



AGENDA
Long Beach City Council Meeting
Regular City Council May 5, 2014 at 7:00 p.m.
Long Beach City Hall - Council Chambers
115 Bolstad Avenue West

7:00 PM CALL TO ORDER; PLEDGE OF ALLEGIANCE; AND ROLL CALL

Call to order	Mayor Andrew, Council Member Linhart, Council Member Hanson,
And roll call	Council Member Perez, Council Member Murry, and Council Member Phillips

CONSENT AGENDA - TAB - A

All matters, which are listed within the consent section of the agenda, have been distributed to each member of the Long Beach City Council for reading and study. Items listed are considered routine by the Council and will be enacted with one motion unless a Council Member specifically requests it to be removed from the Consent Agenda to be considered separately. Staff recommends approval of the following items:

- Minutes, May 5, 2014 Regular City Council meeting.
- Payment Approval List for Warrant Registers 54132 - 54182 & 76158 - 76228 for \$206,288.49

BUSINESS

- **AB 14-37 – PUBLIC HEARING** for 2014 Land Use Amendments –TAB – B
- **AB 14-38 – Repealing Tent Rental Ordinance 803 & 811 – TAB – C**
- **AB 14-39 – Battle at the Beach Basketball Tournament advertising request – TAB - D**

ORAL REPORTS

- | | | | | |
|---|---------------------|--------------|---------------------------|-------------------------|
| • | City Council | Mayor | City Administrator | Department Heads |
|---|---------------------|--------------|---------------------------|-------------------------|

CORRESPONDENCE AND WRITTEN REPORTS – TAB – E

- **FEMA Firm rate Map**
- **Ilwaco WATV Ordinance**

FUTURE CITY COUNCIL MEETING SCHEDULE

The Regular City Council meetings are held the 1st and 3rd Monday of each month at 7:00 PM and may be preceded by a workshop commencing at 6:00 PM.

May 19, 2014 – 7:00 pm – City Council Meeting

June 2, 2014 – 7:00 pm – City Council Meeting

PUBLIC COMMENT

At this time, the Mayor will call for any comments from the public on any subject whether or not it is on the agenda for any item(s) the public may wish to bring forward and discuss. Preference will be given to those who must travel. **Please limit your comments to five minutes. The City Council does not take any action or make any decisions during public comment.** To request Council action during the Business portion of a Council meeting, contact the City Administrator at least one week in advance of a meeting.

ADJOURNMENT

American with Disabilities Act Notice: The City Council Meeting room is accessible to persons with disabilities. If you need assistance, contact the City Clerk at (360) 642-4421 or advise City Clerk at the meeting.

TAB - A

LONG BEACH CITY COUNCIL MEETING

MAY 5, 2014

CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL

Mayor Andrew called the meeting to order at 7:00 p.m. and asked for the Pledge of Allegiance and roll call.

ROLL CALL

Gene Miles, City Administrator, called roll with Mayor Andrew, C. Linhart, C. Hanson, C. Perez, C. Murry and C. Phillips present.

CONSENT AGENDA

Minutes, April 7 & 21, 2014 Regular City Council meeting

Payment Approval List for Warrant Registers 54090-64131 & 76084-76157 for \$181,987.27

C. Linhart made the motion to approve the consent agenda with C. Hanson seconding the motion. 5 Ayes 0 Nays, motion passed.

BUSINESS

AB 14-32 Trolley Rental Rates, Ordinance 898

David Glasson, Finance Director, presented the ordinance outlining renting the trolley.

C. Linhart made the motion to approve the agenda bill with C. Phillips seconding the motion. 5 Ayes 0 Nays, motion passed.

AB 14-33 Request for Fireworks Stand July 2014

David Glasson, Finance Director, presented the agenda bill explaining Rise and Fall Fireworks has presented all necessary paperwork for a stand located at 7th Street South and Pacific. **C. Linhart made the motion to approve the agenda bill with C. Phillips seconding the motion. 5 Ayes 0 Nays, motion passed.**

AB 14-34 Set Hearing Dates for Land Use Amendments

Gayle Borchard, Community Development Director, presented the agenda bill. She explained there are revisions/additions to the zoning code for 2014 and is recommending scheduling two public hearings for Land use amendments May 19 and June 2. **C. Phillips made the motion to approve the agenda bill with C. Murry seconding the motion. 5 Ayes 0 Nays, motion passed.**

AB 14-35 Resolution 2014-04, Sensitive Land Use Map

Gayle Borchard, Community Development Director, explained the resolution would adopt the sensitive land use map in regards to recreational marijuana retail outlet locations in the city. **C. Linhart made the motion to approve the agenda bill with C. Perez seconding the motion. 5 Ayes 0 Nays, motion passed.**

AB 14-36 Proclamation Honoring Emergency Medical Services Week 2014

C. Phillips made the motion to approve the proclamation with C. Hanson seconding the motion. 5 Ayes 0 Nays, motion passed.

AB 14-37 Resolution 2014-05

Gene Miles, City Administrator, explained the resolution is need to pursue a Public Works Board 2016 Construction loan. **C. Linhart made the motion to approve the agenda bill with C. Hanson seconding the motion.**

ORAL REPORTS

C. Linhart, C. Hanson, C. Perez, C. Murry, C. Philips, Mayor Andrew, Robyn Schneider, Gene Miles, City Administrator, David Glasson, Finance Director and LBVFD Chief, Chief Wright, Gayle Borchard, Community Development Director and Ragan Myers, Event Coordinator present reports.

CORRESPONDENCE AND WRITTEN REPORTS

Sales and Lodging Tax report for April
LBPD report for April 2014
Correspondence – Letter from Mayor on South Willapa Bay Trail Application
Correspondence – Approval of Case No. SUP 2014-03, Special Use Permit
Business License – Burnard Construction LLC, Astoria, Or
Business License – Wild Roses, 505 Pacific Ave N
Business License – Vintage Renew, 304 Pacific Ave S
Business License – First Class Property Maintenance LLC, Vancouver, WA
Business License – Inkspressions Tattoos and Piercings, 811 Pacific Ave, Ste 9

PUBLIC COMMENT

None

ADJOURNMENT

The meeting was adjourned at 7:29 p.m.

Mayor

ATTEST:

City Clerk



Warrant Register

Check Periods: 2014 - May - First

I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF LONG BEACH, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.

Number	Name	Print Date	Clearing Date	Amount
54132	Andrew, Robert E.	5/5/2014		\$395.45
54133	Bell, Helen S	5/5/2014		\$1,216.42
54134	Binion, Jacob	5/5/2014		\$1,414.23
54135	Bledsoe, Linda	5/5/2014		\$926.93
54136	Bonney, Matthew T	5/5/2014		\$1,186.86
54137	Booi, Kristopher A	5/5/2014		\$849.87
54138	Borchard, Gayle	5/5/2014		\$1,966.18
54139	Cutting, Jeffrey G.	5/5/2014		\$1,700.64
54140	Daulton, Alan T	5/5/2014		\$563.04
54141	Easter, Ryan	5/5/2014		\$839.60
54142	Fitzgerald, Rick E.	5/5/2014		\$1,755.92
54143	Gilbertson, Bradley K	5/5/2014		\$1,422.19
54144	Glasson, David R.	5/5/2014		\$2,537.51
54145	Goulter, John R.	5/5/2014		\$1,500.70
54146	Gray, Karen	5/5/2014		\$810.59
54147	Hanson, Natalie	5/5/2014		\$262.81
54148	Huff, Timothy M.	5/5/2014		\$1,466.48
54149	Kaino, Kris	5/5/2014		\$1,015.75
54150	Kirby, Gary E	5/5/2014		\$982.15
54151	Kitzman, Michael	5/5/2014		\$2,099.53
54152	Linhart, Steven P	5/5/2014		\$266.95
54153	Payroll Vendor	5/5/2014		Void
54154	Meling, Casey K	5/5/2014		\$1,703.95
54155	Miles, Eugene S	5/5/2014		\$2,530.43
54156	Mortenson, Tim	5/5/2014		\$2,232.71
54157	Murry, Del R	5/5/2014		\$266.95
54158	Myers, Ragan S.	5/5/2014		\$1,430.09
54159	Nawn, Rodney J.	5/5/2014		\$1,513.82
54160	Ostgaard, Loretta G	5/5/2014		\$1,392.57

Number	Name	Print Date	Clearing Date	Amount
54161	Padgett, Timothy J	5/5/2014		\$1,343.96
54162	Parker, Michael T	5/5/2014		\$1,551.34
54163	Phillips, Gerald S	5/5/2014		\$266.95
54164	Ross, Steven J	5/5/2014		\$1,409.73
54165	Russum, Richard	5/5/2014		\$1,649.23
54166	Scott, Mark G	5/5/2014		\$1,088.92
54167	Turner, Michael S.	5/5/2014		\$793.80
54168	Warner, Ralph D.	5/5/2014		\$1,735.41
54169	Wood, Matthew T	5/5/2014		\$606.10
54170	Wright, Flint R	5/5/2014		\$2,367.99
54171	Zuern, Donald D.	5/5/2014		\$2,032.67
54172	Luethe, Paul J	5/5/2014		\$1,550.01
54173	AFLAC	5/5/2014		\$219.63
54174	Association of WA Cities	5/5/2014		\$20,639.77
54175	City of Long Beach - Fica	5/5/2014		\$11,311.32
54176	City of Long Beach - FWH	5/5/2014		\$9,107.10
54177	Council Gift Fund	5/5/2014		\$50.00
54178	Dept of Labor & Industries	5/5/2014		\$2,167.30
54179	Dept of Retirement Systems	5/5/2014		\$9,541.27
54180	Dept of Retirement Systems Def Comp	5/5/2014		\$1,433.00
54181	Massmutual Retirement Services	5/5/2014		\$375.00
54182	Teamsters Local #58	5/5/2014		\$181.00
76158	Borchard, Gayle	5/6/2014		\$398.60
76159	Aquino, Robert	5/7/2014		\$95.00
76160	City of Long Beach	5/7/2014		\$75.00
76161	Haskin, Katie	5/7/2014		\$390.55
76162	Ostgaard, Loretta	5/7/2014		\$7.00
76163	Parker, Carolyne	5/7/2014		\$95.00
76164	Sauls, Tim	5/7/2014		\$95.00
76165	Sedberry, Elizabeth	5/7/2014		\$95.00
76166	Smith, Ethan	5/7/2014		\$95.00
76167	Smith, Mark S	5/7/2014		\$95.00
76168	Ramada Moses Lake	5/8/2014		\$456.08
76169	City of Long Beach	5/8/2014		\$75.00
76170	Dept of Ecology	5/8/2014		\$520.00
76172	Active Enterprises, Inc.	5/16/2014		\$343.97
76173	Addy Lab, Lic	5/16/2014		\$223.50
76174	Airgas USA LLC	5/16/2014		\$23.85
76175	AlSCO-American Linen Div.	5/16/2014		\$61.03
76176	Astoria Janitor & Paper Supply	5/16/2014		\$378.81
76177	Basket Case Greenhouse	5/16/2014		\$2,127.22
76178	Beach Batteries	5/16/2014		\$214.41
76179	Beachdog.com Inc.	5/16/2014		\$349.27
76180	Beacon athletics	5/16/2014		\$288.84
76181	Berkadia Commercial Mortgage	5/16/2014		\$5,743.00
76182	Blumenthal Uniforms	5/16/2014		\$472.92

Number	Name	Print Date	Cleaning Date	Amount
76183	Cascade Columbia Distribution CO	5/16/2014		\$4,860.01
76184	Century Manufacturing	5/16/2014		\$592.30
76185	CenturyLink	5/16/2014		\$1,770.52
76186	Chinook Observer	5/16/2014		\$56.50
76187	Columbia Steel Supply	5/16/2014		\$181.97
76188	Cranberry Museum	5/16/2014		\$60.00
76189	CURRAN-MCLEOD, INC	5/16/2014		\$6,660.00
76190	Del's OK Tire Factory	5/16/2014		\$653.94
76191	Department of Revenue	5/16/2014		\$142.59
76192	Englund Marine Supply	5/16/2014		\$914.35
76193	Evergreen Septic Service	5/16/2014		\$1,497.00
76194	GE Analytical Instruments, Inc	5/16/2014		\$543.61
76195	Goelz, Doug	5/16/2014		\$1,500.00
76196	Interstate Battery	5/16/2014		\$118.53
76197	L.N. Curtis & Sons	5/16/2014		\$972.02
76198	LA Quinta Inn	5/16/2014		\$237.09
76199	Long Beach Commercial Security	5/16/2014		\$84.08
76200	Loyalty Days	5/16/2014		\$2,684.17
76201	Mortenson, Tim	5/16/2014		\$142.00
76202	Naselle Rock & Asphalt	5/16/2014		\$950.00
76203	Ocean Beach Hospital	5/16/2014		\$345.06
76204	Oman & Son Builders	5/16/2014		\$671.97
76205	One Call Concepts, Inc.	5/16/2014		\$22.44
76206	Pacific County Health & Human Services	5/16/2014		\$125.71
76207	Pacific Transit System	5/16/2014		\$41.00
76208	Peninsula Landscape Supply	5/16/2014		\$35.57
76209	Peninsula Saddle Club	5/16/2014		\$79.00
76210	Peninsula Visitors Bureau	5/16/2014		\$300.00
76211	Petek, Thomas C. Ph.D.	5/16/2014		\$183.26
76212	Planter Box	5/16/2014		\$302.94
76213	Postmaster	5/16/2014		\$306.07
76214	Recall Secure Destruction Services	5/16/2014		\$4,992.76
76215	S & D Truck Service, Inc	5/16/2014		\$71.84
76216	Sid's Iga	5/16/2014		\$1,110.57
76217	South District Court	5/16/2014		\$75.46
76218	Subway	5/16/2014		\$1,158.15
76219	SUNSET AUTO PARTS, INC	5/16/2014		\$354.94
76220	Total Battery & Auto	5/16/2014		\$352.58
76221	U.S. Cellular	5/16/2014		\$135.96
76222	Usa Blue Book	5/16/2014		\$2,072.71
76223	Visa	5/16/2014		\$4,500.00
76224	Western Display Fireworks	5/16/2014		\$2,174.98
76225	Wilcox & Flegel	5/16/2014		\$2,983.94
76226	Wilcox & Flegel Oil Co.	5/16/2014		\$174.00
76227	Willapa Harbor Hospital	5/16/2014		

Number 76228 Name Wirkkala Construction Print Date 5/16/2014 Clearing Date Amount \$8,080.41

Total \$206,288.49
Check
Grand Total \$206,288.49

TAB - B



**CITY COUNCIL
AGENDA BILL
AB 14-37**

Meeting Date: May 19, 2014

AGENDA ITEM INFORMATION

SUBJECT: Public Hearing for 2014 Land Use Amendments, Including Medical and I-502 Marijuana Land Uses	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	GB
	Finance Director	
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
	COST: N/A	Water/Wastewater Supervisor
	Other:	

SUMMARY STATEMENT: Council and staff have conducted a Town Hall meeting on marijuana-related land uses, discussed land use code changes at several public workshops, and Council has reviewed and commented on draft language. This is the first reading of Ordinance No. 899 regarding the 2014 land use amendments and Ordinance No. 900 regarding medical and recreational marijuana land uses. Tonight is the first of an estimated two public hearings, the second currently scheduled to be conducted on June 2.

RECOMMENDED ACTION: Allow staff to read titles and conduct a public hearing.

ORDINANCE No. 899

AN ORDINANCE OF THE CITY OF LONG BEACH, WASHINGTON ADOPTING REVISIONS TO TITLE 12, ZONING REGULATIONS, AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT

WHEREAS, the City Council deems it necessary for the purpose of promoting the public health, safety and general welfare of the City; and

WHEREAS, the purpose of the Zoning Regulations Ordinance of the City of Long Beach, Washington is to promote public health, safety and general welfare, encourage the orderly growth, protect and enhance property values, minimize discordant, unsightly surroundings, avoid inappropriate design, provide for environmental, aesthetic, health, safety and general welfare objectives, while ensuring the comfort, prosperity, beauty and balance of the community as a whole, to promote and enhance construction and maintenance practices that will ensure visual quality throughout the city; and

WHEREAS, the City has undertaken a public process to receive input from its citizens, property owners, and decision-makers, as well as state regulatory agencies; and

WHEREAS, the City has reviewed and considered all public comments;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LONG BEACH, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Findings

The City Council of the City of Long Beach hereby adopts the following Findings of Fact:

- (1) The proposed ordinance is necessary to protect the health, safety, general welfare and orderly development of the community.
- (2) The proposed ordinance is consistent with the City's adopted Comprehensive Plan.
- (3) The proposed ordinance furthers the implementation of the city's adopted Comprehensive Plan.

Section 2. Adoption

Amendments to Title 12, Zoning Regulations, attached hereto, are hereby adopted.

Section 3. Severability

Should any provision, section, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Repeal

Any existing ordinances that may conflict with this ordinance are hereby repealed.

Section 5. Effective Date

This Ordinance shall be in full force and effect five (5) days from and after its passage, approval, and publication in the manner required by law.

Section 6. Adoption Date

ADOPTED by the City Council of the City of Long Beach, Pacific County, Washington at a regular open public meeting held the XX day of XX, 2014.

AYES 0

NAYS 0

ABSENT 0

ABSTENTIONS 0

Robert Andrew, Mayor

ATTEST:

David Glasson, City Clerk

1. REGARDING TENTS AND DESIGN REVIEW

Form:

12-10A-1: OT, OTW, RC, AC, S3, S3R, S3M, C1 AND C2 DISTRICTS:

20. Tents: In the OT, OTW, RC, AC, S3, S3R, and S3M districts, tents may be used to protect the allowed accessory two hundred (200) square feet of outdoor merchandising, vending, dining and (in OT only) amusements. Any tent must be adequately secured so as not to cause harm to persons, animals, or property. Tents shall be erected only for the duration of regular business hours, and must be taken down during non-business hours. Tents may be a bright solid or white in color, and may fly a pennant. Tents are considered an accessory structure and their design and location are subject to administrative design review pursuant to Section 12-10-5(A)(6). Each additional tent to a site is subject to design review.

12-10A-4: P, PR and S4 Districts

11. Tents for Public Purposes: Tents may be used by the City or non-profits (as allowed by the City) for a public purpose to enhance a public activity, including but not limited to festivals, events, Summerfest, and the farmers' market. Placement of a tent for public purposes must occur with the concurrence of either the City Administrator, a City department head, or the City's events coordinator. Existing tents of any style may be used. Public tents shall be a bright solid or white in color. Replacement tents are subject to administrative design review pursuant to Section 12-10-5(A)(6), which should be conducted prior to their acquisition.

2. REGARDING VACATION RENTALS

12-11-9: VACATION RENTAL:

The renting of a home for less than thirty (30) day intervals in the R1, R2, R3, R3R, S1, and R1R zones is prohibited. The renting of a home where a vacation rental is a permitted use or a conditional use shall be subject to the following restrictions:

- B. Number of Guests-~~Rooms~~: There shall be a maximum of two (2) guests per legal bedroom plus two (2) guestsfour (4) guest rooms and/or a maximum of ten (10) guests, including children, -with all parking accommodated on site. For example, a three (3) bedroom vacation rental may accommodate a maximum of eight (8) guests.

REGARDING MARIJUANA-RELATED LAND USES 3, 12-11-23: ESSENTIAL PUBLIC FACILITIES:

Form:

Form:

- A. The City recognizes that due to their nature and possible secondary effects, essential public facilities may be difficult to site.
- B. The City shall first determine if an incorporated location is the appropriate location for the proposed essential public facility, taking into consideration the health, safety, and welfare of Long Beach citizens.
- C. If the City determines it is an appropriate location for a proposed essential public facility, it shall make every reasonable effort to responsibly site the facility within the City.

Form:

4. REGARDING MARIJUANA-RELATED LAND USES

See attached

ORDINANCE No. 900

AN ORDINANCE OF THE CITY OF LONG BEACH, WASHINGTON ADOPTING REVISIONS TO TITLE 12, ZONING REGULATIONS, REGARDING CULTIVATION OF MEDICAL MARIJUANA (CANNABIS) IN INDIVIDUAL OR IN COLLECTIVE GARDENS, AND PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT

WHEREAS, in 1998, the voters of Washington state passed Initiative 692, legalizing the use, possession, and cultivation of cannabis for patients with a medical certificate, and

WHEREAS, medical cannabis is regulated by the state of Washington via RCW 69.51A, and

WHEREAS, in April 2011, the Washington state legislature passed Engrossed Second Substitute Senate Bill 5073, allowing for collective gardens whereby up to ten (10) qualifying patients may participate together to produce, process, transport, and deliver cannabis for medical use, and

WHEREAS, medical collective cannabis gardens are regulated by the state of Washington via 69.51A.085, and

WHEREAS, in November 2012, the voters of Washington state passed Initiative 502, legalizing cannabis for recreational use, and

WHEREAS, on August 29, 2013, the U.S. Department of Justice, Office of the Attorney General, issued guidance to all U.S. Attorneys stating that strong and effective state and local regulatory systems including robust controls and procedures on paper and in practice are critical to controlling the threats that legalizing cannabis may pose to public safety, public health, and other law enforcement issues and that such systems must also not undermined federal enforcement priorities, which include preventing the following:

1. Distribution of marijuana to minors
2. Revenue from sale of marijuana going to criminal enterprises, gangs, and cartels
3. Diversion of marijuana from states where it is legal under state law in some form to other states
4. State-authorized marijuana activity being used as a cover or pretext for the trafficking of other illegal drugs or illegal activity
5. Violence and the use of firearms in the cultivation and distribution of marijuana
6. Drugged driving and exacerbation of other adverse public health consequences associated with marijuana use
7. Growing of marijuana on public lands and their attendant public safety and environmental dangers posed by marijuana on public lands
8. Marijuana possession or use on federal property, and

WHEREAS, The Attorney General’s memo advises U.S. attorneys that in using their prosecutorial discretion to take into consideration not only the size of a marijuana operation, but rather to review facts and operations on a case-by-case basis and weigh all information and evidence, including but not limited to, whether a marijuana operation is demonstrably in compliance with a strong and effective regulatory system, and according to the memo, the prime question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or another of the enforcement priorities, and

WHEREAS, in November 2013, the Washington State Liquor Control Board issued rules (WAC 314-55) for the application process, qualifications, and requirements to obtain and maintain a marijuana license, the reporting requirements for a marijuana license, and license violations and penalties and these rules appear on paper to constitute a strong and effective state regulatory system. This system has not been tested in practice, and

WHEREAS, on November 18, 2013, the Washington State Liquor Control Board opened the application window for Washington producers, processors, and retailers of recreational marijuana and that application window closed December 19, 2013, and

WHEREAS, the Washington State Legislature adjourned its 63rd session on March 13, 2014, without providing guidance to local communities regarding the regulatory interface between medical marijuana and recreational marijuana, and

WHEREAS, ineffective regulation by the City of marijuana cultivation, production, processing, or retailing could have negative consequences on the citizens, businesses, and institutions of Long Beach, including but not limited to the following:

1. Exposure of minor children to drugs
2. Unwanted drug activity at the beach approaches, on City rights-of-way, or on other City- or publicly-controlled properties
3. Unwanted exposure of citizens to drugs
4. Unwanted exposure of business clientele to drugs
5. Strain on policing resources
6. Undermining of federal enforcement priorities, and

WHEREAS, the Council has studied the land use and other secondary impacts of cultivation, processing, and selling of cannabis for medical use by individuals and in collective gardens, and for recreational use, and has now drafted a zoning ordinance to address these impacts that constitute a strong and effective regulatory system including robust controls and procedures on paper and - it is anticipated - in practice.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LONG BEACH,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. Findings

The City Council of the City of Long Beach hereby adopts the following Findings of Fact:

- (1) The proposed ordinance is necessary to protect the health, safety, general welfare and orderly development of the community.
- (2) The proposed ordinance is consistent with the City's adopted Comprehensive Plan.
- (3) The proposed ordinance furthers implementation of the city's adopted Comprehensive Plan.

Section 2. Adoption

Amendments to Title 12, Zoning Regulations, attached hereto, are hereby adopted.

Section 3. Severability

Should any provision, section, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Repeal

Any existing ordinances that may conflict with this ordinance are hereby repealed.

Section 5. Effective Date

This Ordinance shall be in full force and effect five (5) days from and after its passage, approval, and publication in the manner required by law.

Section 6. Adoption Date

ADOPTED by the City Council of the City of Long Beach, Pacific County, Washington at a regular open public meeting held the [redacted] day of [redacted], 2014.

AYES 0

NAYS 0

ABSENT 0

ABSTENTIONS 0

Robert Andrew, Mayor

ATTEST:

David Glasson, City Clerk

DRAFT

CHAPTER 17

MARIJUANA- (CANNABIS-) RELATED LAND USES

Section:

12-17-1: Purpose and Intent

12-17-2: Authority

12-17-3: Definitions

12-17-4: No City Liability—Indemnification

12-17-5: Limitations

12-17-1: PURPOSE AND INTENT: The purpose and intent of this chapter is to protect and maintain the public health, safety, and welfare of the city's citizens, and to mitigate potential adverse impacts by regulating the siting and operation of any structure, activity, or land use related to the production, processing, or retailing of marijuana. The city intends this chapter to establish an effective regulatory framework including robust controls and procedures on paper and in practice.

12-17-2: AUTHORITY: Pursuant to Washington State Constitution Article XI, Section 11, the City of Long Beach asserts its constitutional authority to make and impose land use regulations, and to enforce within its limits such police, sanitary, and other regulations as are not unreasonable or in conflict with general laws. In addition, since the State of Washington has neither explicitly nor implicitly preempted the city from regulating marijuana-related land uses, the city exerts its authority to do so. Moreover, these land uses have only recently been made legal in the state, and remain illegal in most other states and under federal law, and their former and continuing illegal status may make them operate in a manner substantially different than other land uses whose status has long been legal. For these reasons, the city is both authorized and compelled to regulate marijuana-related land uses.

12-17-3: DEFINITIONS: For purposes of this chapter, the following definitions apply:

CANNABIS: All parts of the plant cannabis, whether growing or not, except as noted below; 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 "cannabis" includes cannabis products and useable cannabis. In this code, interchangeable with "marijuana".

CANNABIS, EXCLUSIONS: Herein "cannabis" does not include the mature stalks of the plant or fiber produced from the stalks, and 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.

CANNABIS GARDEN: The place where cannabis/marijuana is grown, whether by an individual, an entity, or by a collective.

CANNABIS PRODUCTS: Products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths (3/10^{ths}) of one percent (1%), and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term “cannabis products” does not include “useable cannabis” as defined herein. The definition of “cannabis products” as a measurement of THC concentration only applies to the provisions of this zoning ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

CANNABIS, USEABLE: Dried (containing less than fifteen percent (15%) moisture content by weight) flowers of the cannabis plant having a THC concentration greater than three-tenths (3/10^{ths}) of one percent (1%). Useable cannabis excludes stems, stalks, leaves, seeds, and roots. The term useable cannabis does not include “cannabis products” as defined herein.

COLLECTIVE MEDICAL MARIJUANA GARDEN: Those gardens authorized under RCW 69.51A.085, which allows qualifying patients to produce, process, transport, and deliver cannabis for medical use subject to all of the following specific conditions:

1. No more than ten qualifying patients may participate in a single collective garden at any time;
2. A collective garden may contain no more than fifteen plants per patient up to a maximum of forty-five total plants;
3. A collective garden may contain no more than twenty-four ounces of usable cannabis per qualifying patient up to a maximum of seventy-two total ounces of usable cannabis;
4. A copy of each qualifying patient’s valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient’s proof of identity, must be available at all times on the premises of the collective garden; and
5. No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients participating in the collective garden.

CONTROLLED SUBSTANCES ACT (CSA): Federal law 21 United States Code (U.S.C.) making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner specifically authorized by the CSA. Marijuana is classified in the CSA as a Schedule I drug.

CULTIVATION: Planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof. For medical marijuana only, combines the terms “production” and “processing” as they are used by the WSLCB to describe recreational marijuana practices.

DAYCARE, CHILD: Provision of supplemental parental care and supervision

1. for a non-related child or children,
2. on a regular basis,
3. for less than 24 hours a day, and
4. under license by the Washington State Department of Social and Health Services.

The term is not intended to include babysitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocated child care by a group of parents in their respective homes.

DESIGNATED PROVIDER: A person who:

1. Is eighteen years of age or older;
2. Has been designated in a document signed and dated by a qualifying patient to serve as a designated provider under this ordinance and RCW 69.51A;
3. Is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider;
4. Is the designated provider to only one qualifying patient at any given time; and
5. Is in compliance with the terms and conditions set forth in RCW 69.51A.040.

A qualifying patient may be the designated provider for one other qualifying patient (and only one other) at a time and be in possession of both patients' cannabis at the same time.

INDOORS: Located within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City of Long Beach, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached.

LAND USES, SENSITIVE: A land use to be protected by distance and/or other means from the potential and actual impacts of a marijuana-related land use. For purposes of this chapter, the following definitions are considered sensitive land uses:

Arcade, Game: An entertainment venue featuring primarily video games, simulators, and/or other amusement devices from where persons under twenty-one years of age are not restricted. Subset of Amusement.

Amusement: An entertainment venue catering to families and/or to children. Examples include and are not limited to game arcades not restricted to those over 21 years of age, movie theaters, miniature golf courses, horse ride rentals, go-cart tracks, and skateboard parks.

Child Care Center: An entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning.

Church: A property, structure, leased portion of a structure, or facility used primarily for religious worship and related religious activities.

Day Care Facility, Child: A building or structure in which an agency, person, or persons regularly provide care for a group of children for periods of less than 24 hours a day. Child day care facilities include family day care homes, out-of-home child mini-day care centers, and child day care centers regulated by the Washington State Department of

Social and Health Services, as presently defined and hereafter amended (RCW 74.15, WAC 388-73-422).

Group Home, Juvenile: A facility providing sheltered care for those with special needs and who are under twenty one (21) years of age.

Library: An organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

Park, Public: An area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Does not include trails.

Playground: A public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

Preschool Facility: A school for children who are not old enough to attend kindergarten; a nursery school.

Recreation Center or Facility: a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

Residential Treatment Facility: A facility providing for treatment of drug and alcohol dependency. Also called a rehabilitation or "rehab" center.

School: An institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington Education Code, or any child or day care facility. This definition includes, but is not limited to, a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education; it does not include a vocational or professional institution of higher learning, including a community or junior college, college or university.

School, Elementary: A school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

School, Secondary: a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

Transit Center, Public: A facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for

the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

Youth-Oriented Facility: Elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. Does not include a daycare or preschool facility.

LEGAL PARCEL: A parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

MARIJUANA: See “cannabis”.

MARIJUANA FACILITY: A place where an entity licensed by the WSLCB may participate in the recreational marijuana industry. Following are the main three types of recreational marijuana facilities licensed by the WSLCB.

Marijuana Production Facility: A place where an entity licensed by the WSLCB can plant, grow, and harvest marijuana for sale at wholesale to a licensed marijuana processor.

Marijuana Processing Facility: A place where an entity licensed by the WSLCB may process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to a licensed marijuana retailer.

Marijuana Retail Facility: A place where an entity licensed by the WSLCB may sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail to persons twenty-one years of age and older.

MARIJUANA, MEDICAL (OR MEDICINAL) USE: Production, processing, possession, or administration of marijuana for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness subject to the requirements and limitations of Article 17B of the Long Beach city code and those of RCW 69.51A, Medical Cannabis.

MARIJUANA, RECREATIONAL USE: Production, processing, possession, or retailing of marijuana for non-medical purposes subject to the requirements and limitations of Article 17A of the Long Beach city code and those of WAC 314-55, Marijuana Licenses, Application Process, Requirements, and Reporting.

OUTDOORS: Any location that is not “indoors” within a fully enclosed and secure structure as defined herein.

PERSON: An individual or an entity.

PERSONALLY IDENTIFIABLE INFORMATION: Information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.

PLANT: An organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

PROCESS: To handle or prepare cannabis for use by a consumer.

PRODUCE: To plant, grow, or harvest cannabis.

PUBLIC PLACE: Includes streets, alleys, trails and sidewalks; buildings and grounds used for school purposes; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; buses and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

QUALIFYING PATIENT: A person who:

1. Is a patient of a health care professional;
2. Has been diagnosed by his or her health care professional as having a terminal or debilitating medical condition;
3. Is a resident of the state of Washington at the time of such diagnosis;
4. Has been advised by his or her health care professional about the risks and benefits of the medical use of cannabis;
5. Has been advised by that his or her care professional that he or she may benefit from the medical use of cannabis; and
6. Is otherwise in compliance with the terms and conditions established in chapter 69.51A RCW.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this ordinance and RCW 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

RESIDENCE: A person's address where he or she physically resides and maintains his or her abode.

TERMINAL OR DEBILITATING MEDICAL CONDITION:

1. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
2. Intractable pain, limited for the purpose of this code to mean pain unrelieved by standard medical treatments and medications; or
3. Glaucoma, either acute or chronic, limited for purposes of this code chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or
4. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or
5. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
6. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or
7. Any other medical condition identified as terminal or debilitating by the Washington State Medical Quality Assurance Commission in consultation with the Board of Osteopathic Medicine and Surgery.

THC CONCENTRATION: Percent of tetrahydrocannabinol content per weight of useable cannabis or cannabis product.

UNIFORM CONTROLLED SUBSTANCES ACT (UCSA): Washington state law Revised Code of Washington (RCW) 69.50 making it unlawful to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance. Marijuana is classified in the USCA as a Schedule I drug.

VALID DOCUMENTATION:

1. A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis; and
2. Proof of identity such as a Washington State driver's license or identicard, as defined in RCW 46.20.035.
3. In the case of a designated provider, the signed and dated document valid for a maximum of one year from the date of signature executed by the qualifying patient who has designated the provider.

WASHINGTON STATE LIQUOR CONTROL BOARDS (WSLCB): The state agency that promulgates, enacts, and enforces administrative rules regulating the production, processing, and retailing of recreational marijuana at WAS 314-55. This agency grants licenses for recreational

marijuana land uses after consultation with the local jurisdiction, and also ensures that licensees operate within the limits of their permits.

12-17-4: NO CITY LIABILITY—INDEMNIFICATION: Any person or entity operating a marijuana-related land use in the City of Long Beach agrees to the following:

- A. By accepting a permit issued pursuant to this chapter, the licensee waives and releases the City, its officers, elected officials, employees, volunteers, and agents from any liability of any kind that results from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.
- B. By accepting a permit issued pursuant to this chapter, the licensee agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers, and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, loss or damage, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in a manner that is subject of the license.
- C. Insurance requirements set forth in WAC 314-55-083 shall be met. The licensee must have a separate policy that covers the City to the same extent as the policy that covers the State of Washington. This liability insurance shall be primary to any insurance that the City may possess and this liability insurance policy shall state this requirement.
- D. Licenses shall be reviewed annually. If an insurance or license deficiency exists, the City may suspend or rescind City-issued permits.

12-7-5: LIMITATIONS: The following limitations apply:

- A. Nothing in this title is intended to be, nor should be considered to be, an allowance for more activity pertaining to the production, processing, and selling of marijuana than is permitted by State law and by rules and regulations of the WSLCB.
- B. Nothing in this title is intended to be, nor should be considered to be, a limitation on the City from protesting the granting of a permit or renewal of a permit by the WSLCB.
- C. Nothing in this title shall be construed to supersede Washington State Law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by Chapter 69.51A RCW or Chapter 69.50 RCW. Nothing in this title shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance.

CHAPTER 17

MARIJUANA-RELATED LAND USES

Article A. Licensed Recreational Marijuana-Related Land Uses

Section:

12-17A-1: Intent

12-17A-2: Prerequisites

12-17A-3: Location

12-17A-4: Restrictions on, Requirements and Standards of Operation

12-17A-5: Violations

12-17A-1: INTENT: The intent of this article is to provide a system of strong and effective robust land use controls applicable to any site, structure, activity, or use related to the production, processing, or retailing of marijuana to be used recreationally and licensed in accordance with WAC 314-55 and not otherwise prohibited under RCW 69.50. This framework is intended to address local issues and preferences while ensuring the public's health, safety, and welfare and also while complying with WAC 314-55, which establishes a statewide regulatory scheme for the production, processing, and retailing of recreational marijuana.

12-17A-2: PREREQUISITES:

- A. State License a Pre-requisite to Local Consideration. No recreational marijuana land use shall be considered by the City to be established in the City of Long Beach without first being legally licensed by the WSLCB.
- B. Applications and Licenses a Pre-requisite to Establishing a Recreational Marijuana-Related Land Use. Prior to establishing a recreational marijuana land use, the state licensee must do the following:
 - 1. Apply online to and receive a business license. The application must clearly state it is for a recreational marijuana business.
 - 2. On forms made available by the city, make application for and receive a Marijuana Operation License.
 - a. The applicant must pay an application fee of \$400.
 - b. The city will evaluate the proposed land use for land use, zoning, and code compliance.
- C. City Inspections a Pre-requisite to Establishing a Recreational Marijuana-Related Land Use. Prior to the city issuing a Marijuana Operation License, the following must occur:
 - 1. The applicant must make the property available for inspections by city personnel.
 - 2. An inspection by the Long Beach Building Inspector or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed

and the site re-inspected until no negative findings result. The fee for the initial inspection shall be \$250. The fee for each subsequent inspection required to address negative findings shall be \$250.

3. An inspection by the Long Beach Fire Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result. The fee for the initial inspection shall be \$250. The fee for each subsequent inspection required to address negative findings shall be \$250.
4. An inspection by the Long Beach Police Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result. The fee for the initial inspection shall be \$250. The fee for each subsequent inspection required to address negative findings shall be \$250.

12-17A-3: LOCATION: A legally licensed and inspection-approved recreational marijuana land use may be sited in Long Beach subject to the following.

- A. Sensitive Land Uses. No marijuana-related land use shall be established on a property located within one thousand (1,000) feet of the nearest property line of any one or more sensitive land use. The distance shall be measured in the most direct route over or across public walks, streets, or other public passageways between the property lines of the proposed business location and the sensitive land use that are nearest one another. The City shall rely upon its Sensitive Land Uses map, adopted by reference herein and as might be amended, to determine whether a proposed recreational marijuana-related land use is located within one thousand (1,000) of a sensitive land use.
 1. Preschool, elementary, or secondary school
 2. Playground
 3. Recreation center or facility
 4. Child care center
 5. Public park
 6. Public transit center
 7. Library
 8. Game arcade
 9. Amusement
 10. Church
 11. Child day care facility
 12. Residential treatment facilities
 13. Youth-oriented facilities
 14. Juvenile group home

- B. Existing Licensed Marijuana Retail Business. No marijuana-related land use shall be established on a property located within one thousand (1,000) feet of the nearest property line of any existing licensed marijuana retail outlet. The distance shall be measured as described in section 12-17A-3(A).
- C. Marijuana Production Facility. The planting, growing, and harvesting of marijuana by a state-licensed marijuana producer for sale to a state-licensed marijuana processor shall be allowed as a conditional use in the LI (Light Industrial) and C2 (Commercial Retail Warehouse) zoning districts. In addition to the locational requirements of sections 12-17A-3(A) and (B), the property on which the proposed production facility would be located shall be a minimum of two hundred (200) feet from the nearest property on which a residential land use is located.
- D. Marijuana Processing Facility. The handling or preparing of marijuana for sale by a state-licensed marijuana processor to a state-licensed marijuana retailer shall be allowed as a conditional use in the LI (Light Industrial) and C2 (Commercial Retail Warehouse) zoning districts. In addition to the locational requirements of sections 12-17A-3(A) and (B), the property on which the proposed processing facility would be located shall be a minimum of two hundred (200) feet from the nearest property on which a residential land use is located.
- E. Marijuana Retail Facility. The retailing of marijuana by a state-licensed marijuana retailer for use by a consumer 21 years of age or older shall be allowed as a conditional use in the C1 and RC zoning districts. In addition to the locational requirements of sections 12-17A-3(A) and (B), the property on which the proposed retail facility would be located shall not be located on a parcel on which also is located any residential land use or immediately adjacent to (sharing a property line with or directly across the street from) a property on which a residential land use is located.

12-17A-4: RESTRICTIONS ON, REQUIREMENTS AND STANDARDS OF

OPERATION: Following are restrictions on, requirements for, and standards of operation for recreational marijuana-related land uses, including producers, processors, and retailers, located in the City of Long Beach.

- A. State License Required. No person, business, or entity may establish or operate a recreational marijuana production, processing, or retail venture in the City of Long Beach without first obtaining a license from the WSLCB. The application for each license must have first been reviewed by the City of Long Beach before being granted by the WSLCB.
- B. No Delivery Services. No person, business, or entity may operate a recreational marijuana delivery service in the City of Long Beach.
- C. No Nonconforming Status. Notwithstanding the provisions of Chapter 16 (Nonconforming Uses and Structures) of this code, an existing recreational marijuana land use in operation as of the effective date of this chapter shall immediately cease operations and seek legal status via the WSLCB licensing process.

- D. City Recreational Marijuana Operations License Required. Each state- and city-licensed recreational marijuana land use shall pay an annual marijuana operations licensing fee of \$300 at the beginning of each operating year.
1. A recreational marijuana land use shall not operate without a city recreational marijuana operations license.
 2. The city will not prorate or refund recreational marijuana operations license fees.
 3. Failure to acquire an annual recreational marijuana operations license shall result in the recreational marijuana land use being terminated
- E. Annual Inspections Required: Every year, the site shall be inspected by city personnel for structural suitability, fire safety, and security. The cost of these inspections shall be paid for via the annual recreational marijuana operations licensing fee.
- F. Operating Standards: The following restrictions apply to the operation of licensed recreational marijuana land uses.
1. *Odor.* The operation shall not subject occupants of neighboring parcels who are of normal sensitivity to objectionable odors.
 2. *Lighting.* All lights used shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
 3. *Noise.* Operational noise shall not exceed the noise disturbance standards as set forth in Title 10 (Health, Safety and Environment) Chapter 5 (Noise Control) of the Long Beach City code. Any noise/vibration disturbance shall be abated, whether caused by loud noise or by low-frequency disturbance.
 4. *Visibility.* Marijuana or paraphernalia shall not be on display in any location visible from the public right of way, publicly traveled private roads, a public place, or neighbor's property.
 5. *Signage.* Advertising signage must comply with requirements found at WAC 314-55-155, as may be amended, and may not exceed 11.11 square feet in area. Mandatory cautionary signage must comply with requirements found at WAC 314-55-086, as may be amended.
 6. *Compliance with Codes.* The licensed recreational marijuana operation shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.
 7. *Nuisance.* The licensed recreational marijuana operation shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.
 8. *Security.* Security measures at a licensed recreational marijuana land use shall include, at a minimum, the following:

- a. a burglary alarm system that is professionally monitored and maintained in good working condition;
- b. exterior lighting that illuminates all entry points, but does not scatter light off-site; and
- c. deadbolt locks on all exterior doors.

12-17A-5: VIOLATIONS:

- A. Failure to Comply. Failure to comply with any restriction, requirement, or standard described herein shall result in revocation of the city recreational marijuana operations license and termination of the recreational marijuana land use.
- B. Nuisance. Nothing in this chapter shall be construed as a limitation on the city's authority to abate any violation which may exist from the otherwise legal production, processing, or retailing of recreational marijuana from any location, including from within a fully enclosed and secure building.
- C. Any violation(s) of this chapter may be enforced as set forth in Title 14 (Enforcement Procedures) or, as applicable, the Uniform Controlled Substances Act, RCW 69.58. In addition, violations of subsections (A) and (B) of this section are deemed to be a public nuisance and may be abated by the city under procedures set forth in Title 5 (Health, Safety and Environment), Chapter 2 (Public Nuisances) of this code or state law for the abatement of public nuisances.

CHAPTER 17

MARIJUANA-RELATED LAND USES

Article B. Medical Marijuana-Related Land Uses

Section:

12-17B-1: Intent

12-17B-2: Prerequisites

12-17B-3: Location

12-17B-4: Restrictions on, Requirements and Standards of Operation

12-17B-5: Violations

12-17B-1: INTENT: The intent of this article is to provide robust and effective land use controls on any site, structure, activity, or use related to the limited production, processing, or distribution of marijuana to be used medicinally and not otherwise prohibited under RCW 69.51A (Medical marijuana). This framework is intended to address local issues and preferences while ensuring the public's health, safety, and welfare and also while complying with RCW 69.50 (Uniform controlled substances act) and 69.51A, which establish regulatory schemes for the limited production, processing, and distribution of medical marijuana.

12-17B-2: PREREQUISITES:

- A. Licenses and Inspections a Pre-requisite: No medical marijuana land use shall be established in the City of Long Beach without first obtaining the following:
1. A medical marijuana operations license.
 2. An inspection by the Long Beach Building Inspector or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.
 3. An inspection by the Long Beach Fire Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.
 4. An inspection by the Long Beach Police Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.

12-17B-3: LOCATION: Medical marijuana gardens may be sited in Long Beach subject to the following:

- A. Allowed Zones. Medical marijuana gardens are allowed as a conditional use in the R1-Single-Family Residential, S1-Shoreline Single-Family Residential, RC-Residential Commercial, C1-Commercial, C2-Commercial Retail Warehouse, and LI-Light Industrial.

- B. Outdoor Medical Marijuana Gardens Prohibited. All medical marijuana gardens must be located indoors, in a permanent building or a greenhouse permanently affixed to the ground.
- C. Separation: Medical marijuana gardens shall not be located:
 1. on property located within five hundred (500) feet of property on which is located a youth-oriented facility, school, park, church, juvenile group home, or residential treatment facility, measured from nearest property line to nearest property line;
 2. within twenty (20) feet of any occupied legal residential structure located on a separate legal parcel or residential accessory structure used primarily by children (a “playhouse”), measured from nearest exterior wall of the medical marijuana garden structure to nearest exterior wall of the residential or residential accessory structure;
 3. in a mobile home park, within twenty (20) feet of an occupied mobile home, measured from nearest exterior wall to nearest exterior wall;
 4. within one hundred (100) feet of Pacific Highway, measured from nearest property line to nearest right-of-way line; or
 5. in any location where marijuana plants are visible from the public right of way, publicly traveled private roads, a public place, or neighbor’s property.

12-17B-4: RESTRICTIONS ON, REQUIREMENTS AND STANDARDS OF OPERATION: Following are the restrictions on, requirements, and standards for medical marijuana gardens located in the City of Long Beach, whether operated by an individual or a collective.

- A. No Nonconforming Status. Notwithstanding the provisions of Chapter 16 (Nonconforming Uses and Structures) of this code, an existing cannabis garden in operation as of the effective date of this chapter shall be brought into full compliance with the provisions of this chapter within one (1) year of the chapter’s effective date.
- B. City Application Required. Prior to establishing a medical marijuana garden, the individual or collective operating the garden must make application to the City of Long Beach on forms provided by the city.
 1. The applicant must pay an application fee of \$400.
 2. The proposed land use will be evaluated for land use, zoning, and code compliance.
 3. The applicant must make the property available for inspections by city personnel.
 4. The structure proposed to house the land use will be inspected for structural suitability, fire safety, and security. The cost of these three inspections shall be \$250 each, or \$750. If negative findings result from an inspection and re-inspection is required, the cost of re-inspection shall be \$250 per inspection.
- C. City Medical Marijuana Garden Operations License Required. Each medical marijuana garden shall pay an annual licensing fee of \$300 at the beginning of each licensing year.

1. A medical marijuana garden shall not operate without a license.
 2. The city will not prorate or refund medical marijuana garden operations license fees.
 3. Failure to acquire an annual license shall result in the medical marijuana garden operation being terminated.
- D. Annual Inspections Required. Every year, the site shall be inspected by city personnel for structural suitability, fire safety, and security. The cost of these inspections shall be paid for via the annual medical marijuana garden operation licensing fee.
- E. Operating Standards. The following restrictions apply to the operation of medical marijuana gardens, whether operated by an individual or a collective.
1. *Odor.* The cultivation of marijuana shall not subject occupants of neighboring parcels who are of normal sensitivity to objectionable odors.
 2. *Lighting.* All lights used for the cultivation of marijuana shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
 3. *Noise.* The cultivation of medical marijuana shall not exceed the noise disturbance standards as set forth in Title 10 (Health, Safety and Environment) Chapter 5 (Noise Control) of the Long Beach City code. Any noise/vibration disturbance shall be abated, whether caused by loud noise or by low-frequency disturbance.
 4. *Visibility.* Medical marijuana shall not be grown or on display in any location where marijuana plants are visible from the public right of way, publicly traveled private roads, a public place, or neighbor's property.
 5. *Signage.* There shall be no exterior signage or symbology relating to the medical marijuana garden.
 6. *Gas Prohibited.* The use of gas products (CO₂, butane, etc.) for medical marijuana cultivation is prohibited. If propane is the main source of heat when a medical marijuana garden is established, it may continue to be used for that purpose.
 7. *Compliance with Codes.* Every medical marijuana garden shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.
 8. *Nuisance.* A medical marijuana garden shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.
 9. *Security.* Security measures at the medical marijuana garden shall include, at a minimum, the following:
 - a. a burglary alarm system that is professionally monitored and maintained in good working condition;
 - b. exterior lighting that illuminates all entry points, but does not scatter light off-site;
 and

- c. deadbolt locks on all exterior doors.

- F. Delivery Only Among Collective Members. No usable cannabis from a collective medical marijuana garden may be delivered to anyone other than one of the qualifying patients participating in the collective. Collective garden employees/volunteers or collective garden members may not sell any marijuana plants or usable marijuana, nor may they exchange them for items of equivalent value, other than other medical marijuana. Delivery may not occur outside Pacific County. Failure to adhere to this requirement may be prosecuted under the Uniform Controlled Substances Act, chapter 69.58 RCW.

- G. No On-site Sale of Paraphernalia. There shall be no on-site display or sale of paraphernalia used for the use or consumption of medical marijuana at a medical marijuana garden.

- H. Restrictions on Allowable Quantities of Medical Marijuana. The quantity of any medical marijuana at any single location shall conform to the following:
 - 1. RCW 69.51A.040 allows an individual qualifying patient or designated provider to cultivate medical marijuana for personal medical use within his/her private residence, as long as the qualifying patient or designated provider:
 - a. possesses no more than fifteen (15) marijuana plants;
 - b. possesses no more than twenty-four (24) ounces of usable marijuana;
 - c. possesses no more marijuana product than what could reasonably be produced with no more than twenty-four (24) ounces of usable marijuana; or
 - d. possesses a combination of usable marijuana and marijuana product that does not exceed a combination total representing possession and processing of no more than twenty-four (24) ounces of usable marijuana.
 - 2. If a person is both a qualifying patient and a designated provider for another qualifying patient, at any one time they may possess no more than twice the amounts described in described in subsection (A) of this section, above.

12-17B-5: VIOLATIONS:

- A. It is a violation of this chapter for any person owning, leasing, occupying or having charge or possession of any parcel of land within any incorporated area of the City of Long Beach to cause or allow such parcel of land to be used for the indoor cultivation of marijuana or cannabis plants for medicinal purposes in excess of the limitations or in non-compliance with the requirements and standards set forth herein.

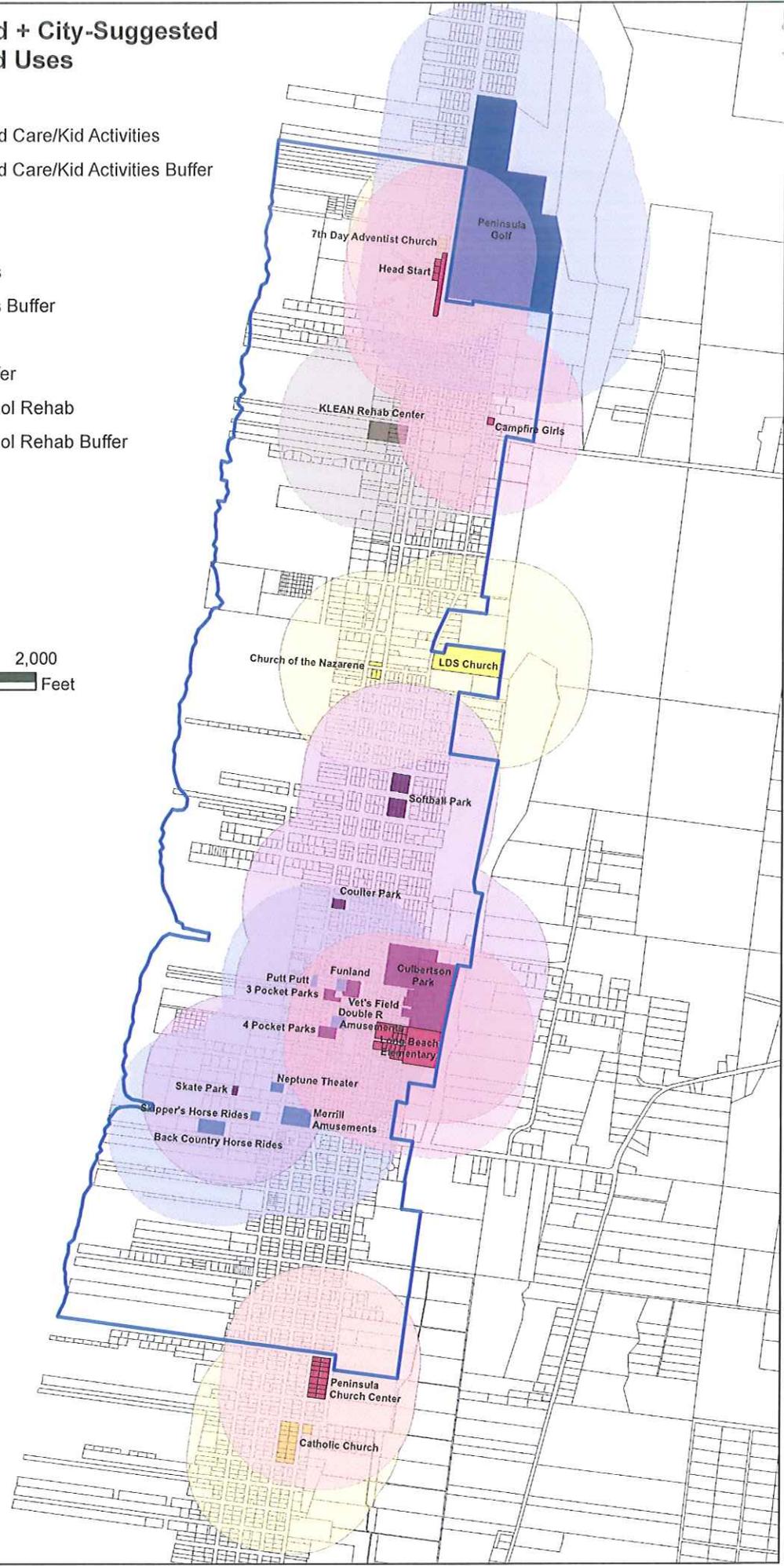
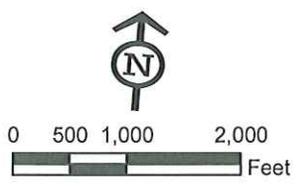
- B. The cultivation of more than the number of marijuana plants set forth in this chapter on one legal parcel, either indoors or outdoors, within the City, regardless of whether the persons growing the cannabis is/are a “qualified patient,” or members of a “collective garden” as defined herein, is hereby prohibited.

- C. Nuisance. Nothing in this chapter shall be construed as a limitation on the city's authority to abate any violation which may exist from the cultivation of cannabis plants from any location, including from within a fully enclosed and secure building.
- D. Any violation(s) of this chapter may be enforced as set forth in Title 14 (Enforcement Procedures) or, as applicable, the Uniform Controlled Substances Act, RCW 69.58. In addition, violations of subsections (A) and (B) of this section are deemed to be a public nuisance and may be abated by the city under procedures set forth in Title 5 (Health, Safety and Environment), Chapter 2 (Public Nuisances) of this code or state law for the abatement of public nuisances.

DRAFT

State-Required + City-Suggested Sensitive Land Uses

-  City Limits
-  Schools/Child Care/Kid Activities
-  Schools/Child Care/Kid Activities Buffer
-  Parks
-  Parks Buffer
-  Amusements
-  Amusements Buffer
-  Churches
-  Churches Buffer
-  Drug & Alcohol Rehab
-  Drug & Alcohol Rehab Buffer



City of Long Beach
DETERMINATION OF NONSIGNIFICANCE (DNS)
AND NOTICE OF PUBLIC HEARING

Description of Proposal: Amendment of Zoning Ordinance. Proposed amendments address medical and recreational marijuana-related land uses, the use of small tents in business zones, clarifies occupancy maximums at vacation rentals, and includes language regarding siting of essential public facilities.

Comment period: The public may comment on this SEPA Determination of Nonsignificance through Jun 11, 2014. Please mail your written comments on environmental issues only to:
City of Long Beach
PO Box 310
Long Beach, Washington 98631
Attention: Gayle Borchard

For other opportunities to comment on environmental issues or the merits of the proposal, see "Public Hearings," below.

Location of proposal, including street address, if any: This proposal is within the municipal boundaries of the City of Long Beach

Proponent and Lead Agency: City of Long Beach, a Municipality of the State of Washington

The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 and pursuant to WAC 197-11-340. This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. Copies of the current and proposed zoning code are available to the public for review at Long Beach City Hall.

Public Hearings: A publicly-noticed hearing was conducted by the Long Beach City Council on May 19 and another will be conducted on June 2. The June 2 hearing may be continued without further notice if the date, time and place of the continued hearing are announced. Interested persons may appear and be heard, and are encouraged to also submit their comments in writing at least three days prior to the hearing date. It is the right of any person to comment on the proposed amendments, receive notice of and participate in any hearing, request a copy of the decision once made, and appeal the decision pursuant to city code.

Responsible Official: Gayle Borchard

Position/Title: Director, Department of Community Development

Address: P.O. Box 310, 115 West Bolstad, Long Beach, WA 98631

Phone: 360.642.4421

Original Issue Date: May 12, 2014

Signature: A signed copy of the original DNS is available for review upon request

CITY OF LONG BEACH

ENVIRONMENTAL CHECKLIST

pursuant to WAC 197-11-960

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

Under penalty of perjury, you must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." in addition, complete the supplemental information for nonproject actions (Part D).

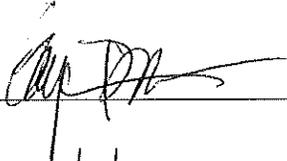
For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

SUBMIT THIS CHECKLIST WITH YOUR DEVELOPMENT APPLICATION

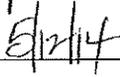
PART A. SIGNATURE

I declare under penalty of the perjury laws that the information I have provided on this checklist is true, correct, and complete. I understand the lead agency is relying on the information I provide to make its decision.

Signature: _____

A handwritten signature in black ink, appearing to be 'C. M. D.', written over a horizontal line.

Date Submitted: _____

A handwritten date '5/2/14' in black ink, written over a horizontal line.

PART B. BACKGROUND

1. Name of proposed project, if applicable:

A non-project action: Annual amendments to Title 12, Zoning comprising the following: *Ordinance No. 899, An Ordinance of the City of Long Beach, Washington Adopting Revisions to Title 12, Zoning Regulations, and Providing for the Repeal of All Ordinances in Conflict and Ordinance No. 900, An Ordinance of the City of Long Beach, Washington Adopting Revisions to Title 12, Zoning Regulations, Regarding Medical and Recreational Marijuana (Cannabis) Land Uses and Providing for the Repeal of All Ordinances in Conflict.*

2. Name of applicant:

City of Long Beach, Washington

3. Address and phone number of applicant and contact person:

**115 Bolstad Avenue West
PO Box 115
Long Beach, WA 98631**

4. Date checklist prepared:

May 12, 2013

5. Agency requesting checklist:

City of Long Beach

6. Proposed timing or schedule (including phasing, if applicable):

Summer 2014

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

None at present. Future modifications based on adaptive management are possible.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Does not apply.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None known of.

10. List any government approvals or permits that will be needed for your proposal, if known.

None known of.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

Minor ordinance amendments allowing for the use of small tents in business districts, clarifying the number of guests allowed in vacation rentals, and siting of essential public facilities; major ordinance amendment regulating both medical and recreational marijuana-related land uses.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Affects all properties in Long Beach by regulating land uses recently made legal in the State of Washington. This is not the land use itself, but rather the regulatory framework controlling it.

PART C. ENVIRONMENTAL ELEMENTS AND IMPACTS

1. Earth

a. General description of the site (circle one):

Flat Rolling, hilly Steep slopes Mountainous Other: **Does not apply.**

b. What is the steepest slope on the site (approximate percent slope)?

Does not apply.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Does not apply.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Does not apply.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

Does not apply.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Does not apply.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Does not apply.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Does not apply.

2. Air

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial, and wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

Tents: Does not apply.

Vacation rentals: Does not apply.

Essential public facilities: Does not apply.

Marijuana: Production and processing of marijuana can emit odors that some can find offensive.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Does not apply.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Ordinance No. 900, Section 12-17A-4(F)(1) includes performance criteria regarding odor from recreational marijuana-related land uses. Section 12-17B-4E(1) includes the same for medical marijuana-related land uses.

3. Water

a. Surface Water:

Is there any body of surface water on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Does not apply.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Does not apply.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Does not apply.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Does not apply.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Does not apply.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Does not apply.

b. Groundwater:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

Does not apply.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Does not apply.

c. Water Runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Does not apply.

2) Could waste materials enter ground or surface waters? If so, generally describe.

Does not apply.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Does not apply.

4. Plants

a. Check or circle types of vegetation found on the site:

Deciduous tree: Alder Maple Aspen Other: **Does not apply.**

Evergreen tree: Fir Cedar Pine Other: **Does not apply.**

Shrubs Grass Pasture Crop or grain **Does not apply.**

Wet soil plants: Cattail Buttercup Bullrush Skunk cabbage Other: **Does not apply.**

Water plants: Water lily Eelgrass Milfoil Other: **Does not apply.**

Other types of vegetation: **Does not apply.**

b. What kind and amount of vegetation will be removed or altered?

Does not apply.

c. List threatened or endangered species known to be on or near the site.

Does not apply.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Does not apply.

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

Birds: Hawk Heron Eagle Songbirds Other: **Does not apply.**

Mammals: Deer Bear Elk Beaver Other: **Does not apply.**

Fish: Bass Salmon Trout Herring Shellfish Other: **Does not apply.**

b. List any threatened or endangered species known to be on or near the site.

Does not apply.

c. Is the site part of a migration route? If so, explain.

Does not apply.

d. Proposed measures to preserve or enhance wildlife, if any:

Does not apply.

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Tents: Does not apply.

Vacation rentals: Does not apply.

Essential public facilities: Does not apply.

Marijuana: Energy is required to produce and process marijuana indoors, usually electricity for lights and either electricity, wood, or gas for heat. The number of grow/production operations allowed in Long Beach is limited due to proximity to sensitive lands uses, and so the amount of energy used is not expected to be significant.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Does not apply.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

None required.

7. Environmental Health

a. Hazards

1) Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

Does not apply.

2) Describe special emergency services that might be required.

Does not apply.

3) Proposed measures to reduce or control environmental health hazards, if any:

Does not apply.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Tents: Does not apply.

Vacation rentals: Does not apply.

Essential public facilities: Does not apply.

Marijuana: Exhaust systems can create annoying noise, including low-frequency

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Does not apply.

3) Proposed measures to reduce or control noise impacts, if any:

Tents: Does not apply.

Vacation Rentals: Does not apply.

Essential public facilities: Does not apply.

Marijuana: Ordinance No. 900, Section 12-17A-4(F)(3) includes performance criteria regarding noise, including low-frequency noise, from recreational marijuana-related land uses. Section 12-17A-4(F)(7) includes performance criteria regarding avoidance of nuisances, including noise. Sections 12-17B-4E(3) and (8) include, respectively, the same performance standards for medical marijuana-related land uses.

8. Land and Shoreline Use

What is the current use of the site and adjacent properties?

Does not apply.

b. Has the site been used for agriculture? If so, describe.

Does not apply.

c. Describe any structures on the site.

Does not apply.

d. Will any structures be demolished? If so, what?

Does not apply.

e. What is the current zoning classification of the site?

Does not apply.

f. What is the current comprehensive plan designation of the site?

Does not apply.

g. If applicable, what is the current shoreline master program designation of the site?

Does not apply.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

Does not apply.

i. Approximately how many people would reside or work in the completed project?

Does not apply.

j. Approximately how many people would the completed project displace?

Does not apply.

k. Proposed measures to avoid or reduce displacement impacts, if any:

Does not apply.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Does not apply.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Does not apply.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Does not apply.

c. Proposed measures to reduce or control housing impacts, if any:

Does not apply.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Does not apply.

b. What views in the immediate vicinity would be altered or obstructed?

Does not apply.

c. Proposed measures to reduce or control aesthetic impacts, if any:

Does not apply.

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Tents: Does not apply.

Vacation Rentals: Does not apply.

Essential public facilities: Does not apply.

Marijuana: Grow and security lighting have potential to create adverse impacts on nearby and uses.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

Does not apply.

c. What existing off-site sources of light or glare may affect your proposal?

Does not apply.

d. Proposed measures to reduce or control light and glare impacts, if any:

Tents: Does not apply.

Vacation Rentals: Does not apply.

Essential public facilities: Does not apply.

Marijuana: Ordinance No. 900, Section 12-17A-4(F)(2) includes performance criteria regarding lighting, from recreational marijuana-related land uses. Section 12-17A-4(F)(7) includes performance criteria regarding avoidance of nuisances, including lighting. Sections 12-17B-4E(2) and (8) include, respectively, the same performance standards for medical marijuana-related land uses.

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

Does not apply.

b. Would the proposed project displace any existing recreational uses? If so, describe.

Does not apply.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Does not apply.

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

Does not apply.

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

Does not apply.

c. Proposed measures to reduce or control impacts, if any:

Does not apply.

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

Does not apply.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

Does not apply.

c. How many parking spaces would the completed project have? How many would the project eliminate?

Does not apply.

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

Does not apply.

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Does not apply.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

Does not apply.

g. Proposed measures to reduce or control transportation impacts, if any:

Does not apply.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

Does not apply.

b. Proposed measures to reduce or control direct impacts on public services, if any.

Does not apply.

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

Does not apply.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Does not apply.

PART D. SUPPLEMENTAL INFORMATION FOR NONPROJECT ACTIONS

(do not use provide this information for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Tents: Does not apply.

Vacation rentals: Does not apply.

Essential public facilities: Does not apply.

Marijuana: See sections 2, 7.b, and 11, above. Production and processing of marijuana can result in negative impacts related to odor, lighting, and noise. The proposed action is an ordinance intended to avoid and minimize the negative impacts of State-allowed marijuana-related land uses. In essence the proposal is mitigation for such land uses.

Proposed measures to avoid or reduce such increases are:

- **Siting restrictions**
- **Requirements for initial inspections and annual inspections thereafter**
- **Operational requirements and performance standards to limit air, noise, and visual impacts**
- **Operational and locational restrictions intended to minimize social impacts effects of marijuana-related land uses, including crime and exposure of children to drugs**

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Due to the nature of the proposal, it is not likely to affect these resources.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

None required.

3. How would the proposal be likely to deplete energy or natural resources?

Tents: Does not apply.

Vacation rentals: Does not apply.

Essential public facilities: Does not apply.

Marijuana: See section 6, above. Due to the nature of the proposal, it is not likely to deplete these resources.

Proposed measures to protect or conserve energy and natural resources are:

None required.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Due to the nature and location of the proposal, it is not likely to affect these resources.

Proposed measures to protect or conserve energy and natural resources are:

None required.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Due to the nature and location of the proposal, it is not likely to affect shoreline use.

Proposed measures to protect or conserve energy and natural resources are:

None required.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Due to the nature of the proposal, it is not likely to increase demand on transportation, public services, or utilities.

Proposed measures to protect or conserve energy and natural resources are:

None required.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Due to the nature of the proposal, it is not likely to conflict with local, state or federal environmental regulations.

**City of Long Beach
DETERMINATION OF NONSIGNIFICANCE (DNS)
AND NOTICE OF PUBLIC HEARING**

Description of Proposal: Amendment of Zoning Ordinance. Proposed amendments address medical and recreational marijuana-related land uses, the use of small tents in business zones, clarifies occupancy maximums at vacation rentals, and includes language regarding siting of essential public facilities.

Comment period: The public may comment on this SEPA Determination of Nonsignificance through Jun 11, 2014. Please mail your written comments on environmental issues only to:
City of Long Beach
PO Box 310
Long Beach, Washington 98631
Attention: Gayle Borchard

For other opportunities to comment on environmental issues or the merits of the proposal, see "Public Hearings," below.

Location of proposal, including street address, if any: This proposal is within the municipal boundaries of the City of Long Beach

Proponent and Lead Agency: City of Long Beach, a Municipality of the State of Washington

The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 and pursuant to WAC 197-11-340. This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. Copies of the current and proposed zoning code are available to the public for review at Long Beach City Hall.

Public Hearings: A publicly-noticed hearing was conducted by the Long Beach City Council on May 19 and another will be conducted on June 2. The June 2 hearing may be continued without further notice if the date, time and place of the continued hearing are announced. Interested persons may appear and be heard, and are encouraged to also submit their comments in writing at least three days prior to the hearing date. It is the right of any person to comment on the proposed amendments, receive notice of and participate in any hearing, request a copy of the decision once made, and appeal the decision pursuant to city code.

Responsible Official: Gayle Borchard

Position/Title: Director, Department of Community Development

Address: P.O. Box 310, 115 West Bolstad, Long Beach, WA 98631

Phone: 360.642.4421

Original Issue Date: May 12, 2014

Signature: A signed copy of the original DNS is available for review upon request

Chinook Observer: Please Publish May 21, 2014 and May 28, 2014

TAB - C



**CITY COUNCIL
AGENDA BILL
AB 14-38**

Meeting Date: May 19, 2014

AGENDA ITEM INFORMATION		
SUBJECT: Ordinance 900 relating to tent rentals.		<i>Originator:</i>
	Mayor	
	City Council	
	City Administrator	
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	
	Finance Director	DG
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
COST: N/A	Water/Wastewater Supervisor	
	Other:	

SUMMARY STATEMENT: Attached is Ordinance 900, repealing Ordinance 803 and Ordinance 811 that set fees and allowed renting of city tents to outside entities.

RECOMMENDED ACTION: Adopt Ordinance 900.

ORDINANCE NO. 900

**AN ORDINANCE OF THE CITY OF LONG BEACH, WASHINGTON
REPEALING ORDINANCE NO. 803 AND ORDINANCE 811, TENT
RENTALS AND USE FEES.**

WHEREAS, the city of Long Beach adopted Tent Use Fees by Ordinance No. 803 in 2005 and Amended it with Ordinance 811 in 2006; and

WHEREAS, the City Council has reviewed the impact, time and expense of renting tents to private and organization that provide a public benefit;

**NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF
THE CITY OF LONG BEACH**, as follows:

Section 1.Repeal

Ordinance No. 803 and Ordinance No. 811 are hereby repealed.

Section 2. Repeal of Conflicting Ordinances.

All previous ordinances are hereby repealed insofar as they may be in conflict with this Ordinance.

Section 3. Effective Date.

This ordinance shall be in full force and effect five days from and after its passage, approval, and publication in the manner required by law.

Passed this 19th day of May, 2014.

Ayes _____

Nays _____

Absent _____

Bob Andrew, Mayor

ATTEST:

Clerk

TAB - D



**CITY COUNCIL
AGENDA BILL
AB 14-39**

Meeting Date: **May 19, 2014**

AGENDA ITEM INFORMATION

SUBJECT: 7th Annual Battle at the Beach Basketball Tournament	<i>Originator:</i>	
	Mayor	
	City Council	
	City Administrator	
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	
	Finance Director	
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
	Water/Wastewater Supervisor	
COST: N/A	Other:	Coach Bittner

SUMMARY STATEMENT: Coach Bittner is asking the city council for assistance in promoting the 7th Annual Battle at the Beach Basketball Tournament. Attached is information about the teams attending and travel distances.

RECOMMENDED ACTION: Help promote this program that brings 500-600 people to the peninsula for 3 days in June.

Ilwaco Lady Fishermen
“7th Annual Battle at the Beach”
2014 Basketball Tournament

In 2008 I started a girl’s summer basketball tournament in which we host in June at Ilwaco High School. The money we make from the tournament pays for all other tournaments/transportation costs the girls basketball team attends during the summer. It also assists girls on the team who need financial assistance to attend team camps.

This summer we will be expanding our tournament to a Varsity and JV tournament to be held June 13-15. We will be using the Ilwaco High School Gym, Hilltop and Long Beach Elementary.

I’m projecting 500-600 players/coaches/family and friends to attend our June 13-15th basketball tournament.

I’m asking for a \$300 sponsorship/donation. This will get a City of Long Beach logo put on the back of the tournament t-shirts. I usually get around 140 printed that we then sell. Combined with the Long Beach Merchant sponsorship the t-shirt order would be paid in full. And again the money made goes right back to assist our program and girls in need of assistance!

Thanks for your time and consideration!

Ned Bittner
Head girls Basketball Coach Ilwaco High School

If this is approved the check would be made to: Astoria Screen Printing

Battle at the Beach 2014

Cashmere	288 miles	3 Nights at The Breakers
Naches Valley	226 miles	3 Nights
White Salmon	173 miles	2 Nights Vacation Home
Stevenson	154 miles	2 Nights
Orting- 2 teams	150 miles	2 Nights at School
Washougal- 2 teams	122 miles	2 Nights
North Thurston	120 miles	2 Nights
Mountain View- 2 teams	112 miles	2 Nights Vacation Home
Napavine- 2 teams	108 miles	2 Nights at School
Castle Rock- 2 teams	85 miles	2 Nights
Kalama	79 miles	2 Nights
Rainier Or	68 miles	
South Bend	43 miles	
Seaside	33 miles	
Naselle	23 miles	
Astoria	19 miles	

TAB - E

in accordance with RCW
 is set aside for any reason,
 with returned without interest
 ght to purchase the property.
 ithout interest constitutes the
 gainst the Trustee and/or the
ALL PERSONS AND PAR-
TORS OF THE OBLIGA-
DEED OF TRUST: (1) The
 deficiency judgment to the
 at the Trustee's Sale is less
 ed of Trust; (2) The Guarante
 ate the debt, cure the default,
 the grantor in order to avoid
 rantor will have no right to
 trustee's Sale; (4) Subject to
 ded in the Washington Deed
 CW, any action brought to
 menced within one year
 ast Trustee's Sale under any
 he same debt; and (5) In any
 rantor will have the right to
 roperty as of the date of the
 and encumbrances, and to
 y to the difference between
 i fair value or the sale price
 us interest and costs. XII.
THE FINAL STEP BEFORE
OF YOUR HOME. You have
 g date on this notice to pur-
BUY. CONTACT A HOUSE-
ATTORNEY LICENSED IN
 your situation and refer you
 ; and it may help you save
 sources of help. SEEKING
 elors and legal assistance
 ost to you. If you would like
 rights and opportunities to
 ntact the following: The

**DEPARTMENT OF HOMELAND SECURITY
 FEDERAL EMERGENCY MANAGEMENT AGENCY
 Proposed Flood Hazard Determinations for Pacific
 County, Washington and Incorporated Areas**

The Department of Homeland Security's Federal Emergency Management Agency has issued a preliminary Flood Insurance Rate Map (FIRM), and where applicable, Flood Insurance Study (FIS) report, reflecting proposed flood hazard determinations within Pacific County, Washington and Incorporated Areas. These flood hazard determinations may include the addition or modification of Base Flood Elevations, base flood depths, Special Flood Hazard Area boundaries or zone designations, or the regulatory floodway. Technical information or comments are solicited on the proposed flood hazard determinations shown on the preliminary FIRM and/or FIS report for Pacific County, Washington and Incorporated Areas. These flood hazard determinations are the basis for the floodplain management measures that your community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. However, before these determinations are effective for floodplain management purposes, you will be provided an opportunity to appeal the proposed information. For information on the statutory 90-day period provided for appeals, as well as a complete listing of the communities affected and the locations where copies of the FIRM are available for review, please visit FEMA's website at www.fema.gov/plan/prevent/fhm/bfe, or call the FEMA Map Information eXchange (FMIX) toll free at 1-877-FEMA MAP (1-877-336-2627).

Published May 14 and May 21, 2014
 Legal No. 154-14

Advertisement for Invitation to Bid No. 2014-2
SUBSTATION TRANSFORMER

SEALED bids will be received by Public Utility District No. 2 of Pacific County, Washington at the office of the District until 10:00 A.M. PDT on Tuesday, June 17, 2014. Bids will be opened and read aloud at 1:00 p.m. at the P.U.D.



Federal Emergency Management Agency

Washington, D.C. 20472

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
APPEAL START

May 7, 2014

The Honorable Bob Andrew
Mayor, City of Long Beach
115 Bolstad Avenue West
Long Beach, Washington 98631

Case No.: 11-10-0111S
Community: City of Long Beach,
Pacific County,
Washington
Community No.: 530128

Dear Mayor Andrew:

On August 30, 2013, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) provided your community with Preliminary copies of the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for Pacific County, Washington and Incorporated Areas. FEMA has posted digital copies of these FIRM and FIS report materials to the following Website: www.fema.gov/preliminaryfloodhazarddata. The Preliminary FIRM and FIS report include proposed flood hazard information for certain locations in the City of Long Beach. The proposed flood hazard information may include addition or modification of Special Flood Hazard Areas, the areas that would be inundated by the base (1-percent-annual-chance) flood; base flood elevations or depths; zone designations; or regulatory floodways.

We have published a notice of the proposed flood hazard determinations in the *Federal Register* and will publish a public notification concerning the appeal process (explained below) in the *Chinook Observer* on or about May 14, 2014 and May 21, 2014. We will also publish a separate notice of the flood hazard determinations on the "Flood Hazard Determinations on the Web" portion of the FEMA Website (www.fema.gov/plan/prevent/flm/bfe). We have enclosed copies of the notice published in the *Federal Register* and the newspaper notice for your information.

These proposed flood hazard determinations, if finalized, will become the basis for the floodplain management measures that your community must adopt or show evidence of having in effect to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). However, before any new or modified flood hazard information is effective for floodplain management purposes, FEMA will provide community officials and citizens an opportunity to appeal the proposed flood hazard information presented on the preliminary FIRM and FIS report posted to the above-referenced Website.

Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234) is intended to ensure an equitable balancing of all interests involved in the setting of flood hazard determinations. The legislation provides for an explicit process of notification and appeals for your community and for private persons prior to this office making the flood hazard determinations final. The appeal procedure is outlined below

for your information and in the enclosed document titled *Criteria for Appeals of Flood Insurance Rate Maps*.

During the 90-day appeal period following the second publication of the public notification in the above-named newspaper, any owner or lessee of real property in your community who believes his or her property rights will be adversely affected by the proposed flood hazard determinations may appeal to you, or to an agency that you publicly designate. It is important to note, however, that the sole basis for such appeals is the possession of knowledge or information indicating that the proposed flood hazard determinations are scientifically or technically incorrect. The appeal data must be submitted to FEMA during the 90-day appeal period. Only appeals of the proposed flood hazard determinations supported by scientific or technical data can be considered before FEMA makes its final flood hazard determination at the end of the 90-day appeal period. Note that the 90-day appeal period is statutory and cannot be extended. However, FEMA also will consider comments and inquiries regarding data other than the proposed flood hazard determinations (e.g., incorrect street names, typographical errors, omissions) that are submitted during the appeal period, and will incorporate any appropriate changes to the FIRM and FIS report before they become effective.

If your community cannot submit scientific or technical data before the end of the 90-day appeal period, you may nevertheless submit data at any time. If warranted, FEMA will revise the FIRM and FIS report after the effective date. This means that the FIRM would be issued with the flood hazard information presently indicated, and flood insurance purchase requirements would be enforced accordingly, until such time as a revision could be made.

Any interested party who wishes to appeal should present the data that tend to negate or contradict our findings to you, or to an agency that you publicly delegate, in such form as you may specify. We ask that you review and consolidate any appeal data you may receive and issue a written opinion stating whether the evidence provided is sufficient to justify an official appeal by your community in its own name or on behalf of the interested parties. Whether or not your community decides to appeal, you must send copies of individual appeals and supporting data, if any, to:

STARR Region X Service Center
Attn: Katie Dopierala
20700 44th Ave W
Suite 110
Lynnwood, WA 98036

If we do not receive an appeal or other formal comment from your community in its own name within 90 days of the second date of public notification, we will consolidate and review on their own merits such appeal data and comments from individuals that you may forward to us, and we will make such modifications to the proposed flood hazard information presented on the FIRM and in the FIS report as may be appropriate. If your community decides to appeal in its own name, all individuals' appeal data must be consolidated into one appeal by you, because, in this event, we are required to deal only with the local government as representative of all local interests. We will send our final decision in writing to you, and we will send copies to the community floodplain administrator, each individual appellant, and the State NFIP Coordinator.

All appeal submittals will be resolved by consultation with officials of the local government involved, by an administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice. Use of a Scientific Resolution Panel (SRP) is also available to your community in support of the appeal resolution process when conflicting scientific or technical data are submitted during the appeal period. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. An SRP is an option after FEMA and community officials have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Please refer to the enclosed "Scientific Resolution Panels" fact sheet for additional information on this resource available to your community.

FEMA will make the reports and other information used in making the final determination available for public inspection. Until the conflict of data is resolved and the FIRM becomes effective, flood insurance available within your community will continue to be available under the effective NFIP map, and no person shall be denied the right to purchase the applicable level of insurance at chargeable rates.

The decision by your community to appeal, or a copy of its decision not to appeal, should be filed with this office no later than 90 days following the second publication of the flood hazard determination notice in the above-named newspaper. Your community may find it appropriate to call further attention to the proposed flood hazard determinations and to the appeal procedure by using a press release or other public notice.

If warranted by substantive changes, during the appeal period we will send you Revised Preliminary copies of the FIRM and FIS report. At the end of the 90-day appeal period and following the resolution of any appeals and comments, we will send you a Letter of Final Determination, which will finalize the flood hazard information presented on the FIRM and FIS report and will establish an effective date.

If you have any questions regarding the proposed flood hazard determinations, FIRM panels, or FIS report for your community, please contact Ted Perkins, FEMA Region X Engineer. Ted Perkins can be reached by telephone at (425) 487-4684 or by email at Dwight.Perkins@fema.dhs.gov.

Sincerely,



Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration

List of Enclosures:

Newspaper Notice
Proposed Flood Hazard Determinations FEDERAL REGISTER Notice
Criteria for Appeals of Flood Insurance Rate Maps
"Scientific Resolution Panels" Fact Sheet

cc: Community Map Repository
Gayle Borchard, City Planner, City of Long Beach

DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY

Proposed Flood Hazard Determinations for Pacific County, Washington and Incorporated Areas

The Department of Homeland Security's Federal Emergency Management Agency has issued a preliminary Flood Insurance Rate Map (FIRM), and where applicable, Flood Insurance Study (FIS) report, reflecting proposed flood hazard determinations within Pacific County, Washington and Incorporated Areas. These flood hazard determinations may include the addition or modification of Base Flood Elevations, base flood depths, Special Flood Hazard Area boundaries or zone designations, or the regulatory floodway. Technical information or comments are solicited on the proposed flood hazard determinations shown on the preliminary FIRM and/or FIS report for Pacific County, Washington and Incorporated Areas. These flood hazard determinations are the basis for the floodplain management measures that your community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. However, before these determinations are effective for floodplain management purposes, you will be provided an opportunity to appeal the proposed information. For information on the statutory 90-day period provided for appeals, as well as a complete listing of the communities affected and the locations where copies of the FIRM are available for review, please visit FEMA's website at www.fema.gov/plan/prevent/fhm/bfe, or call the FEMA Map Information eXchange (FMIX) toll free at 1-877-FEMA MAP (1-877-336-2627).

Community	Community Map Repository Address
Town of Burlington	Town Hall, 29 Center Street, Burlington, MA 01803.
Town of Lexington	Town Offices, 1625 Massachusetts Avenue, Lexington, MA 02420.
Town of Tewksbury	Town Hall, 1009 Main Street, Tewksbury, MA 01876.
Town of Wilmington	Town Hall, 121 Glen Road, Wilmington, MA 01887.
Sweet Grass County, Montana, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
City of Big Timber	Sweet Grass County Annex, Sweet Grass County Planning Office, 515 Hooper Street, Big Timber, MT 59011.
Unincorporated Areas of Sweet Grass County	Sweet Grass County Annex, Sweet Grass County Planning Office, 515 Hooper Street, Big Timber, MT 59011.
Greene County, New York (All Jurisdictions)	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Town of Hunter	Hunter Town Hall, 5748 State Route 23A, Tannersville, NY 12485.
Town of Jewett	Municipal Building, 3547 County Route 23C, Jewett, NY 12444.
Town of Lexington	Municipal Building, 3542 State Route 42, Lexington, NY 12542.
Village of Hunter	Village Hall, 7955 Main Street, Hunter, NY 12442.
Village of Tannersville	Village Hall, 1 Park Lane, Tannersville, NY 12485.
Sullivan County, New York (All Jurisdictions)	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Town of Neversink	Neversick Town Hall, 273 Main Street, Grahamsville, NY 12740.
Ulster County, New York (All Jurisdictions)	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Town of Denning	Denning Town Clerk's Office, 1567 Denning Road, Claryville, NY 12725.
Town of Hardenburgh	Hardenburgh Town Hall, 51 Rider Hollow Road, Arkville, NY 12406.
Town of Hurley	Town Hall, 10 Wamsley Place, Hurley, NY 12443.
Town of Marletown	Marletown Town Hall, 3775 Main Street, Stone Ridge, NY 12484.
Town of Olive	Olive Town Hall, 45 Watson Hollow Road, West Shokan, NY 12494.
Town of Shandaken	Town Hall, 7209 Route 28, Shandaken, NY 12480.
Town of Wawarsing	Wawarsing Town Assessor's Office and Building Department, 108 Canal Street, Ellenville, NY 12428.
Town of Woodstock	Town Clerk's Office, 45 Comeau Drive, Woodstock, NY 12498.
Pittsburg County, Oklahoma, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
Town of Kiowa	City Hall, 813 South Harrison Street, Kiowa, OK 74553.
Unincorporated Areas of Pittsburg County	Pittsburg County Courthouse, 115 East Carl Albert Parkway, McAlester, OK 74501.
Davidson County, Tennessee, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
City of Belle Meade	City Hall, 4705 Harding Road, Nashville, TN 37205.
City of Berry Hill	
City of Forest Hills	City Hall, 6300 Hillsboro Road, Nashville, TN 37215.
City of Goodlettsville	City Hall, 105 South Main Street, Goodlettsville, TN 37072.
City of Nashville & Davidson County	Metro Nashville Public Works Department, 720 South Fifth Street, Nashville, TN 37206.
City of Oak Hill	City Hall, 5548 Franklin Pike, Suite 101, Nashville, TN 37220.
City of Portsmouth, Virginia (Independent City)	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	
City of Portsmouth	Department of Planning, City Hall Building, 801 Crawford Street, 4th Floor, Portsmouth, VA 23704.
Pacific County, Washington, and Incorporated Areas	
Maps Available for Inspection Online at: http://www.fema.gov/preliminaryfloodhazarddata	

Community	Community Map Repository Address
City of Ilwaco	City Hall, 120 1st Avenue North, Ilwaco, WA 98624.
City of Long Beach	City Hall, 115 Bolstad Avenue West, Long Beach, WA 98631.
City of Raymond	City Hall, 230 2nd Street, Raymond, WA 98577.
City of South Bend	City Hall, 1102 West 1st Street, South Bend, WA 98586.
Shoalwater Bay Indian Tribe	Tribal Center, 2373 Old Tokeland Road, Tokeland, WA 98590.
Unincorporated Areas of Pacific County	Emergency Management Office, 300 Memorial Drive, South Bend, WA 98586.

II. Watershed-based studies:

Community	Community Map Repository Address
Upper Grand Watershed	

Maps Available for Inspection Online at: <http://www.fema.gov/preliminaryfloodhazarddata>

Caldwell County, Missouri, and Incorporated Areas

City of Braymer	City Hall, 108 East 2nd Street, Braymer, MO 64624.
City of Kingston	City Hall, 30 West Main Street, Kingston, MO 64650.
Unincorporated Areas of Caldwell County	County Courthouse, 49 East Main Street, Kingston, MO 64650.

Daviess County, Missouri, and Incorporated Areas

City of Gallatin	City Hall, 112 East Grand Street, Gallatin, MO 64650.
Town of Lock Springs	Lock Springs Town Hall, 200 Lake Street, Jameson, MO 64648.
Unincorporated Areas of Daviess County	County Courthouse, 102 North Main Street, Gallatin, MO 64640.
Village of Jameson	Village Hall, 201 Main Street, Jameson, MO 64647.

Gentry County, Missouri, and Incorporated Areas

City of Albany	City Hall, 106 East Clay Street, Albany, MO 64402.
City of Stanberry	City Hall, 130 West 1st Street, Stanberry, MO 64489.
Unincorporated Areas of Gentry County	County Courthouse, 200 West Clay Street, Albany, MO 64402.
Village of Darlington	Village Hall, 209 Mill Street, Darlington, MO 64438.
Village of Gentry	Gentry County Courthouse, 200 West Clay Street, Albany, MO 64402.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 14, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014-09450 Filed 4-24-14; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5750-N-17]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT:

Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402-3970; TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800-927-7588.

SUPPLEMENTARY INFORMATION:

In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 17, 2014.

Mark Johnson,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2014-09176 Filed 4-24-14; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2014-N067;

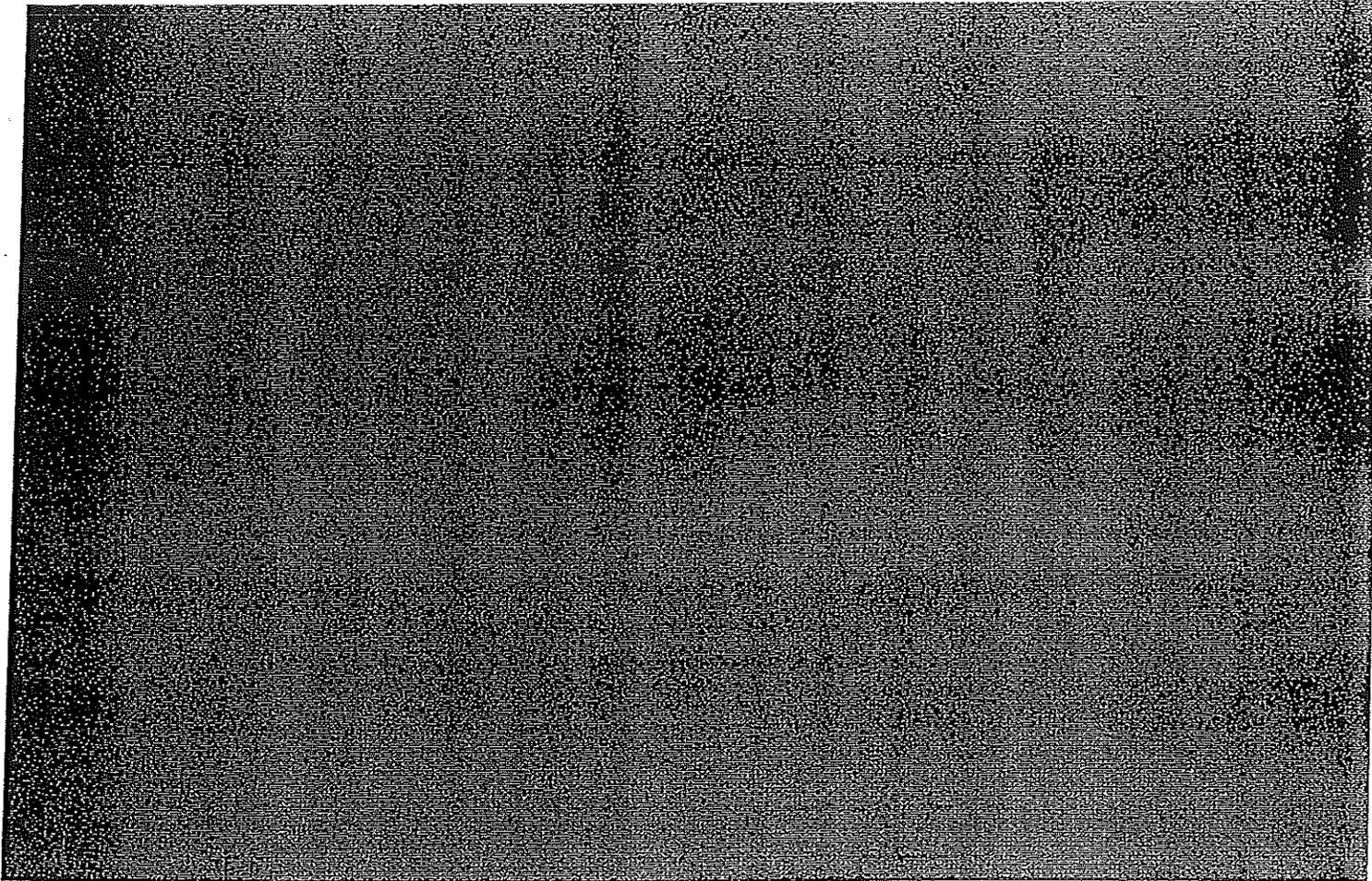
FXES11120800000-145-FF08EVEN00]

Receipt of Application for Renewal of Incidental Take Permit; Collado Drive Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit renewal application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Collado Homes, LLC (applicant), for a renewal of incidental take permit TE179280-1 under the Endangered Species Act of 1973, as amended (Act). The applicant



Criteria for Appeals of Flood Insurance Rate Maps

November 30, 2011



FEMA

This document outlines the criteria for appealing proposed changes in flood hazard information on Flood Insurance Rate Maps (FIRMs) during the appeal period. The Department of Homeland Security's Federal Emergency Management Agency (FEMA) applies rigorous standards in developing and updating flood hazard information and provides communities with an opportunity to review the updated flood hazard information presented on new or revised FIRMs before they become final.

1. Background

The regulatory requirements related to appeals are found in Part 67 of the National Flood Insurance Program (NFIP) regulations. Additional FEMA procedural details are provided in Procedure Memorandum No. 57, *Expanded Appeals Process*, dated November 30, 2011. Detailed information on appeals can also be found in *Appeals, Revisions, and Amendments to National Flood Insurance Program Maps—A Guide for Community Officials* and FEMA's *Document Control Procedures Manual*. All referenced documents are accessible through the "Guidance Documents and Other Published Resources" webpage, located at: http://www.fema.gov/plan/prevent/fhm/firm_docs.shtm.

As outlined in these documents, an appeal period is provided for all new or modified flood hazard information shown on a FIRM, including additions or modifications of any Base (1-percent-annual-chance) Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway. SFHAs are areas subject to inundation by the base (1-percent-annual-chance) flood and include the following SFHA zone designations: A, AO, AH, A1-A30, AE, A99, AR, AR/A1-A30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-V30, VE, and V. Therefore, a statutory 90-day appeal period is required when a flood study, Physical Map Revision (PMR), or Letter of Map Revision (LOMR) is proposed in which:

- New BFEs or base flood depths are proposed or currently effective BFEs or base flood depths are modified;
- New SFHAs are proposed or the boundaries of currently effective SFHAs are modified;
- New SFHA zone designations are proposed or currently effective SFHA zone designations are modified; and
- New regulatory floodways are proposed or the boundaries of currently effective floodways are modified.

Clarification on the necessity for an appeal period is provided for certain specific circumstances outlined below:

- Edge matching of effective floodplain boundaries or information. This usually occurs in first-time countywide flood mapping projects when effective BFEs, base flood depths,

SFHAs, or floodways are extended to an adjacent community that previously had differing or no BFEs, base flood depths, SFHAs, or floodways shown on their effective FIRM in order to fix a map panel to map panel mismatch. In these instances, an **appeal period is required** because BFEs, base flood depths, SFHAs, or floodways are changing or being shown for the first time in the area.

- Redelineation of effective floodplain boundaries. This occurs when an effective SFHA boundary is redrawn on the FIRM using new or updated topography to more accurately represent the risk of flooding. In these instances **an appeal period is required** because the SFHA boundary is changing. However, the appeal period will only apply to the updated SFHA boundary delineations, not the methodology used to originally establish BFEs/flood depths (since this will not have changed).
- Revisions to SFHA zone designations. A revision to an SFHA zone designation may occur with or without a BFE and/or boundary change. For example, when a Zone VE floodplain is changed to a Zone AE designation to reflect the updated location of a Primary Frontal Dune (PFD), the BFE and SFHA boundary may not necessarily change. For any change in SFHA zone designation, including the *removal* of an SFHA designation from a FIRM, **an appeal period is required.**
- Regulatory floodway boundaries. When the effective floodway boundary is redrawn on the FIRM to more accurately represent the extent of the encroachment, **an appeal period is required.**
- MT-1 cases. When the SFHA or floodway boundary is amended due to the issuance of a Letter of Map Amendment (LOMA), Letter of Map Revision based on Fill (LOMR-F), Letter of Map Revision – Floodway, or other MT-1 case, **an appeal period is not required.**
- Annexation of effective floodplain boundaries. When a new or revised FIRM shows new community boundaries which include effective BFEs, base flood depths, SFHAs, or floodways, **an appeal period is not required**, provided no BFE, base flood depth, SFHA, or floodway changes apply.

However, in cases where the flood hazard information in the annexed area has never received due process (for example, if the area is shown for information only on all FIRMs depicting the area), **an appeal period is required.**

- Reissuance of effective LOMRs: When a LOMR is reissued after not being incorporated into a revised FIRM, **an appeal period is not required.**

- Updates that do not impact flood hazard data: When flood studies, PMRs, or LOMRs result in changes to FIRMs that do not impact BFEs, base flood depths, SFHAs, or floodways, an appeal period is not required.
- Datum Conversions: An appeal period is not required specifically for a datum conversion (e.g., a conversion from NGVD 29 to NAVD 88).

1.1. Additional Procedures for LOMRs

Beginning with LOMRs issued on or after December 1, 2011, the following procedures will apply:

In order to provide sufficient due process rights for changes due to LOMRs, any LOMR in a compliant community that requires an appeal period will become effective 120 days from the second newspaper publication date, following FEMA's current policy. This allows time to collect appeals, as well as provides for newspaper publication schedule conflicts. LOMRs in non-compliant communities or in communities that require adoption of the LOMR will become effective following the six month compliance period.

Evidence of public notice or property owner notification of the changes due to a LOMR will continue to be requested during the review of the LOMR request. This will help to ensure that the affected population is aware of the flood hazard changes in the area and the resultant LOMR. However, evidence of property owner acceptance of the changes due to a LOMR will no longer be requested. Because all LOMRs that require an appeal period will become effective 120 days from the second newspaper publication date, the receipt of such acceptance will have no effect on the effective date of the LOMR; therefore, there is no need for the requester to pursue acceptance.

2. Appeal Eligibility Requirements

Areas that are eligible for appeal include:

- Areas showing new or revised BFEs or base flood depths
- Areas showing new or revised SFHA boundaries (including both increases and decreases in the extent of the SFHA)
- Areas where there is a change in SFHA zone designation
- Areas showing new or revised regulatory floodway boundaries (including both increases and decreases in the extent of the regulatory floodway).

The area of concern must be within the scope of the new or modified BFEs, base flood depths, SFHA boundaries, SFHA zone designations, and/or regulatory floodway boundary changes and

be supported by scientific and/or technical data. The criteria for data submittals are outlined in Title 44, Chapter 1, Code of Federal Regulations, Section 67.6(b) and in this document.

The statutory 90-day appeal period cannot be extended. FEMA may provide an additional 30 days for a community after the 90-day appeal period has ended to submit supporting and clarifying data for an appeal received during the appeal period. No appeals will be accepted after the 90-day appeal period.

Challenges that do not relate to new or modified BFEs, base flood depths, SFHA boundaries, SFHA zone designations, or floodways are not considered appeals. Challenges received by FEMA during the appeal period that do not address these items will be considered comments. Comments include, but are not limited to the following:

- The impacts of changes that have occurred in the floodplain that should have previously been submitted to FEMA in accordance with 44 Code of Federal Regulations, Section 65.3;
- Corporate limit revisions;
- Road name errors and revisions;
- Requests that changes effected by a LOMA, LOMR-F, or LOMR be incorporated;
- Base map errors; and
- Other possible omissions or potential improvements to the mapping.

Any significant problems identified by community officials or residents (at formal meetings or otherwise) will be addressed appropriately.

3. Supporting Data and Documentation Required for Appeals

The BFEs and base flood depths presented in Flood Insurance Study (FIS) reports and shown on FIRMs are typically the result of coastal, hydrologic and hydraulic engineering methodologies. Floodway configurations, generally developed as part of the hydraulic analyses, are adopted by communities as a regulatory tool for floodplain management and are delineated on FIRMs along with SFHAs.

Because numerous methodologies have been developed for estimating flood discharges and flood elevations/depths, and other flood hazard information under a variety of conditions, FEMA contractors, mapping partners, and others whose data and documentation FEMA approves and uses, such as communities, regional entities and State agencies participating in the Cooperating Technical Partners (CTP) Program, use their professional judgment in selecting methodologies that are appropriate for the conditions along a particular segment of a particular flooding source.

For FEMA contracted flood studies and PMRs the approach to be used will usually be discussed with community officials at the beginning of the flood study or PMR mapping process.

Because the methodologies are the result of attempts to reduce complex physical processes to mathematical models, the methodologies include simplifying assumptions. Usually, the methodologies are used with data developed specifically for the flood study, PMR, or LOMR. Therefore, the results of the methodologies are affected by the amount of data collected and the precision of any measurements made.

Because of the judgments and assumptions that must be made and the limits imposed by cost considerations, the correctness of the BFEs, base flood depths and other flood hazard information is often a matter of degree, rather than absolute. For that reason, appellants who contend that the BFEs, base flood depths, or other flood hazard information is incorrect because better methodologies could have been used, better assumptions could have been made, or better data could have been used, must provide alternative analyses that incorporate such methodologies, assumptions, or data and that quantify their effect on the BFEs, base flood depths or other flood hazard information. FEMA will review the alternative analyses and determine whether they are superior to those used for the flood study, PMR, or LOMR and whether changes to the FIS report and/or FIRM, or LOMR are warranted as a result.

Unless appeals are based on indisputable mathematical or measurement errors or the effects of natural physical changes that have occurred in the floodplain, they must be accompanied by all data that FEMA needs to revise the preliminary version of the FIS report and FIRMs. Therefore, appellants should be prepared to perform coastal, hydrologic and hydraulic analyses, to plot new and/or revised Flood Profiles, and to delineate revised SFHA zone and regulatory floodway boundaries as necessary.

An appeal must be based on data that show the new or modified BFEs, base flood depths, SFHA boundaries, SFHA zone designations, or floodways to be scientifically or technically incorrect. All analyses and data submitted by appellants must be certified by a Registered Professional Engineer or Licensed Land Surveyor, as appropriate. The data and documentation that must be submitted in support of the various types of appeals are discussed in the subsections that follow.

3.1. Appealing BFEs, Base Flood Depths, SFHA Zone Designations, or Regulatory Floodways

Scientifically incorrect BFEs, base flood depths, SFHA zone designations, or regulatory floodways:

Proposed BFEs, base flood depths, SFHA zone designations, or regulatory floodways are said to be scientifically incorrect if the methodology used in the determination of the BFEs,

base flood depths, SFHA zone designations, or regulatory floodways is inappropriate or incorrect, or if the assumptions made as part of the methodology are inappropriate or incorrect. An appeal that is based on the proposed BFEs, base flood depths, SFHA zone designations, or regulatory floodways being scientifically incorrect would, therefore, contend that the use of a different methodology or different assumptions would produce more accurate results. A list of National Flood Insurance Program-accepted hydrologic, hydraulic and coastal models is available on FEMA's website at http://www.fema.gov/plan/prevent/fhm/en_modl.shtm. To show that an inappropriate or incorrect coastal, hydraulic or hydrologic methodology has been used, an appellant must submit the following data, as applicable:

- New hydrologic analysis based on alternative methodology and if applicable, updated hydraulic/floodway or coastal analyses based on the updated discharge values;
- New hydraulic/floodway analysis based on alternative methodology and original flood discharge values (if the appeal does not involve the hydrologic analysis);
- New coastal analyses based on alternative methodology and original stillwater elevations (if the appeal does not involve the hydrologic analysis);
- Explanation for superiority of alternative methodology;
- As applicable, revised Summary of Discharges Table, Flood Profiles, Transect Data Table, Summary of Stillwater Elevations Table, and Floodway Data Table (FDT); and
- Revised SFHA zone boundaries and, if applicable, regulatory floodway boundary delineations.

Technically Incorrect BFEs, Base Flood Depths, SFHA Zone Designations, or Regulatory Floodways:

The proposed BFEs, base flood depths, SFHA zone designation or regulatory floodways are said to be technically incorrect if at least one of the following is true.

- **The methodology was not applied correctly.**
 - To show that a hydrologic methodology was not applied correctly, an appellant must submit the following:
 - New hydrologic analysis in which the original methodology has been applied differently;
 - Explanation for superiority of new application;
 - New hydraulic/floodway or coastal analysis based on flood discharge values from new hydrologic analysis;

- Revised Summary of Discharges Table and/or Flood Profiles and, if applicable, FDT; and
 - Revised SFHA zone boundary and, if applicable, regulatory floodway boundary delineations.
- To show that a hydraulic methodology was not applied correctly, an appellant must submit the following information. *(Please note that an appeal to a floodway configuration cannot be solely based on surcharge values.)*
 - New hydraulic/floodway analysis, based on original flood discharge values, in which the original methodology has been applied differently;
 - As applicable, revised Flood Profiles, FDT and other FIS report tables as needed; and
 - Revised SFHA zone boundary and, if applicable, regulatory floodway boundary delineations.
- To show that a coastal methodology was not applied correctly, an appellant must submit the following:
 - New coastal analysis, based on the original stillwater elevations, in which the original methodology has been applied differently;
 - Revised SFHA zone boundary and, all applicable FIS report tables, including the Transect Data Table.
- **The methodology was based on insufficient or poor-quality data.**
 - To show that insufficient or poor-quality hydrologic data were used, an appellant must submit the following:
 - Data believed to be better than those used in original hydrologic analysis;
 - Documentation for source of data;
 - Explanation for improvement resulting from use of new data;
 - New hydrologic analysis based on better data;
 - New hydraulic/floodway or coastal analysis based on flood discharge values resulting from new hydrologic analysis;
 - Revised Summary of Discharges Table, Flood Profiles and, if applicable, FDT; and
 - Revised SFHA zone boundary and, if applicable, regulatory floodway boundary delineations.
 - To show that insufficient or poor-quality hydraulic data were used, an appellant must submit the following:

- Data believed to be better than those used in original hydraulic analysis;
 - Documentation for source of new data;
 - Explanation for improvement resulting from use of new data;
 - New hydraulic analysis based on better data and original flood discharge values;
 - Revised Flood Profiles and, if applicable, FDT; and
 - Revised SFHA zone boundary and, if applicable, regulatory floodway boundary delineations.
- To show that insufficient or poor-quality coastal analysis data were used, an appellant must submit the following:
 - Data believed to be better than those used in original coastal analysis;
 - Documentation for source of new data;
 - Explanation for improvement resulting from use of new data;
 - New coastal analysis based on better data and original stillwater elevation values; and
 - Revised SFHA zone boundary and, all applicable FIS report tables, including the Transect Data Table.
- **The application of the methodology included indisputable mathematical or measurement errors.**
 - To show that a mathematical error was made, an appellant must identify the error. FEMA will perform any required calculations and make the necessary changes to the FIS report and FIRM.
 - To show that a measurement error (e.g., an incorrect surveyed elevation used in the flood study, PMR, or LOMR) was made, appellants must identify the error and provide the correct measurement. Any new survey data provided must be certified by a Registered Professional Engineer or Licensed Land Surveyor. FEMA will perform any required calculations and make the necessary changes to the FIS report and FIRM.
 - **The methodology did not account for the effects of natural physical changes that have occurred in the floodplain.**
 - For appeals based on the effects of natural physical changes that have occurred in the base floodplain, appellants must identify the changes that have occurred and provide the data FEMA needs to perform a revised analysis. The data may include new stream channel and floodplain cross sections or coastal transects.

3.2. Appeals to SFHA Boundaries

The supporting data required for changes to SFHA zone boundaries will vary, depending on whether the boundaries are for flooding sources studied by detailed methods or flooding sources studied by approximate methods, as discussed below.

Flooding sources studied by detailed methods

Usually, detailed SFHA zone boundaries are delineated using topographic data and the BFEs and base flood depths resulting from the hydraulic analysis performed for the flood study, PMR, or LOMR. If topographic data are more detailed than those used by FEMA or show more recent topographic conditions, appellants should submit that data and the revised SFHA zone boundaries for FEMA to incorporate into the affected map panels. All maps and other supporting data submitted must be certified by a Registered Professional Engineer or a Licensed Land Surveyor and must reflect existing conditions. Maps or data prepared by an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, U.S. Bureau of Reclamation, or a State department of highways and transportation, are acceptable without certification as long as the sources and dates of the maps are identified. For further information on submittals involving topographic data, please refer to the section below *Additional Guidance on Appeal Submittals Involving Topographic Data*.

Flooding Sources Studied by Approximate Methods

Usually, where BFEs or base flood depths are not available, flood zone boundaries are delineated with the best available data, including flood maps published by other Federal agencies, information on past floods, and simplified hydrologic and hydraulic analyses. If more detailed data or analyses are submitted, FEMA will use them to update the flood hazard information shown on the affected map panels. Such data and analyses may include the following:

- Published flood maps that are more recent or more detailed than those used by FEMA;
- Analyses that are more detailed than those performed by FEMA or that are based on more detailed data than those used by FEMA;
- Topographic data and resulting updated SFHA boundaries.

For further information on submittals involving topographic data, please refer to the section below *Additional Guidance on Appeal Submittals Involving Topographic Data*.

Please note that, when applicable, appeals related to the *methodology* used to develop an approximate flood zone boundary must follow the guidelines established for appeals to BFEs, base flood depths, SFHA zone designations, or regulatory floodways under Section 3.1 above. However, since flood profiles, FDTs, Summary of Discharges Tables, Transect

Data Tables, and Summary of Stillwater Elevations Tables are not developed in support of approximate floodplain boundaries, these data will not need to be submitted for appeals to flooding sources studied by approximate methods.

All submitted data and analyses must be certified by a Registered Professional Engineer or a Licensed Land Surveyor. Maps prepared by an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, U.S. Bureau of Reclamation, or a State department of highways and transportation, are acceptable without certification as long as the sources and dates of the maps are identified.

Additional Guidance on Appeal Submittals Involving Topographic Data

For appeal submittals that involve topographic data, the following additional guidelines must be followed:

- The data must be more detailed/accurate, and/or reflect more recent topographic conditions, and be in a digital Geographic Information System (GIS) format preferably;
- The appeal submittal must clearly state which flooding sources are being appealed based on the updated topographic data;
- Updated SFHA boundary delineations that reflect the submitted topographic data for each appealed flooding source must also be provided, preferably in digital GIS format;
- All topographic data submitted must adhere to FEMA's current data capture standards for such data;
- If necessary, a data sharing agreement must be provided.

4. Appeal Period Procedures

Appeals and comments must be resolved by following the procedures below:

- Acknowledgement by FEMA of the receipt of an appeal in writing, ensuring that acknowledged appeals include ALL of the criteria discussed above.
- Acknowledge the receipt of comments. This can be done either in writing, by FEMA, or through a documented phone conversation between the mapping partner and the community that submitted the comments. At a minimum FEMA must notify the community in writing that it did not receive any appeals. This can be done by separate correspondence or by the inclusion of language in the Letter of Final Determination (LFD).

- FEMA or the mapping partner will evaluate any scientific or technical data submitted for compliance with existing mapping statutes, regulations, or Guidelines and Standards.
- FEMA or the mapping partner will request any additional scientific or technical data required to properly review the appeal or comment.
- FEMA or the mapping partner will make a recommendation to FEMA on the resolution of the appeal or comment.
- FEMA or the mapping partner will prepare a draft appeal resolution letter (if all the criteria for an appeal are met).
- The assigned mapping partner shall dispatch the signed FEMA appeal resolution letter and if warranted, Revised Preliminary copies of the FIRM and FIS report to the community CEO and floodplain administrator and all appellants. All correspondence must be prepared and issued on FEMA Headquarters or FEMA Regional letterhead.
- FEMA provides a comment period of 30 days following the date the appeal or comment resolution letter is issued. Any comments received during the 30 day comment period must be addressed and resolved before proceeding with the LFD. Extensions to this 30 day period can only be granted with FEMA Headquarters approval.

5. General Technical Guidance

Detailed guidance on the supporting documentation that must be submitted in support of an appeal can be found in *Appeals, Revisions, and Amendments to National Flood Insurance Program Maps—A Guide for Community Officials*.

Unless appeals are based on the use of alternative models or methodologies, the hydrologic and hydraulic analyses that appellants submit must be performed with the models used for the flood study, PMR, or LOMR. Generally, when appellants are required to submit hydrologic or hydraulic analyses, those analyses must be performed for the same recurrence interval floods as those performed for the flood study, PMR, or LOMR. The vertical datum used in any data submitted must match the datum used in the preliminary FIS report and FIRM. Further, SFHA boundaries are to be shown on a topographic map (preferably, in digital form) whose scale and contour interval are sufficient to provide reasonable accuracy.

New flooding information cannot be added to a FIRM in such a way as to create mismatches with the flooding information shown for unrevised areas. Therefore, in performing new analyses and developing revised flooding information, appellants must tie the new BFEs, base flood

depths, SFHA boundaries, SFHA zone designations, and/or regulatory floodway boundaries into those shown on the maps for areas not affected by the appeal.

All analyses and data submitted by appellants, including those that show mathematical or measurement errors must be certified by a Registered Professional Engineer or Licensed Land Surveyor, as appropriate.

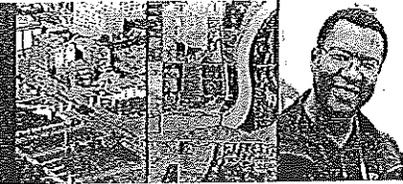
6. Scientific Resolution Panel (SRP)

FEMA's Scientific Resolution Panel (SRP) process reinforces FEMA's commitment to work with communities to ensure the flood hazard data depicted on FIRMs is built collaboratively using the best science available.

When changes to the FIRMs are met with conflicting technical and scientific data, an independent third party review of the information may be needed to ensure the FIRMs are updated correctly. The SRP serves as the independent third party. To be eligible for an SRP, an appeal must include supporting information or data to substantiate that the BFEs, base flood depths, SFHA boundaries, SFHA zone designations, or floodways proposed by FEMA are scientifically or technically incorrect. An SRP request is an option only after FEMA and a local community have been engaged in a collaborative consultation process for at least 60 days without a mutually-acceptable resolution of an appeal.



FEMA



Scientific Resolution Panels

FEMA's Scientific Resolution Panel (SRP) process reinforces FEMA's commitment to work with communities to ensure the flood hazard data depicted on Flood Insurance Rate Maps (FIRMs) is built collaboratively using the best science available. Flood hazards are constantly changing, and as such, FEMA regularly updates FIRMs through several methods to reflect those changes. When changes to the FIRMs are met with conflicting technical and scientific data, an independent third party review of the information may be needed to ensure the FIRMs are updated correctly. The Scientific Resolution Panel serves as the independent third party.

Who can request an SRP?

A community, Tribe or political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction can request FEMA use the SRP when conflicting data are presented. Chief Executive Officers or authorized community representatives must make or endorse the SRP request if they did not develop or propose the conflicting technical data.

When can communities request an SRP?

A community can request an SRP if it has:

- Not received a Letter of Final Determination (LFD);
- Submitted an appeal during the 90-day appeal period with scientific or technical data resulting in different flood hazards than those proposed by FEMA;
- Allowed at least 60 days of community consultation with FEMA (but no more than 120 days).

Additionally, a community that has received a FEMA-issued appeal resolution letter and has not exercised the SRP process will have 30 days from the issuance of the letter to request an SRP.

Independent Panel Sponsor

The SRP process is managed by the National Institute of Building Sciences (NIBS), a non-profit organization independent from FEMA. NIBS will act as the Panel Sponsor, coordinating the SRPs, ensuring that proper regulations and procedures are employed and maintaining a cadre of experts from which Panel members are selected.

Panel Member Selection

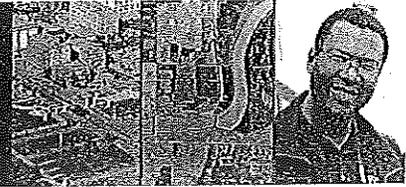
For each appeal, an SRP (or Panel) of three or five members will be convened. Panel members are technical experts in surface water hydrology, hydraulics, coastal engineering, and other engineering and scientific fields that relate to the creation of Flood Hazard Maps and Flood Insurance Studies throughout the United States.

Based on the technical specifications of the appeal, NIBS will develop a list of potential panel members with relevant expertise from its cadre of experts. NIBS will ensure that there is no conflict of interest amongst the panel members. NIBS will confirm that members do not reside in the state from which the appeal is taken and have no personal or professional interest in its findings of the appeal.

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NIBS will provide the list of eligible panel members to the community and FEMA. The community selects the majority (in the case of a five-member Panel, the community selects three), and FEMA selects the minority (in the case of a five-member Panel, FEMA selects two).

The Process

To request an SRP, the Chief Executive Officer of a community or authorized representative completes an SRP Request Form and submits it to FEMA during the time periods outlined above.

Once FEMA confirms the appeal is eligible for an SRP, FEMA will forward the SRP Request form to NIBS to initiate the Panel selection process and develop a list of potential members.

Once the Panel is convened, Panel members will be provided with a summary of the issue, FEMA's data, and the data the community submitted during the 90-day appeal period. Panel members will review the data and, on a point-by-point basis, deliberate and make a decision based on the scientific and technical challenges of the appeal.

If the community feels it is necessary to make an oral presentation in support of its appeal, it must include a justification on the SRP Request Form.

Resolution

The Panel will render a written recommendation to FEMA, based on the scientific and technical data submitted by the community and FEMA. The recommendation may either deny the community's data or incorporate it in part or in whole into the FIRM. For an appeal to be incorporated, the community's data must satisfy the NFIP standards for flood hazard mapping.

The Panel will present a written report with its decision and rationale to FEMA and the community no later than 150 days after being convened. The SRP's decision will become the recommendation provided to the FEMA Administrator. Once a final determination has been made, FEMA will issue a resolution letter. If changes to the maps are made, FEMA will incorporate the changes into revised preliminary FIRM panels and Flood Insurance Study. These changes will be made available to the community with a resolution letter for review prior to the issuance of an LFD.

Once a determination is made and a resolution letter is issued, the community will not be able to re-submit an appeal of the proposed flood hazard information nor request an SRP again. If the community is not satisfied with the recommendation of the Panel or the determination of the FEMA Administrator, it may appeal to the appropriate United States District Court, as outlined in Section 67.12 of the National Flood Insurance Program (NFIP) regulations.

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For Council's Information

**CITY OF ILWACO
ORDINANCE NO. 826**

AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, PROVIDING FOR REGULATIONS REGARDING WATV AND ORV USE WITHIN THE CITY LIMITS.

WHEREAS, pursuant to the provisions of RCW 35A.11.020 the City Council of Ilwaco (hereinafter sometimes referred to as the "Council"), has the care of City property and the management of City funds and business and responsibility for City property and recreation areas; and

WHEREAS, pursuant to the provisions of RCW chapter 46.09 & House Bill 1631, a Washington state city may adopt an ordinance either allowing or prohibiting operation of, Wheeled All-Terrain Vehicles and Off-Road Vehicles within the city on segments of state highways and non-highway roads and on public land within the city.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ILWACO, WASHINGTON, DOES ORDAIN AS FOLLOWS:

SECTION 1. Definitions

- A. "Emergency management" means the carrying out of emergency functions related to responding and recovering from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress.
- B. "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.
- C. "Land owned or controlled by the City" means any land owned by the City of Ilwaco, or any land controlled by easement, lease, license, right-of-entry, or other written agreement giving the City use of the subject property.
- D. "Non-highway road" means any road owned or managed by a public agency, a primitive road, or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.
- E. "Off-road vehicle" or "ORV" means a non-street registered vehicle when used for recreational purposes on non-highway roads, trails, or a variety of other natural terrain. "Off-road vehicle" or "ORV" includes, but is not limited to, all-terrain

vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.

- F. "Wheeled all-terrain vehicle" (WATV) means (a) any motorized non-highway vehicle with handlebars that is fifty inches or less in width, has a seat height of at least twenty inches, weighs less than one thousand five hundred pounds, and has four tires having a diameter of thirty inches or less, or (b) a utility-type vehicle designed for and capable of travel over designated roads that travels on four or more low-pressure tires of twenty psi or less, has a maximum width less than seventy-four inches, has a maximum weight less than two thousand pounds, has a wheelbase of one hundred ten inches or less, and satisfies at least one of the following: (i) Has a minimum width of fifty inches; (ii) has a minimum weight of at least nine hundred pounds; or (iii) has a wheelbase of over sixty-one inches.

SECTION 2. Operating a WATV/ORV on City of Ilwaco Roads/Streets

- A. It shall be unlawful for a person to operate an off road vehicle (ORV) on any highway or non- highway road in the City of Ilwaco or any land owned or controlled by the City of Ilwaco.
- B. It shall be unlawful for any person to operate a wheeled all-terrain vehicle (WATV) on any highway, non-highway road, or any land owned or controlled by the City of Ilwaco.
- C. This ordinance shall not apply to the use of a WATV/ORV when operated for emergency management or law enforcement purposes. The ordinance shall also not apply to use of a WATV/ORV when operated as farming, construction, or logging equipment, and such operation is exempt or eligible for rebate under RCW chapter 82.38.

SECTION 3. Penalties for Violation of this Ordinance

Unless stated otherwise, violation of any section of this ordinance is a traffic infraction, punishable as per state law. The parent or legal guardian of a minor who knowingly allows the minor to operate a WATV/ORV in violation of this ordinance is guilty of an infraction, punishable as per state law.

SECTION 4. Effective Date

This ordinance shall become effective from and after its passage by the Council, approval by the Mayor, and five days after publication as required by law.

SECTION 5. Severability

Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such

Ordinance 826

decision or pre-emption shall not affect the validity of the remaining portion of this ordinance or its application to other persons or circumstances.

PASSED BY THE CITY COUNCIL OF THE CITY OF ILWACO, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 28TH DAY OF APRIL, 2014

Mike Cassinelli, Mayor

ATTEST:

Elaine McMillan, Treasurer

VOTE	Jensen	Mulinix	Marshall	Chambreau	Forner	Cassinelli
Ayes	x	x	x	x	x	
Nays						
Abstentions						
Absent						

PUBLISHED: May7, 2014

EFFECTIVE: May 12, 2014

