Item No. 9(a)
March 17, 2014

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Public hearing on proposed Ordinance No. 6150 extending interim zoning controls, adopted by Ordinance No. 6133 B-1, regulating recreational marijuana uses.

FISCAL IMPACT

The fiscal impact of extending Ordinance No. 6133 B-1 for an additional six-month period is anticipated to be minimal. Due to the small number of permits expected, current budget authority will be able to address any unanticipated incremental cost increase. At this time, no material costs are expected.

STAFF CONTACTS

Lori Riordan, City Attorney *City Attorney's Office*	452-7220
Carol Helland, Land Use Division Director	452-2724
Catherine A. Drews, Legal Planner *Development Services Department*	452-6134

POLICY CONSIDERATION

An interim zoning ordinance (Ordinance No. 6133 B-1) regulating recreational marijuana is in effect and will expire by its terms on April 21, 2014. The policy issue posed is whether the City Council should extend the interim zoning ordinance for another six-month period by adopting the proposed ordinance, which is included as Attachment C to this memorandum?

DIRECTION NEEDED FROM COUNCIL

X Action
X Discussion
____ Information

BACKGROUND

Procedural Background. At the November 6, 2012, General Election, Washington voters approved Initiative 502 (I-502) legalizing the possession of limited amounts of marijuana. I-502 became effective on December 6, 2012, and is codified into Chapter 69.50 RCW, the state Uniformed Controlled Substances Act. The Washington State Liquor Control Board ("LCB") is the agency tasked with developing and implementing regulations for recreational marijuana producers, processors, and retailers. The LCB published draft rules in the fall of 2013.

At the July 15, 2013 Study Session, staff sought and received direction to develop recommendations for an emergency interim zoning ordinance implementing land use regulations for recreational marijuana producers, processors, and retailers. Based on the LCB's schedule, there was insufficient time for the City to pursue enactment of permanent zoning regulations using the process generally employed under the Land Use Code of delegating consideration of proposed zoning to the Planning Commission for a public hearing and

subsequent recommendation to Council. Instead of this process, the City used the emergency ordinance and interim zoning control processes allowed under the Growth Management Act ("GMA").

On October 7, 2013, staff presented recommendations to Council in preparation for adoption of an emergency ordinance implementing an interim zoning control. In response to the draft rules and to ensure that the City had appropriate zoning established for recreational marijuana uses, on October 21, 2013, the City Council adopted Ordinance No. 6133 B-1, a copy of which is included as Attachment A. This ordinance implemented an emergency interim zoning control regulating the location of recreational marijuana uses and providing performance standards intended to address impacts related to the operation of recreational marijuana uses. Council subsequently held a public hearing on the ordinance as required under the GMA on December 2, 2013, and extended the ordinance for a six-month period.

On December 2, 2013, Council held the required public hearing and extended the emergency interim zoning control beyond the initial 60-day period for a period of six months as allowed under the GMA. The Council also adopted the planning principles proposed by staff.

The emergency ordinance is limited to periods of up to six months, but it may be renewed for additional six-month periods provided that Council holds a public hearing within 60-days of each subsequent extension. The emergency ordinance regulating recreational marijuana producers, processors, and retailers will expire by its terms on April 24, 2014, unless Council extends the regulations for an additional six-month period and holds the required public hearing.

Status of LCB's Issuance of Recreational Marijuana Licenses

The LCB issued a press release on February 19, 2014 clarifying the next steps in preparation to issue recreational marijuana licenses. The LCB will first issue producer and processor licenses to ensure there is recreational marijuana available when the retail stores receive their licenses and are ready for operation. At the close of the 30-day application window on December 20, 2013, LCB had received over 2,800 applications for marijuana production. Many of the applications were for more than one producer license. If LCB issued licenses to all the applicants, such action would far exceed the production required to meet the projected demand. In response, the LCB is initially limiting the number of producer licenses to only one per applicant and is also limiting the amount of production to 70% of the production requested by the applicant.[1] According to the LCB, it will begin issuing producer and processor licenses in March, and expects retail stores to open for business this summer.[2]

Extending the Interim Regulations is Warranted.

Extending the interim regulations is warranted for several reasons, primarily because the Washington State Liquor Control Board has not issued any recreational marijuana licenses; therefore the efficacy of the interim zoning control is unknown. Additionally, there is still some uncertainty regarding what action the legislature may take on pending bills regarding recreational marijuana regulation and medical cannabis during the 2014 legislative session.[3] Until there is consistency and clarity regarding the regulation of marijuana in Washington additional time to study and consider the issue is warranted. Moreover, allowing the interim

[1] LCB established three tiers of production that varies by the amount of square footage of plant canopy the licensee is allowed to produce: Tier 1: <2,000 square feet; Tier 2: 2,000 to 10,000 square feet; and Tier 3: 10,000 to 30,000 square feet.

[2] Washington State Liquor Control Board, Frequently Asked Questions about I-502 Licensing, Feb. 19, 2013 [sic].

[3] The last day of the 2014 legislative session is March 13. Study session materials are prepared well in advance of the scheduled Council meeting and therefore do not reflect final legislative and gubernatorial action.

zoning ordinance to expire would leave recreational marijuana uses unregulated in Bellevue, which may lead to the establishment of unregulated uses and associated unintended consequences.

The City may extend the interim zoning ordinance, under the GMA only if Council first holds a public hearing to accept and consider public comment and testimony. The public hearing scheduled for this evening satisfies this requirement. Following the hearing, Council may adopt an extension for a period of up to six months. Council must also adopt findings of fact supporting the extension, which are included in Attachment C. Depending on legislative action to amend I-502 and the Medical Cannabis Act or the Planning Commission's work load, it may be necessary to extend the interim zoning ordinance for an additional six-month period, which would require Council to hold a public hearing on or before October 21, 2014.

ALTERNATIVES

1. Hold the public hearing and adopt proposed Ordinance No. 6156 renewing Ordinance No. 6133 B-1 for an additional six-month period; or
2. Do not adopt proposed Ordinance No. 6156, and allow the existing interim zoning ordinance to expire on April 21; or
3. Provide alternative direction to staff.

RECOMMENDATION

Hold the public hearing and extend the interim zoning ordinance for an additional six months, by adopting proposed Ordinance No. 6156.

MOTIONS

1. Move to open the public hearing for comments on renewing the interim zoning ordinance regulating recreational marijuana uses.
2. Move to close the public hearing and the record on the interim zoning ordinance.
3. Move to adopt Ordinance No. 6156.

EFFECTIVE DATE

If approved, Ordinance No. 6156 becomes effective on April 21, 2014.

ATTACHMENTS

A. Ordinance No. 6133 B-1
B. Affidavit of Publication
C. Proposed Ordinance No. 6156

AVAILABLE IN COUNCIL OFFICE

N/A

1357-ORD
10/21/13

Option B-1

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6133 B-1

AN ORDINANCE of the City of Bellevue, Washington, adopting interim official zoning controls regarding recreational marijuana producers, processors and retailers for a period of six months, to be in effect while the City drafts, considers, holds hearings and adopts permanent zoning regulations, to be effective immediately upon adoption, scheduling a hearing on the maintenance of the interim zoning ordinance and declaring an emergency.

WHEREAS, Washington votes approved Initiative 502 (I-502) on November 6, 2012. In relevant part, I-502 legalized the possession of small amounts of marijuana and marijuana-related products for persons age 21 and older, and directed the Washington State Liquor Control Board (LCB) to develop and implement rules to regulate and tax recreational marijuana producers, processors, and retailers by December 31, 2013; and

WHEREAS, the LCB re-filed its proposed rules regulating recreational marijuana uses on September 4, 2013, and accepted the proposed rules on October 16; and

WHEREAS, the LCB rules become effective on November 16, 2013, and the LCB will begin accepting license applications for recreational marijuana beginning November 18, 2013. Applicants will be required to identify a business location with their application submittals; and

WHEREAS, the LCB allocated four recreational marijuana retail licenses for the City of Bellevue, and there are no limits on the number of recreational marijuana producer and processor licenses to be issued; and

WHEREAS, the City of Bellevue Land Use Code (LUC) prohibits all recreational marijuana producers, processors, and retailers as uses in the City of Bellevue;

WHEREAS, the City Council deems it to be in the public interest to establish interim regulations advising the public where recreational marijuana producers, processors, and retail uses may be located in the City of Bellevue before the application deadline established by the LCB for state licensing for such uses; and

WHEREAS, the establishment or licensing of recreational marijuana uses may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony; and

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WHEREAS, marijuana is still classified as a schedule I controlled substance under federal law and crimes related to marijuana remain subject to prosecution under federal law; and

WHEREAS, On August 29, 2013, the United States Department of Justice, Office of the Attorney General, ("DOJ") released updated guidance regarding marijuana enforcement. The guidance reiterates that DOJ is committed to using its limited investigative and prosecutorial resources to address the most significant threats to public safety related to marijuana crimes in "the most effective, consistent, and rational way." The guidance directs federal prosecutors to review potential marijuana-related charges on a case-by-case basis and weigh all information and evidence, including whether the operation is demonstrably in compliance with a strong and effective state regulatory system and if the conduct at issue implicates one or more of the eight stated federal enforcement priorities. The DOJ appears to not differentiate application of the guidance between medical cannabis and recreational marijuana; and

WHEREAS, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance; and

WHEREAS, establishment of interim regulations of six months in duration for establishment of recreational marijuana producers, processors, and retailers will prevent substantial change until the land areas and the text of development standards applicable to recreational marijuana uses is reviewed, and any needed revisions are made to city codes; and

WHEREAS, the potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; now therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Interim Regulation Adopted. Recreational marijuana producers, processors, and retailers shall comply with the following provisions:

A. Definitions. For the purposes of this interim regulation only, the definitions provided below and the definitions codified at WAC 314-55-010, now provided or as hereafter amended, shall apply to the provisions of this ordinance.

1. "Director" means the Director of the City of Bellevue's Development Services Department or his designee.

2. "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of

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the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

3. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.
4. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.
5. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products do not include useable marijuana.
6. "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.
7. "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.
8. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

B. Chapter 314-55 WAC, now or as hereafter amended, shall apply in addition to the provisions of this ordinance.

C. Limitations on Uses. The following limitations shall apply to all marijuana producers, processors, and retailers, unless stated otherwise:

1. A marijuana producer, retailer, or processor, shall not be located within 1,000 feet of the following uses or any use included in Chapter 314-55 WAC now or as hereafter amended:

   a. Elementary or secondary school;
   b. Playgrounds;
   c. Recreation center or facility;
   d. Child care centers;
   e. Public parks;
   f. Public transit centers;

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g. Libraries;
h. Any game arcade or
i. Any medical cannabis collective garden.

2. No marijuana producer, processor, or retailer shall be allowed in single family and multi-family land use districts (R-1 – R-30).

3. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.

4. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.

D. Marijuana Retail Outlets. For the purposes of this interim ordinance, marijuana retail outlets are considered within the land use classification of "Miscellaneous Retail Trade," and shall comply with all corresponding notes in the use charts for the underlying land use district where the retail outlet is located. Retail outlets shall also comply with the applicable requirements of Chapter 20.25 LUC, Special and Overlay Districts. Marijuana odor shall be contained within the retail outlet so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the marijuana retailer shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor. Retail outlets may only be located in following land use districts:

1. General Commercial (GC);
2. Community Business (CB);
3. Factoria Land Use District 1 (F1);
4. Downtown Office District (DNTN O-1);
5. Downtown Office District (DNTN O-2)
6. Downtown Mixed Use District (DNTN-MU);
7. Downtown Old Bellevue Business District (DNTN-OB);
8. Downtown Office and Limited Business District (DNTN-OLB)
9. Bel-Red Office Residential and Nodes (BR-OR/OR1/OR2)
10. Bel-Red Residential Commercial and Nodes (BR-RC-1, RC-2, RC-3);
11. Bel-Red General Commercial (BR-GC);
12. Bel-Red Commercial Residential (BR-CR);
13. Bel-Red Office Residential Transition (BR-ORT).

E. Signage for Marijuana Retail Outlets. Retail outlets shall comply with WAC 314-55-155(1), now or as hereafter amended. Additionally, signage for retail outlets must undergo design review in those land use districts requiring such review in City of Bellevue Sign Code, Chapter 22B BCC.

F. Marijuana Producers and Processors. For the purposes of this interim ordinance, marijuana producers are considered within the land use

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classification "Agricultural Production of Food and Fiber Crops," and marijuana processors are considered within the land use classification "Agricultural production." Marijuana processors and producers shall comply with all corresponding notes in the use charts for the Light Industrial land use district. Marijuana producers and processors shall also comply with the applicable requirements of Chapter 20.25 LUC, Special and Overlay Districts. Marijuana production and processing facilities are allowed only in the Light Industrial land use district and shall comply with the following provisions:

1. Marijuana production and processing facilities shall be ventilated so that the odor from the marijuana cannot be detected by a person with a normal sense of smell from any adjoining use or property;
2. Signage for marijuana producers and processors shall comply with the City of Bellevue Sign Code, Chapter 22B of the Bellevue City Code.
3. A screened and secured loading dock, approved by the director shall be required. The objective of this requirement is to provide a secure, visual screen from the public right of way and adjoining properties, and prevent the escape of orders when delivering or transferring marijuana, useable marijuana, and marijuana-infused products.

G. Security. In addition to the security requirements in Chapter 315-55 WAC, during non-business hours, all recreational marijuana producers, processors, and retailers shall store all useable marijuana, marijuana-infused product, and cash in a safe or in a substantially constructed and locked cabinet. The safe or cabinet shall be incorporated into the building structure or securely attached thereto. For useable marijuana products that must be kept refrigerated or frozen, these products may be stored in a locked refrigerator or freezer container in a manner approved by the Director, provided the container is affixed to the building structure.

Section 3. Duration and Scope of Interim Regulations. The interim regulations imposed by this ordinance shall become effective on the date herein, and shall continue in effect for an initial period of sixty (60) days, unless repealed, extended, or modified by the City Council after subsequent public hearings and the entry of additional findings of fact pursuant to RCW 35A.63.220.

Section 4. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this ordinance within sixty (60) days of its adoption, or no later than December 20, 2013, so as to hear and consider public comment and testimony regarding this ordinance. Following such hearing, the City Council may adopt additional findings of fact, and may extend the interim regulations for a period of up to six (6) months. If a period of more than six months is required to complete consideration of any changes to city codes, the Council may adopt additional extensions after any required public hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

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Section 5. Permanent Regulations. The City Council hereby directs the staff to develop for its review and adoption permanent regulations to adopt the interim regulations adopted herein, and to transmit this ordinance to the Washington State Department of Commerce as required by law.

Section 6. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 7. Public Emergency. The City Council hereby finds and declares that a public emergency exists and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should, therefore, take effect upon adoption. The facts upon which this public emergency is based include all recitals set out in this ordinance as well as those facts contained in the legislative record.

Section 8. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption by a majority plus one of the City Council.

Passed by the City Council this 21st day of October, 2013 and signed in authentication of its passage this 21st day of October, 2013.

(SEAL)

Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published October 24, 2013.

The Seattle Times

City of Bellevue, City Clerk
Kelly Wilson
PO Box 90012

Bellevue, WA 98009

Re: Advertiser Account # 100791
Ad #: 410963

Agency Account #: 0
Agency Name:

Affidavit of Publication

STATE OF WASHINGTON
Counties of King and Snohomish

The undersigned, on oath states that he/she is an authorized representative of The Seattle Times Company, publisher of The Seattle Times of general circulation published daily in King and Snohomish Counties, State of Washington. The Seattle Times has been approved as a legal newspaper by others of the Superior Court of King and Snohomish Counties.

The notice, in the exact form annexed, was published in the regular and entire issue of said paper or papers and distributed to its subscribers during all of the said period.

Newspaper and Publication Date(s)	
Seattle Times	03/03/14

XOA PHAM NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 5-09-17

Agent Kathy Baldwin Signature Kathy Baldwin

Subscribed and sworn to before me on MAR 13 2014
DATE

(Notary Signature) Notary Public in and for the State of Washington, residing at Seattle

XOA Pham

The Seattle Times

Re: Advertiser Account # 100791

Ad #: 410963

Agency Account #: 0

Agency Name:

AD TEXT

CITY OF BELLEVUE
CITY COUNCIL
PUBLIC HEARING NOTICE
Interim Official Controls Regulating Recreational Marijuana Uses

Rules of Procedure are available at the City Clerk's Office

NOTICE IS HEREBY GIVEN that the Bellevue City Council will hold a public hearing during its 8:00 pm Regular Session meeting on Monday, March 17, 2014, in the City Council Chamber in Bellevue City Hall, 450 110th Ave NE, Bellevue, to consider an ordinance extending an interim official zoning control regulating recreational marijuana uses for an additional six month period. On October 21, 2013, the Bellevue City Council adopted Ordinance No. 6133 B-1 adopting an official interim zoning control regulating the location of recreational marijuana producers, processors, and retailers and providing operation and performance criteria to protect neighborhoods from the impacts related to the operation of recreational marijuana uses. On December 2, 2013, the City Council held a public hearing pursuant to the Growth Management Act, RCW 36.70A.390, after which the Council affirmed that Ordinance No. 6133 B-1 would remain in effect for an initial period of six months, while the City drafts, considers, holds hearings, and adopts permanent regulations. The purpose of the March 17, 2014 public hearing is to provide an opportunity to take written and oral comments regarding the potential extension of the interim regulations for an additional six month period. The Growth Management Act, RCW 36.70A.390, authorizes cities to adopt interim official control provided cities hold a public hearing within 60 days of adoption. Cities may also renew the interim official control for one or more six-month periods if a subsequent public hearing is held.

Meetings are wheelchair accessible. American Sign Language (ASL) interpretation is available upon request. Please phone 425-452-7810 or 711 (TDD Relay Service) by noon Wednesday, March 12, if you require interpretation services. Assisted Listening Devices are also available upon request.

Comments: Any person may participate in the public hearing by submitting written comments to the City Council in care of Myrna Basich, City Clerk, P.O. Box 90012, Bellevue, WA 98009, or the Director of the Development Services Department at the same address before the public hearing, or by submitting written comments or making oral comments to the City Council at the hearing. All written comments received by the City Clerk or Director will be transmitted to the City Council no later than the date of the public hearing. Written comments will also be accepted and may be mailed or e-mailed to Catherine Drews, Legal Planner, Development Services Department, City of Bellevue, P. O. Box 90012, Bellevue, Washington, 98009-9012 or by e-mail to cdrews@bellevuewa.gov. Comments must be received by 5:00 pm. on March 17, 2014.

Applicant Contact: Catherine Drews, City of Bellevue Development Services Department, 425-452-6134. Questions relating to the public hearing process: Myrna Basich, City Clerk, 425-452-2733.

City Council Regular Session
Monday, March 17, 2014, Meeting starts at 8:00 PM
Bellevue City Hall, Council Chambers
450 110th Avenue NE, Bellevue, WA

Affidavit of posting has been filed with the City Clerk for the Bellevue City Council, Dated this 3rd day of March , 2014.

Signed:/s/ Myrna Basich, City Clerk

1380-ORD
03/12/14

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6156

AN ORDINANCE extending Ordinance No. 6133 B-1, adopting interim official zoning controls regarding the regulation of recreational marijuana producers, processors and retailers for a period of six months, to be in effect while the City drafts, considers, holds hearings and adopts permanent zoning regulations; providing for severability; and establishing an effective date.

WHEREAS, on November 6, 2012, Washington votes approved Initiative 502 (I-502), which in relevant part, legalized the possession of small amounts of marijuana and marijuana-related products for persons age 21 and older, and directed the Washington State Liquor Control Board (LCB) to develop and implement rules to regulate and tax recreational marijuana producers, processors, and retailers by December 31, 2013; and

WHEREAS, the LCB re-filed its proposed rules regulating recreational marijuana uses on September 4, 2013, and accepted the proposed rules on October 16; and

WHEREAS, the LCB rules became effective on November 16, 2013, and the LCB began accepting license applications for recreational marijuana uses on November 18, 2013; and

WHEREAS, the LCB allocated four recreational marijuana retail licenses for the City of Bellevue, and there are no limits on the number of recreational marijuana producer and processor licenses to be issued; and

WHEREAS, the City of Bellevue Land Use Code (LUC) prohibits all recreational marijuana producers, processors, and retailers as uses in the City of Bellevue;

WHEREAS, the City Council deems it to be in the public interest to establish interim regulations advising the public where recreational marijuana producers, processors, and retail uses may be located in the City of Bellevue before the application deadline established by the LCB for state licensing for such uses; and

WHEREAS, on October 21, 2013, in response to the licensing schedule published by the Washington State Liquor Control Board, the City Council adopted Ordinance No. 6133 B-1 implementing an emergency interim zoning ordinance regulating the location of recreational marijuana uses and imposing performance criteria intended to mitigate negative impacts arising from operation of recreational marijuana uses; and

WHEREAS, under the Growth Management Act (GMA), the City was required to hold a public hearing within 60 days of adopting Ordinance No. 6133 B-1, which public hearing was held on December 2, 2013, to receive public comment and extend Ordinance No. 6133 B-1 for a six-month period; and

WHEREAS, Ordinance No. 6133 B-1 will, by its own terms, expire on April 21, 2014, unless the City Council extends the ordinance as allowed by law; and

WHEREAS, on January 13, 2014 the Washington State Legislature convened and is considering several bills related to regulating recreational marijuana and reconciling medical cannabis with the recreational marijuana regulatory structure; and

WHEREAS, on January 14, 2014, the Washington State Attorney General issued its opinion (AGO No. 2014) that I-502 does not preempt counties, cities, and towns from banning recreational marijuana within their jurisdictions and that local ordinances that do not expressly ban state licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if the properly exercise the local jurisdiction's police power; and

WHEREAS, the establishment or licensing of recreational marijuana uses may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony; and

WHEREAS, marijuana is still classified as a schedule I controlled substance under federal law and crimes related to marijuana remain subject to prosecution under federal law; and

WHEREAS, On August 29, 2013, the United States Department of Justice, Office of the Attorney General, ("DOJ") released updated guidance regarding marijuana enforcement. The guidance reiterates that DOJ is committed to using its limited investigative and prosecutorial resources to address the most significant threats to public safety related to marijuana crimes in "the most effective, consistent, and rational way." The guidance directs federal prosecutors to review potential marijuana-related charges on a case-by-case basis and weigh all information and evidence, including whether the operation is demonstrably in compliance with a strong and effective state regulatory system and if the conduct at issue implicates one or more of the eight stated federal enforcement priorities. The DOJ appears to not differentiate application of the guidance between medical cannabis and recreational marijuana; and

WHEREAS, the extension of interim regulations of six months in duration for establishment of recreational marijuana producers, processors, and retailers will prevent substantial change until the land areas and the text of development standards applicable to recreational marijuana uses is reviewed, and any needed revisions are made to city codes; and

WHEREAS, the City has a compelling interest in the protection of the health and safety of all its residents, as well as a compelling interest in ensuring that the goals and policies contained within the Comprehensive Plan and other policy/planning documents are fulfilled; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorizes cities to adopt interim zoning ordinances provided the City Council holds a public hearing on the interim zoning ordinance within 60 days of the commencement of the ordinance; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 further authorizes Washington cities to extend interim zoning ordinances for additional periods of up to six months following a public hearing and adoption of findings of fact; and

WHEREAS, pursuant to BCC 22.02.050 and WAC 197-11-800(19), the adoption of this ordinance is exempt from environmental review under the State Environmental Policy Act; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Extension of Interim Zoning Ordinance. Ordinance No. 6133 B-1 is hereby extended for an additional six-month period, unless repealed, extended or modified by the City Council after subsequent public hearing and the entry of additional findings of fact pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 2. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Findings of Fact. The findings contained in this ordinance are hereby adopted as findings of facts to justify extending Ordinance No. 6133 B-1 imposing the interim zoning ordinance.

Section 4. Effective Date. This ordinance shall take effect and be in force on April 21, 2014.

Passed by the City Council this _____ day of _____, 2014 and signed in authentication of its passage this _____ day of _____, 2014.

(SEAL)

_____
Claudia Balducci, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

_____
Lacey Hatch, Assistant City Attorney

Attest:

_____
Myrna L. Basich, City Clerk

Published _____