual right necessary to protect, preserve, maintain, improve, restore, limit the

future use of or otherwise conserve the land.

G. "Project" means open space land to which King County conservation futures tax levy funds are allocated for acquisition under the processes under K.C.C. 26.12.010.

H. "Suburban city" means each incorporated city or town in King County, except the city of Seattle. (Ord. 14714 § 4, 2003: Ord. 13717 § 1, 2000).

***Reviser's note: K.C.C.4.08.083 was recodified as K.C.C. 4A.200.210 by Ordinance 17527.**

26.12.005 Goal of conservation futures tax allocation. In accordance with chapter 84.34 RCW, it shall be the goal of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands and to achieve an equitable geographical distribution of funds from conservation futures over the long term. The citizens oversight committee shall also include in its recommendation to the executive a description of how projects contain a demonstrable regional visibility, use, ecological, cultural, historical or other natural resource significance. (Ord. 13717 § 3 and 5, 2000: Ord. 9430 § 2, 1990: Ord. 8867 § 2, 1989).

26.12.010 Conservation futures fund - allocation of conservation futures tax levy funds. A process is hereby established for the annual allocation of the conservation futures tax levy funds, to acquire open space lands, including green spaces, greenbelts, wildlife habitat and trail rights-of-way proposed for preservation for public use by either the county or the cities within the county. King County, cities within the county, citizen groups and citizens may make application for funds in this allocation process.

A. The county executive shall determine a date, no later than April 1, as a deadline for submission of applications for use of conservation futures tax levy funds. At least one month before the application submission deadline date, the executive shall provide all cities within the county notice of the opportunity to apply to the county for a share of the annual allocation of the conservation futures tax levy funds available for that year. Notice also shall be provided in the official county newspaper.

B. No later than March 1, the county council may adopt a motion that provides direction to the citizen oversight committee on priorities for evaluating the applications within the open space criteria identified in K.C.C. 27.02.025.

C.1. By July 15, the citizen oversight committee shall make project recommendations and recommend funding allocations for each project to the executive, including:

a. a description of each project including project location and acreage;

b. a report on how each project meets the county open space selection criteria, contained in K.C.C. 26.12.025; and

c. the amount of funding requested in each project application; and

d. any additional relevant criteria of the jurisdiction in which the potential acquisition is located.

2. The committee's recommendations are solely advisory and the executive and/or the council may adopt, alter, add to or decline to adopt all or part of the committee's recommendations in the budget process.

D. The executive's project and funding recommendation shall be included in the annual proposed appropriation ordinance for the ensuing budget year.

E.1. Except as otherwise provided in subsection E. 2. and 3. of this section, any application funded by this process shall be sponsored and forwarded by the jurisdiction in which the project is located. The jurisdiction shall commit to providing a matching contribution no less than the amount of conservation futures tax levy funds appropriated for the project before conservation futures tax levy funds are reimbursed to that jurisdiction. This contribution may consist of cash, land trades with a valuation verified by an appraisal by a Member of the Appraisal Institute (MAI) certified appraiser or the cash value, excluding King County conservation futures contributions, of other open spaces acquired within the previous two years that is either directly adjacent to the project or the county concludes to be directly linked to the property under application.

2. A jurisdiction may make an application in partnership with one or more jurisdictions if the proposed project lies wholly within the boundaries of those jurisdictions, or if another reason for such a partnership is articulated within the application, such as a trail connection, a community separator or coordinated salmon habitat preservation. In such a partnership application, the relationship, roles and responsibilities for acquisition, ownership, matching contribution obligations and future maintenance must be described. If a partnership application is funded by this process, the jurisdictions shall be required to enter into an interlocal agreement with the county formalizing the relationship, roles and

responsibilities for acquisition, ownership, matching contribution obligations and future maintenance.

3. For an application by a citizen or citizen group for a project in the city of Seattle, the citizen or citizen group shall commit to providing a matching contribution no less than the amount of conservation futures tax levy funds appropriated for the project. This contribution may consist of cash, in-kind voluntary contributions or land donations with a valuation verified by an appraisal by a Member of the Appraisal Institute (MAI) certified appraiser or the cash value, excluding King County conservation futures contributions, of other open spaces acquired within the previous two years that is either directly adjacent to the project or the county concludes to be directly linked to the property under application. For a project based on an application by a citizen or citizen group, the funds shall be reimbursed to the jurisdiction in which the project is located. If a citizen or citizen group's application is funded by this process, the jurisdiction in which the project is located shall be required to enter into an interlocal agreement with the county formalizing the relationship, roles and responsibilities for acquisition, ownership, matching contribution obligations and future maintenance.

F. If the King County transfer of development program bank, as established by K.C.C. chapter 21A.37, is awarded conservation futures levy funds in order to purchase development rights and thereby preserve open space in accordance with purposes and provisions of this chapter, the bank is authorized to sell those development rights and to use the proceeds from that sale to acquire additional development rights, thereby preserving additional open space lands in accordance with the terms and provisions of this chapter. When transferrable development rights are purchased by the bank in accordance with K.C.C. chapter 21A.37 using conservation futures tax levy funds allocated to a project under K.C.C. 26.12.003.G., matching conservation futures tax fund credit is allowed for funds generated from the subsequent sales of the transferrable development rights, if the funds from those sales are used to purchase additional open space that is identified as being within the scope of the original conservation futures tax project.

G. Conservation futures tax levy funds shall be deposited in the conservation futures fund for the purpose of administering, disbursing and accounting for conservation futures tax levy funds authorized by King County. Conservation futures tax levy funds shall be disbursed to projects previously approved by King County upon receipt and verification by King County of properly completed requests for payment of the funds. The office of performance, strategy and budget shall prescribe the form for the requests. The disbursement requests shall be made only for capital project expenditures that include all costs of acquiring real property, including interests in real property, and the following costs, though it shall not include the cost of preparing applications for conservation futures moneys: cost of related relocation of eligible occupants; cost of appraisal; cost of appraisal review; cost of title insurance; closing costs; pro rata real estate taxes; recording fees; compensating tax; hazardous waste substances reports; directly related staff costs; and related legal and administrative costs. The city shall transmit payment to its payees for current capital project costs within five days of the receipt by the city of its requested conservation futures tax levy funds. The city shall provide a list of authorized individuals to certify requests to King County. The city is responsible for the accuracy of the payment requests and the propriety and timeliness of its disbursements following receipt of conservation futures tax levy funds. Conservation futures tax levy funds may not be used to acquire any property or interest therein through the exercise of the power of eminent domain.

H. Projects carried out by a governmental agency in whole or part with conservation futures tax levy funds shall not be transferred or conveyed except by interlocal agreement providing that the land or interest in land shall be continued to be used for the purposes of K.C.C. 26.12.005 through 26.12.025 and in strict conformance with the uses authorized under RCW 84.34.230. Also, the land or interest in land shall not be converted to a different use unless other equivalent lands within the geographic jurisdiction of the governmental agency are received in exchange for the lands or interest in lands. This section does not prevent the grant of easements or franchises or the making of joint use agreements or other operations compatible with the use of a project as provided for in this section and authorized under RCW 84.34.230. (Ord. 17539 § 64, 2013: Ord. 16960 § 25, 2010: Ord. 14714 § 5, 2003: Ord. 13717 § 2, 2000: Ord. 10750 § 2, 1993: Ord. 9430 § 1, 1990: Ord. 8867 § 1, 1989).

26.12.025 Open space criteria. In making an annual allocation of conservation futures tax levy funds, the county shall consider the following criteria: wildlife habitat or rare plant reserve; salmon habitat and aquatic resources; scenic resources; community separator; historic or cultural resources; urban passive-use natural area or greenbelt; park or open space system addition; and transfer of development rights program implementation. Additional criteria may include: passive recreation; education/interpretive opportunity; threat of loss of open space resources; ownership complexity; partnerships; stewardship and maintenance; and any other criteria consistent with RCW 84.34.020.

(Ord. 13717 § 4, 2000).

26.12.030 Open Space Plan. For the purpose of this chapter, an open space plan should define the term "open space" and its critical attributes as applied to the specific natural environment of a city. The plan should also establish the goals of the city regarding the conservation and management of open space, policies designed to achieve these goals and all necessary implementing measures. Specific open space conservation opportunities should also be identified. (Ord. 8867 § 3, 1989).

26.12.035 Project reporting and reallocations.

A. Each governmental agency receiving conservation futures tax levy funds and the department of natural resources and parks shall furnish a report to the executive by January 31 of each year. The report shall include for each project:

1. The amount of conservation futures tax levy funds expended;
2. The amount of conservation futures tax levy funds remaining;
3. The status of matching funds;
4. The amount of acreage purchased;
5. A brief description of all acquisition activity, such as contact with landowners, title and appraisal research conducted and offers extended;
6. The expected timeline for project completion;
7. Any requested scope change description as defined in K.C.C. 4A.10.525;
8. Any change in project description;
9. Any request for project abandonment; and
10. Any significant obstacles or barriers to project completion.

B. The citizen oversight committee may recommend to the council the reallocation of conservation futures tax levy funds for any project for which the appropriated funds have not been encumbered and expended within a reasonable time period. (Ord. 17929 § 74, 2014: Ord. 14714 § 6, 2003).

26.12.040 Allocation of funds - 1989. Conservation Futures funds may be allocated by the county council in 1989 for parcels which otherwise comply with 26.12.010 C - E, and for which there exists a demonstrable threat of conversion to non open space uses prior to June 1, 1990. (Ord. 8867 § 4, 1989).

26.12.050 Allocation of funds - Ordinance 9071 projects. For the purposes as provided in state law, all conservation future funds collected by the county after the enactment of this section and prior to the commencement of the allocation process provided in K.C.C. 26.12, as amended herein, shall be available for the completion of projects as set forth in Ordinance 9071, according to the following procedure:

A. A jurisdiction requiring open space funds to complete a project as described in Ordinance 9071 shall present a request to the citizen oversight committee established by Ordinance 9071.

B. Within 30 days of a receipt of a request for conservation futures funding, the citizen oversight committee shall consider and make recommendations on such requests to the King County executive. The executive shall transmit to the King County council the committee's recommendation in conjunction with his recommendation on the request, and the appropriate legislation.

C. The committee shall develop its recommendations based on the open space criteria set forth in Ordinance 9071 and Motion 7886.

D. It shall be a goal of the council and the citizen oversight committee identified in K.C.C. 26.12.010 C. to achieve an equitable geographical allocation of funds from conservation futures through this process.

PROVIDED THAT:

The executive notify Seattle and suburban jurisdictions of the requirement to submit bond project financing plans before additional conservation futures revenues will be allocated. These financing plans should include the basis for updated project cost estimates, the level of bond proceeds and other revenues available for these projects, and the conservation futures revenue necessary to complete a project. (Ord. 9430 § 3, 1990).

26.14 HIGH CONSERVATION VALUE PROPERTY

Sections:

26.14.010 High conservation value property - removal from inventory - process - hearing - public meeting - inventory.

A. A high conservation value property may not be removed from or added to the inventory of high conservation value properties except by an ordinance adopted in conformance with Section 897 of the King County Charter.

B. In addition to the public hearing required by Section 897 of the King County Charter, before such an ordinance is adopted, unless the ordinance is an emergency ordinance, the county council or the county executive shall hold a public meeting in the council district in which the property is located to discuss the removal or addition.

C. The inventory of high conservation value properties adopted pursuant to Section 897 of the King County Charter shall be maintained by the clerk of the council and the department of natural resources and parks. For each inventoried property, the inventory shall include the following information:

1. Commonly used name;
2. Type of property interest owned by the county;
3. Approximate size;
4. Parcel number or numbers;
5. Recording number or numbers for deeds by which the property was acquired by the county; and
6. A map that is sufficiently detailed to show the boundaries of the inventoried property. (Ord. 16601 § 4, 2009).

Rural Farmland Preservation

Background

Preserving rural farmland is crucial to the success of existing and future farms. Farmland preservation also results in economic development and environmental benefits beyond the value of production. Local governments use a variety of strategies to protect farmland. These include requiring large lot sizes in agricultural zones and ensuring that all viable farmland is within these zones. They can also offer tax relief authorized under existing statutes and participate in the purchase or transfer of development rights.

Local governments also recognize the value of integrating economic and business activities around existing agricultural production. Farms require strong support infrastructure and distribution networks in order to remain economically viable. Fostering scale-appropriate processing and distribution channels will also help ensure a healthy agricultural sector.

Conservation funding can also support farmland preservation. Land trusts that include farmland in private conservation agreements can help preserve farmland by virtue of tax advantages associated with such agreements. Creative application of conservation funding by local jurisdictions will afford further opportunities to enhance the scope of farmland protection.

Please see the Farmers Market and Local Food Procurement blueprints for more information about some direct marketing opportunities to support local agriculture.

Recommendation: *Review zoning and land use regulations to ensure farmland is protected for long-term agricultural use and is sufficient to support local food, forage and fiber production.*

Each county and many municipalities in the region promote some type of agricultural land preservation. In some instances, the intent of preservation is directly related to the benefits of supporting agriculture, while in others, support is based on synergies with other goals, such as environmental protection.

County governments can preserve agricultural land through zoning. Agricultural lands of long-term commercial significance are required to be designated and zoned appropriately per the Growth Management Act (RCW 36.70a). In addition to this requirement, land suited to or used for agriculture may be preserved with additional zones protective of this use. To do this, counties should identify all lands suitable for agricultural production, both within and outside agricultural zones, and evaluate whether minimum lot sizes and allowable uses are sufficient to promote agricultural uses. To discourage low-density rural sprawl, consider minimum lot sizes of at least 20 acres and tight restrictions on residential and commercial uses not related to agriculture. Other appropriate measures include expanding agricultural zones and using agricultural districts to protect farmable land outside current agricultural zones.

Land in cities may also be suitable or currently used for temporary or permanent food production. City governments can identify this property and ensure that food production is a permitted use. Soil remediation may be of greater concern in cities; public health issues of food produced on brownfield or potentially contaminated sites should be considered.

Local examples: Farmland preservation

King County

King County devotes a chapter of its county code to agricultural and open space land. This chapter includes priority areas and agricultural districts for land acquisition and conservation. See Title 26 Agriculture and Open Space Lands. Lot size and development standards for agricultural and rural area land are addressed in Title 21A.04.

Bainbridge Island

Bainbridge Island has a long history of agricultural production and has included goals and policies to protect and promote agricultural uses in its comprehensive plan and development regulations. In 2006, American Farmland Trust and Cascade Harvest Coalition completed a report for the city with recommendations on long-term management and support of agricultural uses on the island. The recommendations in the report may be useful to other cities or towns interested in preserving some agricultural uses.

Recommendation: *Purchase or transfer development rights to protect agricultural land.*

Purchase of development rights (PDR) programs allow local governments to buy the development rights from threatened resource lands. This voluntary, incentive-based approach fairly compensates willing landowners while ensuring agricultural potential in perpetuity. All cities and counties may consider the appropriation of funds from discretionary sources, including the Conservation Futures Tax or Real Estate Excise Tax for conservation (RCW 82.46.070), for programs that purchase development rights from farmland.

Transfer of development rights (TDR) programs are set up between urban and rural lands and create a market-based solution for protecting farmland. Instead of a government purchasing and holding the development rights of farmland, the development rights are purchased by a private developer for use as a density bonus or upzone in an urban development project. In cooperation with cities, county governments establish criteria and processes that prioritize farmlands as the source for development rights and quantify these development rights. City governments identify receiving sites for transferred development rights and prioritize rights from farmlands for initial trading activity. To strengthen use of the program, city governments may consider requiring transfer of development rights for all zoning and development actions that increase density.

Local examples: Transfer of Development Rights

Pierce County

Pierce County prioritizes agricultural and farmland for sending areas within their Transfer of Development Rights Program. Pierce County has used County Conservation Futures and grant funds to acquire development rights for its TDR bank. In 2012, the county completed its first transaction to transfer development rights to an urban area when it signed a conservation easement for the Reise Farm site. The county acquisition of the development rights reduced the development value of the property, allowing PCC Farmland Trust to buy the property at an affordable price. In fall 2012, Pierce County signed an interlocal agreement with the City of Tacoma to transfer 369 development rights to the city.

Seattle

Under the Landscape Conservation and Local Infrastructure Program, Seattle has proposed including both South Lake Union and downtown as TDR receiving areas. Under the program, a portion of incentive zoning would be gained through the purchase of regional TDR credits. In exchange, the city would use a portion of future county property tax revenue from new development in the area to fund local infrastructure improvements.

Recommendation: *Promote current use taxation programs for farmers.*

Counties offer current use taxation programs that tax agricultural properties at their present use instead of their highest and best use. Land must meet specific size and use criteria. While these programs are already in place, not all properties eligible for the programs take advantage of their benefits and protections. Fine tuning current use taxation programs and actively promoting them to landowners could increase the amount of farmland protected.

Local examples: Current Use Taxation

Pierce County

Like other current use taxation programs, Pierce County's Farm & Agriculture Tax Program incentivizes voluntary conservation of active farm and agricultural land. To qualify for the program, property owners must have income generated from the farm and a farm plan.

Recommendation: *Provide Economic Development and Regulatory Assistance to Agricultural Business Enterprises*

Processing and Marketing

While agricultural zoning can protect farmland, it may restrict commercial activities that make farming economically feasible. Jurisdictions should review zoning to ensure that compatible on-site processing and sales are permitted and that physical structures to support processing and direct marketing of farm products are allowed.

Environmental regulations

Achieving a harmonious balance between environmental regulation and agricultural enterprise is a challenge. Jurisdictions can ensure that permitting essential for environmental purposes does not place an undue financial or procedural burden on farmers. Common agricultural practices that require permits include ditch maintenance and storage of agricultural products. While the issues are complicated, clear advice and regulatory assistance to farmers can add predictability to agricultural business.

Local examples: Economic Development and Regulatory Assistance

Snohomish County

The Focus on Farming program is a hub of economic development and assistance information for farmers in Snohomish County. Plain language guides demystify the processes of permitting and regulation and a dedicated agricultural planner are available to assist farmers on regulatory issues.

Other Resources

Losing Ground: Farmland Protection in the Puget Sound Region – American Farmland Trust (2011)

Future of Farming – Washington State Department of Agriculture (2009)

WA State Farmland Preservation Indicators – WA Conservation Commission Office of Farmland Preservation (2009)

Ag Sustainability Report: A Community Vision for Sustainable Agriculture in Snohomish County – Snohomish Co. (2007)

FARMS Report: Future of Agriculture Realizing Meaningful Solutions – King County (2009)

Kitsap County Strategic Agricultural Plan and Inventory – Kitsap County (2011)

Preserving Farmland and Farmers: Pierce County Agriculture Strategic Plan – Pierce County (2006)

Regional Transfer of Development Rights in Puget Sound – Regional TDR Alliance (2013)

Direct Marketing Support for Puget Sound Area Producers – [presentation]

Marin Agricultural Land Trust

Washington State Land Trusts – Land Trust Alliance

Letter to KC Council

Hello King County Council Members, we out in the Enumclaw Plateau have been working to get your help on the issue of production & processing of Marijuana. We believe that this is an industrial product that should NEVER have been allowed in our primarily R5 areas. We want to believe in your ability to deal with this product in a manner like the other nearby counties and cities to regulate, if you cannot, then ban it from our rural neighborhoods.

We have also previously been denied assistance to shut down illegal/marijuana grow in our neighborhood and we got no assistance from the Sheriff office because they do not shut down marijuana grows, and rarely arrest people anymore. The King Co. CET team Sgt. came to our neighborhood last June and spoke to the homeowner who erected three one hundred ft. greenhouses, (unpermitted) for the purposes of growing 28 marijuana plants for 3 patients! The Sgt indicated their hands were tied due to her medical authorization forms, which she'd renewed since 2012. However, by August this homeowner greenhouses were FULL of marijuana and so bedraggled were her buildings that her marijuana was growing outside the greenhouses and grew up to 14 ft. in height!

We reported an ILLEGAL OUTDOOR MARIJUANA GROW to the CET Sgt & management in the Sheriff office up to Chief of Staff Barringe in an effort to shut this down and provide a secure neighborhood. We did not get a response back from KC Sheriff office for five weeks! The answer was the Sheriff office will have her put TARPS over the grow until she harvests her ILLEGAL MARIJUANA. The King County Prosecutor will do nothing unless it is over 400 marijuana plants!. The Sheriff office, von Reichbauer office, King Co prosecutor, King County Code Enforcement all pointed at the Liquor and Cannabis Board (LCB) as our solution for this illegal marijuana grow in our residential neighborhood and of course the LCB had no control of medical/illegal marijuana, that is the jurisdiction of the KING COUNTY SHERIFF & KING COUNTY PROSECUTOR!! They referred us back to the Sheriff office!

Now we come up to today. This same homeowner has taken down her greenhouse,(thanks to code enforcement officer Nick Stephens). The homeowner has evicted her tenant who lived in her illegal mother in law mobile home (unpaid fees date back 8 to 10 years) and she is allegedly starting another marijuana grow inside this mobile home. While we appreciate the help we have received from code enforcement on the unpermitted outdoor greenhouse, they do not plan to enforce the unpaid fees on the mobile home and place a lien for the foreseeable future, and have advised that a marijuana grow is not their jurisdiction. Obviously neither the Sheriff office and Code Enforcement work on these issues together. We have been told that this hasn't even been considered even though many other jurisdictions do so! We as a neighborhood have asked code enforcement not to give her additional time and opportunity to have another ILLEGAL GROW! The neighbors have observed the homeowner moving equipment into her mobile home to set up her grow. We have not reported this information to KCSO as yet because of our past experience and recent requests for contact from the current CET Sgt. continue to go unanswered. The Sheriff answer to me at the meeting at Hobart Church. Keep trying.... So we continue...

These illegal grows are all over King County as told to us by deputies and sergeants who work for the Sheriff office. We are without support on the issue of illegal marijuana grows and that is why we are writing to you. We want you to consider our suggestions/ ideas;:

1)- Consider an inspection process where the deputy can issue a $1000 infraction for illegal marijuana grows, (if no previous drug arrests) followed up with a mandatory inspection 30 days later. If the grow is still in tact, increase the fine. If the grower alleges they are a medical marijuana grower (unlicensed) refer them to LCB where they must register under the new rule & be monitored. Medical marijuana is suppose to fall under the jurisdiction of the LCB July 1, 2016. However, we are told the LCB are also too unstaffed to handle complaints about medical marijuana and there is no specific written directions for complaining about medical marijuana on their website . We have requested in writing written direction on how to file a complaint with the LCB effective July 1, 2016 and thus far there has been no response from the LCB. We were told we'd hear back from the LCB Communications Division. This type of complaint from King County residents needs to be handled, not ignored or referred and could be funded through fees and even create a small unit of deputies + code enforcement? to effectively control illegal marijuana operations and deal with residents complaints/ issues. Use the one million dollars you received from the State of Washington to combat illegal marijuana.

2)- With the cuts you are anticipating to law enforcement, including prosecutors, jail etc. reevaluate first responder needs and their underfunded future. IF costs escalate as they always do, cut the pet projects, NOT essential services. We have been told that our rural area only needs 8 officers 24 hrs a day, seven days a week. Our area goes from Maple Valley to Enumclaw. All of which means deputies are traveling many miles on ONE LANE ROADS to calls. Staffing levels of 8 officers means we essentially get 1, maybe 2 officers over this vast area at any given time. Vacation, sick leave, training, eat into any staffing plan. While we may not get the help immediately for in progress property crimes, we have been encouraging our neighbors to call anyway. The answer is not to take the law into their own hands. We cannot THANK the deputies enough who serve out here. They however have been arresting criminals over and over again. These same people are associated with our marijuana industry, meth and heroin. Programs are great, we support trying to do intervention. We believe people deserve a second chance, but not five or six chances. So if you further cut King County law enforcement we believe your going to have more chaos to deal with in the future. FUND ESSENTIAL SERVICES!

The article below is a prime example of what legalizing marijuana in Colorado has done to neighboring states, and talks about the rise of the Cuban Cartels. Seriously read this. We may not have Cuban Cartels, but we have citizens who live right here who want to grow marijuana, avoid taxes, and they know they can do this without any repercussions in King County.

Thank you,

Respectfully submitted,

Lorna and Karl Rufener
Enumclaw Plateau Residents
Retired Kent Police Captain and Retired Renton Fire Battalion Chief

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

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[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.

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RECOMMENDATIONS/IDEAS

A variety of recommendations have been discussed over the last several months. Finding the right fit for everyone is likely a difficult task to achieve. However, with proper research and consideration of the impacts on all parties a reasonable solution can be found.

Recommendations from a complete ban to modification to doing nothing have been on the table. Many people recommend a complete ban on processors and producers in the residential zones and rural residential zones. This has been the direction many other counties have gone. We believe this option should be seriously considered.

Other options are to relocate existing grows and future grows to industrial areas. The argument has been made that this will not work because Redmond Ridge community fought against it and won. The reason it did not work in Redmond is due to the location of the industrial park. Although this option has met a great resistance, handled properly, it may still be a viable option and become a win-win for all parties. It has received its greatest resistance because the industrial park or structure is near residential areas. This is simply an extension of the county and LCB not paying attention to the community in which a marijuana processor or producer wants to open. Thus the problem we face today.

If marijuana were to be moved into industrial areas they would need to be areas that are away from residential and rural residential zones. There are a number of industrial parks and buildings that are empty or being under-used throughout the state. This could create an opportunity for King County to work with other counties, building owners, and other businesses in developing and designing an appropriate location for an industry that the state has committed to make successful.

For example: The county could work with mechanical contractors who specialize in clean air filtration and protections. Mechanical contractors design, build and install rooms that are called "clean rooms". These are highly sterile rooms typically associated with medical facilities or laboratories that require absolute clean air. Although these setups are likely to be of high costs to install, the possibility for a win - win could evolve. Provide incentives to growers and building owners to use these under used buildings. Provide incentives to mechanical contractors to work with building owners/lessees to build relationships that benefit each other. Granted this sounds basic and simple, however, with forward thinking and proper planning King County and the State could be a leader in the Nation in how to move this controversial industry into a successful, acceptable and profitable for all business.

What are the benefits of this approach or something similar?

Resolves many issues:

- More centralized marijuana production - provides easier oversight, security, inspection.
- Gets it out of residential rural areas
- Provides the county/state to know where the grows are
- Building owners have fewer vacant spaces and/or unsold buildings
- Creates business and jobs through construction, design, labor, and so forth
- Set the precedence for how it should be done and can be done - Looks good across the nation