



# MEMORANDUM

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DATE: July 16, 2013

TO: Chair Tebelius and Members of the Planning Commission

FROM: Catherine Drews, Legal Planner 425-452-6134  
Carol Helland, Land Use Director 425-452-2724  
*Development Services Department*  
Lori Riordan, City Attorney, 425-452-7220

SUBJECT: Public Hearing on the Draft Medical Cannabis Collective Gardens LUCA and City Council Direction on Medical Cannabis and Recreational Marijuana

The Planning Commission will hold a public hearing on July 24, 2013 to take public comment and consider the draft Land Use Code Amendment (LUCA). The LUCA is included as Exhibit A to Attachment 1 of this memorandum: Staff Recommendation: Medical Cannabis Collective Gardens LUCA, File No. 13-112380-AD (June 26, 2013). During the May 22 study session, the Planning Commission inquired if it would be prudent to ask Council if the Commission should wait to address medical cannabis collective gardens until the Washington State Liquor Control Board promulgated rules for recreational marijuana. Staff presented this question and information regarding WSLCB's rulemaking and position on local zoning authority to the Council during its July 15 Study Session. In response, Council directed the Planning Commission to move forward with the medical cannabis collective gardens LUCA, and while doing so, to also consider potential zoning for recreational marijuana uses (producers, processors, and retailers) to provide context for the collective garden zoning work. Council also directed staff to return to Council with proposed interim zoning regulations for recreational uses for Council's consideration in early September. A study session with Council is scheduled for September 3. Materials presented during the July 15 Study Session are included with this memorandum as Attachment 2.

Staff presented the draft LUCA to the East Bellevue Community Council (EBCC) on July 2. No public comments were received. One EBCC member commented that the proposal is too complicated to assist patients with obtaining their medicine.

## **ACTION REQUESTED**

At the conclusion of the public hearing and consideration of public comment, staff will ask the Planning Commission to provide its recommendation to Council on the medical cannabis collective garden LUCA. Below is sample motion language for the recommendation:

*Draft Motion Language: I move that the Planning Commission recommend to the Bellevue City Council adoption of the draft medical cannabis collective gardens Land*

*Use Code Amendments as presented in Attachment A to the June 26, 2013 Staff Recommendation.*

**ATTACHMENTS**

1. Attachment 1: Staff Recommendation: Medical Cannabis Collective Gardens LUCA, File No. 13-112380-AD.
2. Attachment 2: City Council Study Session Item: Regulation of Medical Cannabis Gardens and Recreational Marijuana-Related Uses, July 15, 2013 (Item No. SS 2(b)).

City of  
Bellevue



# MEMORANDUM

DATE: June 26, 2013  
TO: Chair Carlson, Members of the Planning Commission  
FROM: Catherine A. Drews, Legal Planner, Development Services Department  
SUBJECT: Staff Recommendation: Medical Cannabis Collective Gardens LUCA,  
File No. 13-112380-AD

This memorandum presents the report and recommendation of the Development Services Department (DSD) on the proposal to amend the Bellevue Land Use Code (LUC) to allow medical cannabis collective gardens in the General Commercial, Bel-Red General Commercial, Light Industrial, and Medical Institution land use districts. Collective gardens would be prohibited in residential areas. The proposed LUC amendment (LUCA) is based on the interim zoning regulation for medical cannabis collective gardens (Ordinance No. 6058), and will include performance standards to mitigate operational impacts. A copy of the proposed LUCA is included with this memorandum as Attachment A. During the public hearing, staff anticipates providing the Planning Commission with Council direction regarding the regulation of recreational marijuana uses allowed under Initiative 502.

Following the public hearing scheduled for July 24, 2013, staff requests the Planning Commission prepare a recommendation to the City Council on the proposed code amendments included in Attachment A.

At the conclusion of the July 24 study session and consideration of public comment, staff will ask the Planning Commission to provide its recommendation to Council on the medical cannabis collective garden LUCA. Below is sample motion language for the recommendation:

***Draft motion language:** I move that the Planning Commission recommend to the Bellevue City Council adoption of the draft medical cannabis collective garden Land Use Code amendments as presented in Attachment A.*

## I. Regulatory Background

### Regulation of Medical Cannabis and Marijuana in Washington

Federal and Washington law prohibit the production, processing, and dispensing of medical cannabis or medical cannabis products under the respective state and federal

controlled substances acts.<sup>1</sup> In 1998, however, Governor Locke signed into law the Medical Cannabis Act (the “Act”), approving the limited use of medical cannabis by patients with qualifying medical conditions.<sup>2</sup> The Act allows qualified patients to either grow their own cannabis or to designate a provider to grow the cannabis for them. The Act also limits the quantity of medical cannabis a patient may possess.

Allowing the limited possession, use, and ability to cultivate medical cannabis created an inconsistency among the Act and the state and federal controlled substances acts. In an attempt to clarify that inconsistency, the legislature in 2011 passed ESSB 5073. This bill, in relevant part, authorized medical cannabis dispensaries and allowed qualifying patients to participate in collective gardens to grow cannabis for medical use. The bill also authorized cities to regulate and license the production, processing, or dispensing of medical cannabis and its products within their jurisdiction.

Governor Gregoire signed the bill, but vetoed several portions related to dispensaries, and state licensing and registration requirements. The veto created inconsistency and uncertainty in the administration and enforcement of portions of the bill that were not vetoed and the existing Act; specifically, the operation and regulation of medical cannabis collective gardens. The Governor also expressed reservations about provisions that could place government employees in a position to be held responsible for violation of federal law during the discharge of their work duties. While clarifying legislation was introduced in the 2012 legislative session, it was not adopted. During this legislative session which adjourned on April 28, the legislature considered, but did not adopt amendments to the Medical Cannabis Act (Ch. 69.51A RCW). The legislature returned on May 13 for the 1<sup>st</sup> Special Session to discuss the state budget and other issues, but has not further addressed medical marijuana.

#### City Council’s Response to Uncertainty Associated with Medical Cannabis

During the May 7, 2012 Regular Session, Council responded to the uncertainty associated with the regulation of medical cannabis collective gardens by adopting Ordinance No. 6058, implementing an interim zoning regulation regulating medical cannabis collective gardens for a period of six months, while the City addressed permanent zoning regulations. Council’s goals in adopting Ordinance No. 6058 were threefold:

- (1) Allow qualified patients to have appropriate access to medical cannabis;
- (2) Preclude the establishment of collective gardens without regulations; and
- (3) Address public safety issues.

The Council directed staff to add the permanent regulations for collective gardens to the code amendment work plan. Consistent with the Growth Management Act (GMA), provisions for interim regulations, the Council has twice extended the interim regulations for six month periods to allow staff to study the issues and begin working on code

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<sup>1</sup> 21 U.S.C. 801 et. seq.; Chapter 69.50 RCW.

<sup>2</sup> Chapter 69.51A RCW (formerly the Medical Marijuana Act).

amendments.<sup>3</sup> To date, the Council has held three public hearings on the interim zoning regulation (July 2, 2012, October 22, 2102, and April 15, 2013).

### Initiative 502

Last November, Washington voters approved I-502 legalizing the possession of limited amounts of marijuana. According to King County election data, 59% percent of Bellevue voters voted in favor of I-502. I-502 took effect on December 6, 2012; however, it does not amend or repeal Washington's Medical Cannabis Act (Ch. 69.51A RCW). Under I-502, the Washington State Liquor Control Board (WSLCB) is authorized to license and regulate the cultivation, production, and retail sales of recreational marijuana, and is undertaking rulemaking required under I-502. According to the WSLCB, it anticipates accepting applications for licenses for growers, producers, and retailers in mid-September. The WSLCB anticipates it will begin issuing licenses in December. Although I-502 does not impact medical cannabis law, regulation of recreational marijuana is underway and requires policy decisions in a timely manner.

At the Council's July 15 Regular Session, staff will seek guidance from the Council regarding what actions it desires the Planning Commission undertake regarding land use regulations for recreational marijuana growers, producers, and retailers. Council may direct the Planning Commission consider a variety of regulatory options including, but not limited to determination of appropriate land use districts for each recreational marijuana use; prohibiting recreational marijuana uses, or Council may provide alternative direction to staff. Staff will present the Council's direction to the Planning Commission at the July 24 public hearing.

## **II. Developing Permanent Regulations**

### Project Principles

The Council approved project principles on February 25 to assist the Planning Commission and staff as they worked to develop recommendations for the permanent regulation of medical cannabis collective gardens in Bellevue. The Council-approved project principles are included as Attachment B to this memorandum. The principles represent Council's desire to prohibit locating collective gardens in residential areas and to prohibit the operation of dispensaries, access points, portals, or other forms of commercial enterprises related to the cultivation, production, distribution, and transportation of medical marijuana.

### Study Sessions

Staff introduced the topic of permanent regulations for medical cannabis collective gardens to the Planning Commission on May 8. Staff presented additional information to the Planning Commission during the May 22 study session. No public comment was received during either study session.

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<sup>3</sup> Ordinance numbers 6079 and 6109.

## II. PROPOSAL

The interim zoning regulation (Ordinance No. 6058) is the basis for the proposed LUCA and includes Bellevue appropriate performance standards consistent with the Council-approved project principles. These performance standards include separation requirements from other uses, limitations on the number of collective gardens allowed per parcel, and operational standards. Business licensing requirements are not part of the LUCA.

Staff recommends approval of the proposed LUCA to implement permanent regulations that allow qualifying patients to participate in a collective garden while mitigating operational impacts. Specifically, staff recommends the following code amendments:

1. Land Use Charts. The LUCA will amend the General, Bel-Red, and Medical Institution resource land use charts to add a new land use classification: 8192 – Other Horticultural Specialties: Medical Cannabis Collective Gardens. The LUCA also includes a new footnote to each chart directing users to the new LUC 20.20.526, requirements for medical cannabis collective gardens.
2. General Requirements: LUC 20.20.526, Medical Cannabis Collective Gardens. LUC 20.20.526 is a new section that describes code applicability, the purpose for the provisions, submittal and permit requirements, and development requirements and performance standards. A summary of the provisions of LUC 20.20.526 follows:
  - Purpose (LUC 20.20.526.A). The purpose section describes the intent of the regulations to minimize impacts of collective gardens on surrounding properties and protecting the public health, safety, and welfare.
  - Submittal Requirements (LUC 20.20.526.C). This provision specifies who may apply for a medical cannabis collective garden and that the submittal must include information demonstrating the proposed location will meet separation requirements.
  - Required Review (LUC 20.20.526.D). The required review specifies that an administrative conditional use permit is required to operate a medical cannabis collective garden.
  - Definitions (LUC 20.20.526.E). The definition provision contains definitions specific to medical cannabis collective gardens and incorporates by reference definitions found in the state Medical Cannabis Act (Chapter 69.51A RCW).
  - Requirements Applicable to Medical Cannabis Collective Gardens (LUC 20.20.526.F). The requirements provisions set forth limitations on the number of collective gardens on a tax lot, 1,000-foot separation requirement from certain uses, requires collective gardens to be located in a structure, sets forth requirements for ancillary uses, and incorporates limits on the number of plants and the amount of cannabis allowed at a collective garden. This provision also provides limits on the number of participating qualifying patients, required patient documentation, and limits on transferring membership between collective gardens. Finally, the

provision addresses the transportation or delivery of medical cannabis and requires appropriate security systems.

- Release and Hold Harmless (LUC 20.20.526.G). Requires the permittee of a medical cannabis collective garden to provide a written release of liability and agreement to hold the City harmless from any liabilities or damages arising from operation of the collective garden, specifically those related to arrest, seizure of property, or any claims by third parties relating to the operation of the collective garden.
- Conflicts (LUC 20.20.526.H). The conflicts section specifies that in the event of a conflict between the state's collective gardens provisions and LUC 20.20.526, the most restrictive provision shall apply.

### **III. STATE ENVIRONMENTAL POLICY ACT**

Environmental review of this proposal is proceeding under the "Integrated SEPA/GMA" process authorized by WAC 197-11-210, to ensure consideration of environmental issues in the development of the proposed LUCA. It is anticipated that the Environmental Coordinator for the City of Bellevue will determine that adoption of the proposed LUCA will not result in any probable, significant, adverse environmental impacts. Because a DNS is likely, the "Optional DNS Process" authorized by WAC 197-11-355 is also being used. The expected final threshold determination of nonsignificance (DNS) will be issued on July 3, 2013. A copy of the final threshold determination will be attached to this memorandum as Attachment C.

### **IV. PUBLIC NOTICE, PARTICIPATION, COMMENT AND RESPONSE**

A Notice of Application for this proposed code amendment was published in the Weekly Permit Bulletin on May 30, 2013.

The collective garden LUCA was introduced at a study session with the Planning Commission on May 8, 2013. A subsequent study session on collective gardens was held on May 22. During that study session, the Planning Commission directed staff to proceed to a public hearing on the proposed amendment, scheduled for July 24. Notice of the Public Hearing before the Planning Commission is scheduled to publish in the Weekly Permit Bulletin on July 3.

The proposed LUCA is within the jurisdiction of the East Bellevue Community Council (EBCC). A courtesy hearing is scheduled with EBCC at their regular meeting on July 2. Notice of the courtesy hearing was published in the Seattle Times on June 25, 2013. Staff will return for a final public hearing on the LUCA following Council action. Final action by the EBCC is anticipated within 60 days of any Council action.

Under the requirements of the Growth Management Act, state agencies must be given an opportunity to review and comment on proposed amendments to the LUC. A copy of the draft medical cannabis collective gardens LUCA was provided to the state agencies for review on June 25, 2013. No comment letters were received by DSD before release of this staff report. Comments received after release of the staff report will be forwarded to the Planning Commission before the public hearing.

To date, the City has received one written comment on the proposed amendment inquiring as to why collective gardens may not be located in the Bel-Red Residential (BR-R) land use district. Copies of this comment and any other received to date are located in the land use amendment file, which staff will make available for review upon request.

## **V. APPLICABLE DECISION CRITERIA – LAND USE CODE PART 20.30J**

The Planning Commission may recommend and the City Council may approve or approve with modifications an amendment to the text of the Land Use Code if:

### **A. The amendment is in accord with the Comprehensive Plan; and**

The proposed amendment is consistent with the Comprehensive Plan, including the Land Use, Housing, and Human Services policies listed below. The proposed LUCA would provide a mechanism that mitigates impacts related to a collective garden, while allowing qualified patients to obtain medical cannabis.

#### **Land Use Element**

**Policy LU-9.** Maintain stability and improve the vitality of residential neighborhoods through adherence to, and enforcement of, the city's land use regulations.

**Policy LU-22.** Protect residential areas from the impacts of non-residential uses of a scale not appropriate to the neighborhood.

**Policy HO-8.** Protect residential areas from illegal land use activities through enforcement of city codes.

**Policy HS-3.** Assess local human services needs and promote community awareness of needs and resources available to meet them.

**Policy HS-13.** Encourage services to become accessible to all in the community by removing any barriers, including but not limited to architectural, cultural, language, communication, or location.

### **B. The amendment bears a substantial relationship to the public health, safety or welfare; and**

The proposed amendment protects the public health and safety of the public by protecting neighborhoods from the unintended impacts related to the cultivation of medical cannabis while allowing qualified patients access to medical cannabis.

**C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.**

The proposed amendment is in the best interest of Bellevue citizens as it will create consistent, clear regulations and permitting requirements for medical cannabis collective gardens in Bellevue and mitigating operational impacts associated with collective gardens.

**VI. RECOMMENDATION**

Recommend the medical cannabis collective garden LUCA as drafted in Attachment A and transmit the ordinance on to the City Council for final approval.

**ATTACHMENTS**

- A. Draft Medical Cannabis Collective Garden Ordinance.
- B. Council-approved project principles.
- C. Final DNS published on July 3, 2013.

**ATTACHMENT A**

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**20.10.440 Land use charts.  
Chart 20.10.440**

Uses in land use districts STD LAND USE CODE REF	LAND USE CLASSIFICATION	Resources – Residential Districts										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
8	Resource Production (Minerals, Plants, Animals Including Pets and Related Services)											
81	Agriculture, Production of Food and Fiber Crops, Dairies, Livestock and Fowl, Excluding Hogs	P	P	P1	P1	P1	P1	P1	P1	P1	P1	P1
<u>8192</u>	<u>Other Horticultural Specialties: Medical Cannabis Collective Gardens</u>											
821	Agricultural Processing											
8221	Veterinary Clinic and Hospital											
8222	Poultry Hatcheries											
83	Forestry, Tree Farms and Timber Production	P	P	C	C	C	C	C	C	C	C	C
8421	Fish Hatcheries											
85	Mining, Quarrying (Including Sand and Gravel), Oil and Gas Extraction	C	C	C	C	C	C	C	C	C	C	C

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Resources – Nonresidential Districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Professional Office	Office	Office/Limited Business	Light Industry	General Commercial	Neighborhood Business	Community Business	Factoria Land Use District 1	Factoria Land Use District 2	Factoria Land Use District 3
		PO	O	OLB	LI	GC	NB	CB	F1	F2	F3
8	Resource Production (Minerals, Plants, Animals Including Pets and Related Services)										
81	Agriculture, Production of Food and Fiber Crops, Dairies, Livestock and Fowl, Excluding Hogs	P 1	P 1	P 1	P 1	P 1	P 1	P 1	P 1	P 1	P 1
<a href="#">8192</a>	<a href="#">Other Horticultural Specialties: Medical Cannabis Collective Gardens</a>				<a href="#">A (4)</a>	<a href="#">A (4)</a>					
821	Agricultural Processing				P 2						
8221	Veterinary Clinic and Hospital	P	P		P	P	P 3	P	P		
8222	Poultry Hatcheries				P	P					
83	Forestry, Tree Farms and Timber Production	C	C	C	C	C	C	C	C	C	C
8421	Fish Hatcheries				P						
85	Mining, Quarrying (Including Sand and Gravel), Oil and Gas Extraction	C	C	C	C	C	C	C	C	C	C



Resources – Downtown Districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Downtown Office District 1	Downtown Office District 2	Downtown Mixed Use District	Downtown Residential District	Downtown Old Bellevue District	Downtown Office and Limited Business District
		DNTN O-1	DNTN O-2	DNTN MU	DNTN R	DNTN OB	DNTN OLB

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- 8 Resource Production (Minerals, Plants, Animals Including Pets and Related Services)
- 81 Agriculture, Production of Food and Fiber Crops, Dairies, Livestock and Fowl, Excluding Hogs
- 8192 Other Horticultural Specialties:  
Medical Cannabis Collective  
Gardens
- 821 Agricultural Processing
- 8221 Veterinary Clinic and Hospital
- 8222 Poultry Hatcheries
- 83 Forestry, Tree Farms and Timber Production
- 8421 Fish Hatcheries
- 85 Mining, Quarrying (Including Sand and Gravel), Oil and Gas Extraction

P

#### **Notes: Uses in land use districts – Resources**

- (1) In the R-2.5, R-3.5, R-4, R-5, R-7.5, R-10, R-15, R-20, R-30, NB, PO, O, OLB, F1, F2, F3, LI, GC and CB Districts agriculture is limited to the production of food and fiber crops.
- (2) Agriculture processing excludes grain mill products manufacturing and slaughtering in LI Districts.
- (3) Veterinary clinics and hospitals are limited to 5,000 square feet per use in NB Districts.)
- (4) See LUC 20.20.526 for general requirements applicable to this use.

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**20.25D.070 Land Use Charts.**

The following charts apply to Bel-Red. The use charts contained in LUC 20.10.440 do not apply within the Bel-Red land use districts.

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Chart 20.25D.070  
Resource Uses in the Bel-Red Districts.

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Resources – Bel Red Districts						
		Bel-Red Medical Office/Node	Bel-Red Office Residential/Nodes	Bel-Red Residential Commercial Nodes	Bel-Red Residential	Bel-Red General Commercial	Bel-Red Commercial Residential	Bel-Red Office Residential Transition
		BR-MO/ MO-1	BR-OR/ OR-1 OR-2	BR- RC-1 RC-2 RC-3	BR-R	BR-GC	BR-CR	BR-ORT
8	Resource Production (Minerals, Plants, Animals Including Pets and Related Services)							
81	Agriculture, Production of Food and Fiber Crops, Dairies, Livestock and Fowl, Excluding Hogs					P 1	P 1	
<u>8192</u>	<u>Other Horticultural Specialties: Medical Cannabis, Collective Gardens</u>					<u>A (3)</u>		
821	Agricultural Processing							
8221	Veterinary Clinic and Hospital (2)		P/P	P		P	P	P
8222	Poultry Hatcheries							
83	Forestry, Tree Farms and Timber Production							
8421	Fish Hatcheries							
85	Mining, Quarrying (Including Sand and Gravel), Oil and Gas Extraction							

Existing uses in the Bel-Red District are regulated pursuant to LUC 20.25D.060.  
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- P – Permitted Use
- C – Conditional Use (see Parts 20.30B and 20.30C LUC)
- A – Administrative Conditional Use (see Part 20.30E LUC)

Notes: Uses in land use districts – Resources.

- (1) Agriculture production is limited to the production of food and fiber crops.
- (2) See LUC 20.20.130 for general requirements applicable to this use.
- (3) See LUC 20.20.526 for general requirements applicable to this use.

**20.25J.020 Permitted uses.**

The following chart indicates the permitted land uses within the MI Land Use District and the required review process for each use within each development area.

**Medical District Land Use Chart**

Land Use	Hospital Center and Hospital Perimeter Development Areas (DA1 and DA3) (1)(9)	Medical Office Development Area (DA2) (2)
Services		
Hospital	P	--
Ambulatory health care center (3)	P	--
Professional services: medical clinics and other health care-related services	P	P
Medical-related administrative offices	P	P
Research, development and testing services	S	S
Other administrative offices (non-medically related)	S	S
Childcare and adultcare services	P	P
Social service providers (for-profit and nonprofit), including Medic 1 services and other emergency services	P	P
Medical helicopter landing pad (4)	P	P
Personal services: laundry, dry cleaning, barber and beauty shops, shoe repair, massage therapy/health spa (non-medically related) and other services ancillary to a hospital	S	P
Finance and insurance institutions	--	S
Business services, duplicating and blueprinting	--	S
Religious activities	S	S
Transportation and Utilities		
Accessory parking (5)	P	P
Commercial parking	P	P
Wireless facilities (6)	A/P	A/P
Utility facility	A	C
Local utility system	P	P
Regional utility system	A	C
Essential public facilities (7)	A	A
Transit facilities (8)	P	P
Highway and street right-of-way	P	P
Retail		
Eating and drinking establishments	P	P
Health care-related retail (i.e., pharmacy, crutches, etc.)	P	P

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Miscellaneous retail trade: drug stores, gift stores, bookstores, news stands, florist, jewelry, clothing, photo supplies, video sales/rental and other retail ancillary to a hospital	S	P
Electrical Utility Facility	A/C (10)	A/C (10)
<u>Resource</u>		
<u>Medical Cannabis Collective Garden</u>	<u>A (11)</u>	<u>A (11)</u>

P = Permitted  
A = Administrative Conditional Use  
S = Subordinate Use  
-- = Not Permitted

**Footnotes:**

- (1) See LUC 20.10.390 and 20.50.034 for definition of Medical Institution District Hospital Center Development Area (DA1).
- (2) See LUC 20.10.390 and 20.50.034 for definition of Medical Institution District Medical Office Development Area (DA2).
- (3) See LUC 20.50.010 for definition of ambulatory health care center.
- (4) Medical helicopter landing pad: must be located within 200 feet of the right-of-way of I-405. Permitted only for emergency patient-related helicopter landings. Only one helicopter landing pad is permitted within the Medical Institution District. There may not be refueling tanks, refueling services, storage of helicopters, or any other storage-related activities. The helicopter landing pad must meet Federal Aviation Administration (FAA) requirements and applicable licenses. The helicopter landing pad must also meet City of Bellevue Fire Code requirements and any other applicable City codes and standards. LUC 20.20.450 does not apply within the Medical Institution District.
- (5) Accessory parking is permitted to serve only the uses located within the Medical Institution District pursuant to an approved Master Development Permit and requires approval through the review process required for the primary land use which it serves.
- (6) Wireless facilities must meet the requirements of LUC 20.20.195. Prior Administrative Conditional Use approval is required for freestanding monopole facilities and wireless facilities integrated on existing parking lot light poles and/or adjacent street poles (within the right-of-way) to the campus. Building-mounted wireless facilities are permitted outright. Any ground-mounted equipment must be adequately screened per LUC 20.20.195.
- (7) Refer to LUC 20.20.350 for general requirements applicable to essential public facilities.
- (8) Transit facilities includes transit stops and high-capacity transit stops.
- (9) See LUC 20.10.390 and 20.50.034 for definition of Medical Institution District Hospital Perimeter Development Area (DA3).
- (10) For the definition of electrical utility facility, see LUC 20.50.018 and for reference to applicable development regulations relating to electrical utility facilities see LUC 20.20.255. For new or expanding electrical utility facilities proposed on sensitive sites as described by Figure UT.5a of the Utilities Element of the Comprehensive Plan, the applicant shall obtain conditional use permit approval under Part 20.30B LUC, complete an alternative siting analysis as described in LUC 20.20.255.D, and comply with decision criteria and design standards set forth in LUC 20.20.255. For expansions of electrical utility facilities not proposed on sensitive sites as described by Figure UT.5a, the applicant shall obtain administrative conditional use permit approval under Part 20.30E LUC and comply with decision criteria and design standards set forth in LUC 20.20.255.

(11) See LUC 20.20.526 for general requirements applicable to this use.

**20.20.526 Medical cannabis collective gardens. [NEW SECTION]**

**A. Purpose.**

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The purpose of this section is to regulate medical cannabis collective gardens in a manner that minimizes the impacts of collective gardens on surrounding properties and protects the public health, safety, and welfare, while allowing qualified patients to create and participate in collective gardens. The creation of a collective garden means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

### B. Applicability.

This section contains development requirements and performance standards that apply to all applications to establish and operate a medical cannabis collective garden.

### C. Submittal Requirements.

In addition to the information required for an Administrative Conditional Use permit (Part 20.30E LUC), an application for a collective garden shall comply or contain the following:

1. The application shall be made by a qualifying patient and include verification of that status, as described in RCW 69.51A.010(4) and 69.51A.010(7), now or hereafter amended; and
2. A map drawn to scale that demonstrates compliance with the separation requirements of this section. The director may require, at the applicant's expense, a survey map showing these features prepared by a surveyor licensed in the state of Washington.

### D. Required Review.

An administrative conditional use permit (Part 20.30E LUC) is required to operate a medical cannabis collective garden. The director shall review applications to operate a medical cannabis collective garden for compliance with this section, RCW 69.51A.085, now, or has hereafter amended, and with all other applicable provisions of the Bellevue City Code.

### E. Definitions.

The following definitions apply to this section.

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1. The definitions codified at RCW 69.51A.010, now, or as hereafter amended, shall apply to this section.
2. “Cannabis” shall mean all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
1. “Collective garden” shall mean the growing, of medical cannabis by qualifying patients as provided in Chapter 69.51A RCW, now or hereafter amended, and subject to the provisions of this section. A collective garden may also include ancillary processing and distribution of medical cannabis to support the collective garden. A location used solely for processing or distributing medical cannabis, or not meeting the requirements of this section shall not be considered a collective garden and is prohibited;
3. “Useable cannabis” means dried cannabis flowers. The term “useable cannabis” does not include cannabis-infused products.
4. “Way open to the public” means any paved or unpaved exterior areas on private property open to the general public for pedestrian or vehicular ingress or egress into a site or between sites that are open to and provide services to the public.

### **F. Requirements Applicable to Medical Cannabis Collective Gardens.**

All applications to operate a medical marijuana collective garden shall comply with the following requirements and the provisions of RCW 69.51A.085, now or hereafter amended:

2. Not more than one collective garden shall be established on a single tax parcel or lot;
3. A collective garden may not be located within 1,000 feet of public or private schools, child care services, child day care centers, religious institutions, youth-oriented facilities, public libraries, residential treatment facilities, public and private playgrounds, community centers, or any other collective garden.

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4. Required separation distances shall be measured by taking a straight horizontal line, measured from the nearest point of that portion of a lot proposed to be used for a collective garden (the enclosed building or indoor leased space, excluding for example, parking areas, landscaping or tenant common areas) to the nearest point of:
  - a. That portion of a lot used for another collective garden; or
  - b. A lot owned or leased, or that portion of a lot leased (excluding common areas) for public or private schools, child care services, child day care centers, religious institutions, youth-oriented facilities, public libraries, residential treatment facilities, public and private playgrounds, and community centers.
5. A collective garden shall be located in a structure.
6. A collective garden may include ancillary uses for processing and delivering medical cannabis to its members; provided:
  - a. The ancillary use shall be located on the same lot and in the same structure as the collective garden; and
  - b. The total size allowed for ancillary processing and distribution necessary to support the collective garden shall not exceed more than 10 percent of the floor area devoted to cultivating medical cannabis.
7. No collective garden shall be located in any manner or place where the cannabis plants can be viewed or smelled, in the discretion of the Director, from a public place or way open to the public.
8. No more than 10 qualifying patients may participate in a single collective garden at any time;
9. A collective garden may contain no more than fifteen plants per qualifying patient up to a total of 45 plants;
10. A collective garden may contain no more than 24 ounces of useable cannabis per qualifying patient up to a total of 72 ounces of cannabis;

## ATTACHMENT A

City of Bellevue Planning Commission  
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11. A copy of each qualifying patient's valid documentation, including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden;
12. A qualifying patient cannot be a member of more than one collective garden, and must be a member of one collective garden for at least thirty days before transferring their membership to another collective garden. Each collective garden must maintain records of its membership for no less than three years;
13. No useable cannabis from the collective garden shall be delivered to anyone other than one of the qualifying patients who has been a member of the collective garden for a minimum of 30 days;
14. Any transportation or delivery of medical cannabis from the collective garden shall be conducted by the collective members or designated provider so that quantities of medical cannabis allowed by RCW 69.51A.085, now or as hereafter amended, are never exceeded; and
15. A collective garden shall have installed an operational security alarm system that is monitored 24-hours a day and an operational security camera system that retains recordings from all installed cameras for a period not less than 60 days.

### G. Release of Liability and Hold Harmless.

The permittee of a medical cannabis collective garden shall provide an executed release in a form approved by the Bellevue City Attorney's office to the City of Bellevue, for itself, its agents, officers, elected officials and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution or seizure of property, or liabilities of any kind that result from any arrest or prosecution for violations of federal or state law relating to operation or siting of a collective garden. Additionally, within the release document, the permittee of a medical cannabis collective garden shall indemnify and hold harmless the City of Bellevue and its agents, officers, elected officials, and employees from any claims, damages, or injuries brought by adjacent property owners or other third parties due to operations at the collective garden and for any claims brought by any of the collective garden members, employees, agents, guests, or invitees for problems, injuries, damages, or liability of any kind that may arise out of the cultivation, processing, or distribution of medical cannabis at the collective garden.

### H. Conflicts

## ATTACHMENT A

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In the event of a conflict between RCW 69.51A.085 and this section, the most restrictive provision shall apply.

DRAFT

**ATTACHMENT B**

**Project Principles for the  
Regulation of Medical Cannabis Collective Gardens  
Approved by the Bellevue City Council on February 25, 2013**

The project principles described below apply only to the regulation of medical cannabis collective gardens as permitted under Chapter 69.51A RCW, and do not apply to the recreational use of marijuana approved by the voters on November 6, 2012 with the passage of Initiative 502. The Planning Commission will provide a recommendation to the Bellevue City Council concerning only the regulation of medical cannabis collective gardens.

1. Bellevue Appropriate. In Bellevue, collective gardens are limited to actual gardens that allow small groups of qualified patients to join together to assist each other in growing, harvesting, processing, and distributing medical cannabis among members of the collective garden, consistent with RCW 69.51A.080, now or as hereafter amended.
2. Collective Gardens are Gardens. Commercial enterprises for the distribution of medical cannabis, including but not limited to access points, portals, or dispensaries, are prohibited under federal and state law, and therefore are prohibited in Bellevue. These commercial enterprises are inconsistent with Bellevue's desire to balance the need for medical cannabis patients to have access to their medicine with Bellevue's values and community standards, including the protection of neighborhoods.
3. Neighborhood Character is Protected. Collective gardens shall not be located in residential land use districts or transitional land use zones that abut residential land use districts. Collective gardens shall be separated from schools, child care services, residential treatment facilities, youth-oriented facilities, such as Youth Eastside Services, by a distance of 1,000 feet, consistent with state and/or federal law. A waiting period should be required when a qualifying patient desires to participate in a different collective garden.
4. Regulations are Specific and Understandable. The permanent regulations should be specific about the requirements to locate and operate medical cannabis collective gardens so that qualifying patients understand what is expected under the regulation.
5. Administration and Enforcement is Straightforward. Ensure regulations are capable of being administered and enforced. Collective gardens should register with the City's Development Services Department. Development Services and the Bellevue police department should collaborate in matters of enforcement. Consider using the City's authority to define and abate nuisances to prohibit

## ATTACHMENT B

conduct or activities relating to medical cannabis collective gardens or other medical cannabis commercial enterprises.

6. Security Measures are Required. Collective gardens must have sufficient security measures to protect both the participating patients and the public. Collective gardens are responsible to ensure that members have safe access to their medicine. Medical cannabis plants or finished products should not be visible outside of the collective garden. Collective gardens should include security measures appropriate for the surrounding neighborhood.
7. Processing of the Amendment is Inclusive. The code amendment process for medical cannabis should seek and include input from a wide range of stakeholders.
8. The Outcome is in Conformance with Applicable Law. The establishment and operation of medical cannabis collective gardens must conform with, and not frustrate, the purpose of state law. Collective gardens must conform to the requirements of RCW 69.51A.085, now or as hereafter amended.
9. The Amendment is Narrowly Tailored to Regulate Only Collective Gardens. Regulations for medical cannabis collective gardens should not create the presumption that the Bellevue City Council is regulating the recreational use of marijuana as approved under I-502. Furthermore, the adoption of the regulations for medical cannabis collective gardens is not intended to limit the Bellevue City Council's right to comment on any proposal to effectuate I-502, whether by federal or state entities or local stakeholders, nor should it be construed as a limitation on the Bellevue City's Council's authority in the future to adopt regulatory controls on the sale of recreational marijuana products following the adoption of rules by the Washington State Liquor Control Board.



DEVELOPMENT SERVICES DEPARTMENT  
ENVIRONMENTAL COORDINATOR  
11511 MAIN ST., P.O. BOX 90012  
BELLEVUE, WA 98009-9012

**DETERMINATION OF NON-SIGNIFICANCE**

**PROPONENT:** City of Bellevue

**LOCATION OF PROPOSAL:** Citywide

**DESCRIPTION OF PROPOSAL:**

The proposal is to amend the Land Use Code to allow medical cannabis collective gardens in the General Commercial, Bel-Red General Commercial, Light Industrial, and Medical Institution land use districts. Collective gardens would be prohibited in residential areas. The amendment will include performance standards to mitigate operational impacts. The LUC amendment is based on the interim land use regulations for medical cannabis collective gardens (Ordinance No. 6058).

**FILE NUMBER: 13-112380-AD**

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

- There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on \_\_\_\_\_.
- This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. Only persons who submitted written comments before the DNS was issued may appeal the decision. An appeal of the SEPA Decision shall be filed together with an appeal of the underlying Process IV action. The appeal shall be by petition to the Growth Management Hearings Board and shall be filed within the 60-day time period set forth in RCW 36.70A.290. For information on how to appeal a proposal, visit the Permit Center at City Hall or call 452-6864.
- This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on \_\_\_\_\_. This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5:00 p.m. on \_\_\_\_\_.

This DNS may be withdrawn at any time if the proposal is modified so as to have significant adverse environmental impacts; if there is significant new information indicating a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the DNS was procured by misrepresentation or lack of material disclosure.

Carol Vytellend 7/31/2013  
Environmental Coordinator Date

- OTHERS TO RECEIVE THIS DOCUMENT:**
- State Department of Fish and Wildlife
  - State Department of Ecology, Shoreline Planner N.W. Region
  - Army Corps of Engineers
  - Attorney General
  - Muckleshoot Indian Tribe

M. Jackson 6/28/13

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**CITY OF BELLEVUE  
ENVIRONMENTAL CHECKLIST  
(Integrated SEPA/GMA Process)**

**A. BACKGROUND INFORMATION**

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**PROPOSAL TITLE:** Medical Cannabis Collective Gardens Permanent Land Use Regulations: City-Wide (File No. 13-112380-AD).

**PROPERTY OWNERS' NAME:** N/A; applies City-wide

**PROPOSAL LOCATION:** City-Wide

**PROPONENT'S NAME:** City of Bellevue, Development Services Department

**CONTACT PERSON'S NAME:** Catherine A. Drews

**CONTACT PERSON'S ADDRESS:** Development Services Department  
City of Bellevue  
P.O. Box 90012  
Bellevue, WA 98009-9012

**CONTACT PERSON'S PHONE:** 425-452-6134

**BRIEF DESCRIPTION OF THE PROPOSAL'S SCOPE AND NATURE:**

1. **General description:** The proposal is to amend the Bellevue Land Use Code (LUC) to allow medical cannabis collective gardens in the General Commercial, Bel-Red General Commercial, Light Industrial, and Medical Institution land use districts. Collective gardens would be prohibited in residential areas. The LUC amendment will include performance standards to protect neighborhood character. The LUC amendment will be based on the interim land use regulations for medical cannabis collective gardens (Ordinance No. 6058).
2. **Site acreage:** N/A; applies City-wide
3. **Number of dwelling units/buildings to be demolished:** N/A
4. **Number of dwelling units/buildings to be constructed:** N/A
5. **Square footage of buildings to be demolished:** N/A
6. **Square footage of buildings to be constructed:** N/A
7. **Quantity of earth movement (in cubic yards):** N/A

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8. **Proposed land use:** This LUC amendment will regulate medical cannabis collective gardens as an allowed use in the General Commercial, Bel-Red Commercial, Medical Institution, and Light Industrial Land Use district. Collective gardens will be prohibited in residential land use districts.
9. **Design features, including building height, number of stories and proposed exterior materials:** N/A
10. **Other:** N/A

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

A public hearing on the proposal is anticipated in July 2013. City Council final action on the proposal will follow that public hearing. **July 24, 2013**

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

No.

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

SEPA checklist and threshold determination for this proposed LUC amendment.

**Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. List dates applied for and file numbers, if known.**

N/A

**List any government approvals or permits that will be needed for your proposal, if known. If permits have been applied for, list application date and file numbers, if known.**

Ordinance adoption by the City Council.

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**B. Environmental Elements**

No discussion of the individual Environmental Elements is required for GMA actions per WAC 197-11-235.3.b.

**C. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (do not use this sheet for project actions)**

**SUMMARY**

Project Summary: The proposal is to amend the LUC to allow medical cannabis collective gardens in the General Commercial, Bel-Red General Commercial, Light Industrial, and Medical Institution land use districts. Collective gardens would be prohibited in residential areas. The amendment will include performance standards to protect neighborhood character. The LUC amendment will be based on the interim land use regulations for medical cannabis collective gardens (Ordinance No. 6058).

Environmental Summary per WAC 197-11-235(3)(b):

State the proposal's objectives: To provide guidance to Bellevue citizens who are qualifying medical cannabis patients' interested in establishing and participating in a medical cannabis collective garden.

Specify the purpose and need to which the proposal is responding:

The proposed LUC amendment is intended to address the uncertainty related to the regulation of medical cannabis collective gardens. Federal and Washington law prohibit the production, processing, and dispensing of medical cannabis or medical cannabis products under the respective state and federal controlled substances acts.<sup>1</sup> In 1998, however, Governor Locke signed into law the Medical Cannabis Act (the "Act"), approving the limited use of medical cannabis by patients with qualifying medical conditions.<sup>2</sup> The Act allows qualified patients to either grow their own cannabis or to designate a provider to grow the cannabis for them. The Act also limits the quantity of medical cannabis a patient may possess.

Allowing the limited possession, use, and ability to cultivate medical cannabis created an inconsistency among the Act and the state and federal controlled substances acts. In an attempt to clarify that inconsistency, the legislature in 2011 passed ESSB 5073. This bill, in relevant part, authorized medical cannabis dispensaries and allowed qualifying patients to participate in collective gardens to grow cannabis for medical use. The bill also authorized cities to regulate and license the production, processing, or dispensing of medical cannabis and its products within their jurisdiction. Governor Gregoire signed the bill, but vetoed several portions related to dispensaries, and state licensing and registration requirements.

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<sup>1</sup> 21 U.S.C. 801 et. seq.; Chapter 69.50 RCW.

<sup>2</sup> Chapter 69.51A RCW (formerly the Medical Marijuana Act).

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The veto created inconsistency and uncertainty in the administration and enforcement of portions of the bill that were not vetoed and the existing Act; specifically, the operation and regulation of medical cannabis collective gardens. While clarifying legislation was introduced in the 2012 legislative session, it was not adopted. During this legislative session which adjourned on April 28, the legislature considered, but did not adopt amendments to the Medical Cannabis Act (Ch. 69.51A RCW). The purpose behind the LUC amendment is threefold:

- (1) Allow qualified patients to have appropriate access to medical cannabis;
- (2) Preclude the establishment of collective gardens without regulations; and
- (3) Address public safety issues.

State the major conclusions, significant areas of controversy and uncertainty: See Response above. Bellevue citizens provided comments on the interim zoning regulation (Ord. No. 6058) that medical cannabis collective gardens are inappropriate for residential neighborhoods and that the permanent regulations should protect children.

State the issues to be resolved, including the environmental choices to be made among alternative courses of action: Issues to be resolved include development of a Bellevue appropriate approach to the regulation of medical cannabis collective gardens. Alternative courses of action include: not amending the LUC to regulate medical cannabis collective gardens. In terms of environmental impacts, the two alternatives are not significantly different. Qualifying medical cannabis patients are allowed to grow a limited amount of cannabis in their homes. Qualifying patients who participate in a collective garden must comply with applicable City codes, including those intended to protect the environment, including the City's Storm and Surface Water Utility Code, chapter 24.06 BCC.

State the impacts of the proposal, including any significant adverse impacts that cannot be mitigated: The proposal is a nonproject action to allow medical cannabis collective gardens as a use in limited land use districts. There are no significant adverse impacts resulting from that action. The collective gardens will be located indoors and the use is not expected to have significant impacts.

Describe any proposed mitigation measures and their effectiveness: No specific development is being approved with this proposal. No significant environmental impacts have been identified that would not otherwise be addressed by applicable city codes and state regulations, therefore no mitigation measures are proposed.

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?**

The proposed LUC amendment will not increase the potential impacts to water, air, and earth resources or noise production.

**Proposed measures to avoid or reduce such increases are:** N/A

MJ

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

The proposed code amendment will not increase the potential impacts to plants and animals.

**Proposed measures to protect or conserve plants, animals, fish or marine life are:** N/A

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

Growing plants indoors requires energy and water. According to an article in the Seattle Times, studies indicate that growing 2.2 pounds of cannabis indoors produces 4,600 kilograms of carbon dioxide, which is considered a greenhouse gas. *Pot Grows Leave Huge Carbon Footprint*, Seattle Times, May 12, 2013. Collective gardens are limited to up to 45 plants and 72 ounces (4.5 pounds) of useable cannabis at one time. The Washington State Department of Ecology requires reporting of greenhouse gases when new emissions are expected to average 10,000 metric tons or more of carbon dioxide per year. *Guidance for Ecology Including Greenhouse Gas in SEPA Reviews*, June 3, 2011.

**Proposed measures to project or conserve energy and natural resources are:** None. See response to paragraph 3 above.

**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?**

The proposal will not directly affect any environmentally sensitive areas because medical cannabis collect gardens are not allowed in critical areas.

**Proposed measures to protect such resources or to avoid or reduce impacts are:** N/A

**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?**

The proposal will not affect any shoreline areas. The same shoreline overlay regulations will continue to apply to development and redevelopment.

**Proposed measures to avoid or reduce shoreline and land use impacts are:** N/A

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

The proposed amendments to the Land Use Code are unlikely to change the demands on the transportation system. Qualifying patients will use the transportation system to travel to and from the collective garden or to deliver cannabis to other qualifying

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patients who are members of the collective. Such travel is anticipated within the transportation system.

**Proposed measures to reduce or respond to such demand(s) are:** N/A

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

Conflicts with State and Federal Controlled Substances Acts. Marijuana is classified as a Schedule 1 drug under both the federal Controlled Substance Act and Washington's Uniform Controlled Substance Act. Under both acts, it is unlawful to manufacture, distribute, dispense or possess a Schedule 1 drug, except in the manner authorized under the acts. 21 U.S.C. Sections 841(a)(1); RCW 69.50.401.

However, in 1998, Washington voters approved Initiative 692 (codified as chapter 69.51A RCW), which provided that "qualifying patients with terminal or debilitating illnesses who in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law." RCW 69.51A.005, and .020. In 2011, the Legislature passed ESSSB 5073, which the Governor vetoed in part, allowing up to 10 qualifying patients to create and participate in a collective garden for the purpose of producing, processing, transporting, and delivering cannabis for medical use. RCW 69.51A.085. (See also response to paragraph C above).

The proposed LUC amendment will not conflict with requirements to protect the environment. The proposal will require compliance with all city ordinances and codes, including those provisions related to environmental protection, such as the City's Storm and Surface Water Code, chapter 24.06 BCC.

**D. The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.**

Signature 

Date Submitted 5/28/2013

ORIGINAL

1301-ORD  
10/22/12

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6079

AN ORDINANCE extending Ordinance No. 6058 adopting an interim zoning ordinance regulating medical marijuana collective gardens for a period of six months, to be in effect while the City considers the adoption of permanent regulations for medical marijuana collective gardens; providing for severability; and establishing an effective date.

WHEREAS, E2SSB 5073 (the Act) effective on July 22, 2011 amended Chapter 69.51A RCW and authorizes "collective gardens" which allows certain qualifying patients to produce, grow, and deliver marijuana for medical use; and

WHEREAS, federal law prohibits the production, processing and dispensing of medical marijuana products, and strict federal sentencing guidelines enhance the penalties for violations involving more than 99 plants or occurring within 1000 feet of schools; and

WHEREAS state law strictly enhances the penalties for violations of the federal Controlled Substances Act that occur within 1000 feet of a school; and

WHEREAS, the Act authorizes municipalities to exercise local location, health and safety controls for the regulation of collective gardens; and

WHEREAS, the City Council deems it to be in the public interest to establish interim regulations pending local review of the anticipated changes in the law; and

WHEREAS, the acceptance of applications proposing development, establishment, or licensing of collective gardens may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony; and

WHEREAS, on May 7, 2012 in response to the legal uncertainty created between state and federal regulation of marijuana, the City Council adopted Ordinance No. 6058 implementing an interim zoning ordinance regulating medical marijuana collective gardens on an interim basis, and adopting findings of fact; and

WHEREAS, under the Growth Management Act (GMA), the City was required to hold a public hearing within 60 days of adopting Ordinance No. 6058, which public hearing was held on July 2, 2012, to consider the interim zoning ordinance regulating medical marijuana collective gardens; and

WHEREAS, on October 8, 2012, information was presented to the City Council regarding the status of the code work to develop permanent regulations for

1301-ORD  
10/22/12

medical marijuana collective gardens and advising the City Council about recent court rulings upholding cities' zoning authority to regulate and ban medical marijuana collective gardens; and

WHEREAS, Initiative 502 (I-502), seeking to decriminalize marijuana in the state of Washington, is on the November 6, 2012 ballot of the November 6, 2012 General Election, and it is unknown what actions the state or federal governments may take in response to the passage of I-502; and

WHEREAS, Ordinance No. 6058 will, by its terms, expire on November 7, 2012; and

WHEREAS, the extension of the interim regulations of six months in duration for the filing of certain applications for development, establishment or licensing of collective gardens will prevent substantial change until the land areas and the text of development standards applicable to collective gardens 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 of 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, on October 22, 2012, the City held a public hearing to consider extending Ordinance No. 6058 for an additional 6 month period; 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 197-11-880, 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. 6058 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.

1301-ORD  
10/22/12

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. 6058 imposing the interim zoning ordinance.

Section 4. Effective Date. This ordinance shall take effect and be in force on November 7, 2012.

Passed by the City Council this 22<sup>nd</sup> day of October, 2012 and signed in authentication of its passage this 22<sup>nd</sup> day of October, 2012.

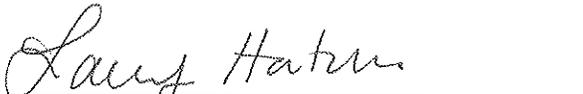
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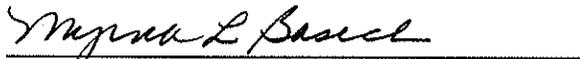
Conrad Lee  
Mayor

Approved as to form:

Lori M. Riordan, City Attorney

  
Lacey Hatch, Assistant City Attorney

Attest:

  
Myrna L. Basich, City Clerk

Published Oct. 25, 2012

## **CITY COUNCIL STUDY SESSION ITEM**

### **SUBJECT**

Regulation of Medical Cannabis Gardens and Recreational Marijuana-Related Uses

### **STAFF CONTACT**

Lori M. Riordan, City Attorney, 452-7220  
*City Attorney's Office*

Carol Helland, Land Use Director, 452-2724  
Catherine Drews, Legal Planner, 452-6134  
*Development Services Department*

### **POLICY ISSUES**

- 1) Whether additional direction is needed from Council to the Planning Commission regarding the scope of work for the Commission's consideration of permanent regulations for collective gardens, particularly with respect to zoning.
- 2) Whether Council should consider local regulation of recreational marijuana uses, including zoning, prior to finalization of the state regulations of such uses by the state Liquor Control Board

### **FISCAL IMPACT**

There will be no fiscal impact resulting from Council's decisions at the present time. Initiative 502 (I-502), legalizing the production, manufacturing and retail sales of recreational marijuana expressly contemplates treating these land uses as lawful business activities. The state of Washington will collect taxes related to these businesses and anticipates that local jurisdictions may also choose to license these businesses and collect local taxes such as B&O tax. Should the City Council determine at a later point in time to require such uses to secure local business licenses and apply B&O tax to their enterprises, some tax revenue may be assumed. However, until such time as the state Liquor Control Board issues licenses for these uses, we will not know how many of these businesses may seek to locate in Bellevue.

There are currently no valid business licensees for medical marijuana collective gardens within Bellevue, and therefore no B&O taxes being collected.

### **DIRECTION NEEDED FROM COUNCIL**

- Action
- Discussion
- Information

After adopting interim regulations of medical cannabis collective gardens and extending those regulations on two separate occasions during 2012 and 2013, the City Council tasked the Planning Commission with holding a public hearing and recommending permanent regulations of these uses. On February 25, 2013 the Council considered guiding principles to assist the Commission in devising recommended permanent regulations. During that discussion, the Council also discussed the passage of I-502, the citizen initiative authorizing the production, processing and retail sales of recreational marijuana, and the need for the Planning Commission to include consideration of zoning for those uses when recommending permanent zoning for medical cannabis collective gardens.

In their first discussion of the proposed regulation of medical cannabis in May 2013, the Planning Commission expressed concern regarding moving forward with recommendations on permanent regulations until the state Liquor Control Board issued rules regarding recreational marijuana uses under I-502. There was general consensus at that meeting that it would be appropriate to suggest to the Council that the Planning Commission should wait for state action on those rules before taking up the question of local regulations.

On July 3, 2013, the State Liquor Control Board (“LCB”) issued a second draft of proposed WACs<sup>1</sup>, which are the rules by which the state intends to license and regulate recreational marijuana uses in conformance with I-502, which has now been codified into Ch. 69.50 RCW, the state Uniformed Controlled Substances Act. In a meeting with LCB staff prior to issuance of this draft of the WACs, local governments were urged by the LCB to act on any local regulations, specifically zoning, prior to issuance of any permits by the LCB, which are anticipated to occur before the end of 2013. Furthermore, because the LCB intends to open the application process for recreational marijuana uses in mid-September, it has become clear that we need to accelerate discussions of zoning designations for these uses.

Consequently, in addition to the previously transmitted guiding principles for regulation of medical marijuana collective gardens, direction is needed from Council to the Planning Commission regarding the timeline for continuing forward on finalizing medical cannabis regulations, as well as commencing discussions for consideration of potential zoning designations for the three types of recreational marijuana uses—production, processing and retail sales. A public hearing is scheduled for July 24, 2013 before the Planning Commission, and staff is preparing to present options and make recommendations to the Commission regarding potential zoning designations.

To address recreational marijuana zoning, we propose taking a similar approach to that taken on medical cannabis collective gardens, of bringing interim zoning regulations to Council for consideration in early September, and seeking Council direction to the Planning Commission to discuss and propose final regulations.

### **BACKGROUND/ANALYSIS**

Initiative 502 was passed by 55.49% of Washington voters participating in the in November 2012 elections. In Bellevue, over 59% of voters approved the initiative.

The initiative:

- Legalizes the use of marijuana by people 21 years and older. They may possess up to 1 ounce of marijuana, 16 ounces of marijuana-infused product in solid form and 72 ounces of marijuana-infused product in liquid form;

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<sup>1</sup> The Washington Administrative Code is commonly referred to as the WACs.

- Specifies that only state-licensed marijuana production, processing and sale of marijuana are permitted;
- Requires licensed facilities to be at least 1,000 feet from schools, playgrounds, recreation centers, child care centers, public parks, public transit centers, libraries and arcades;
- Limits signage to a maximum of one that is no larger than 11 square feet in area;
- Prohibits retail facilities from:
  - o Displaying marijuana or marijuana products so they are visible from the public right-of-way;
  - o Selling anything other than marijuana, marijuana-infused products and paraphernalia.
- Prohibits, for all recreational marijuana facilities, the following activities:
  - o Advertising, in any medium, within 1,000 feet of any school, playground, recreation center, child care center, public park, transit center, library or arcade
  - o Advertising on publically-owned or- operated property or within a public transit vehicle or shelter; and
- Prohibits on-premises consumption; and
- Establishes a standard for driving under the influence of marijuana.

I-502 requires that the state Liquor Control Board draft and approve rules for the licensing and regulation of recreational marijuana uses. The LCB staff has been working on these rules for several months, and on July 3, 2013, published draft rules for introduction to the Board and for public comment at hearings to be held in August 2013. The LCB anticipates adoption of the rules, codified in the WAC in late August or early September, to take effect 30 days later.

With the passage of I-502, there has been some confusion about the interplay between medical cannabis collective gardens and I-502. A general misconception has been that the passage of I-502 effectively rendered the regulation of medical cannabis collective garden uses unnecessary. I-502, however, did not repeal or amend the Medical Cannabis Act, Chapter RCW 69.51A RCW. There was also some general confusion about the role of the LCB and the potential scope of regulations of recreational cannabis businesses. Despite the passage of I-502, the LCB anticipates continuation of medical cannabis collective gardens (and in some cities, dispensaries) in part because that activity is not taxed in the manner of recreational marijuana, and because patients can access significantly greater quantities of marijuana in a single transaction. The LCB had introduced a bill in the legislature to synch up the taxation of medical cannabis uses with recreational marijuana uses during this past legislative session, however that bill was not acted on due to the prolonged budget debates. While the LCB or others may seek to introduce new medical cannabis legislation in the next legislative session, there is no guarantee that the bill would draw a sponsor, or get a hearing to secure passage.

## **LICENSE RULES AND TAXES**

I-502 imposes a 25% excise tax at each transaction point (producer to processor, processor to retailer, and retailer to consumer) but local governments will not receive any of the excise tax revenues. Local governments will receive sales tax revenue that will be collected on retail sale of marijuana in the same way they do for all retail sales.

State license applicants will have to pay a \$250 license application fee and a \$1,000 license issuance fee. After that, an annual renewal fee of \$1,000 will be required. A separate license will be required for each facility location. Licensed producers and processors may not have a direct or indirect financial interest in a licensed retailer. While a licensee may hold both a producer and a processor license, holders of a producer license and/or a processor license may not also hold a retailer license.

Eventually, the LCB will set a maximum number of retail licenses that can be issued in each county. The limits will be based on population and access to product. At this time it is not possible to predict how many retail licenses will be allowed for King County. The licensing procedure will include a requirement that local jurisdictions be notified of any application for a marijuana facility within their boundaries and will provide a process to object to issuance of the license. The process will be similar to what's in place for liquor licenses.

As noted above, the state Liquor Control Board issued preliminary draft rules for the regulation of licensing recreational marijuana uses in May 2013 and sought feedback from local government, potential licensees and the general public.

After taking in over 1,000 comments, the LCB made some modifications to the proposed rules and filed them with the Code Reviser. Attached is a publication from the LCB entitled "Proposed Rules Highlights" dated July 3, 2013, describing the LCB's responsibilities and timeline for these regulations and providing brief "highlights" of these draft rules.

In conversations with LCB staff, local governments specifically discussed the interplay between state and local regulatory authority. LCB staff made clear to city representatives that it would emphasize for potential applicants the requirement that their proposed recreational marijuana businesses must comply with all applicable local regulations. They also made clear to city representatives that they would convey to applicants any objections that local governments have to license applications, such as objections that the proposed business location is not zoned for such uses, and that the issuance of a license will not be a guarantee of the ability to operate in a given location. The LCB staff urged cities to adopt zoning regulations to guide potential applicants and help inform the LCB on issues with potential business sites. The LCB will not deny a license based upon a zoning issue, as they view that as the sole responsibility of the local jurisdiction, meaning that it will leave responsibility for enforcing local zoning regulations against any licensee who attempts to open a business to cities and counties.

Based on the LCB's stated rule-making schedule, there is insufficient time for the City to pursue enactment of permanent zoning regulations in the manner generally employed under the Land Use Code of delegating consideration of proposed zoning to the Planning Commission for a public hearing and recommendation to the Council prior to finalization of the LCB's proposed rules. We are therefore recommending that we again employ the alternative process provided for in the Land Use Code that we utilized for the interim medical cannabis collective garden regulations. This would involve staff developing recommendations for Council to consider as interim zoning regulations to be presented for Council action in early September. Under GMA, within 60 days of adoption of any interim zoning, Council would be required to hold a public hearing on the interim regulations. As with the interim regulations for medical cannabis collective gardens, we would then ask Council to adopt guiding principles and forward them to the Planning Commission for consideration of proposed permanent regulations.

Since the Planning Commission will be holding a public hearing on June 24 regarding proposed permanent medical cannabis collective gardens, including zoning regulations, we will be presenting the Planning Commission with information regarding potential zoning locations for the recreational marijuana uses, and comparing them with the zoning proposed for medical cannabis collective gardens. This will provide the Planning Commission with some advance context for the later consideration of permanent zoning regulations for recreational marijuana uses.

## **RECOMMENDATION**

- 1) Provide direction to the Planning Commission to continue with consideration of proposed permanent medical cannabis collective gardens and zoning, including consideration of potential zoning for recreational marijuana uses to provide context for the collective garden zoning; and
- 2) Provide direction to staff to bring forward proposed interim zoning regulations for recreational marijuana uses in early September for consideration by Council prior to finalization of LCB rules.

## **ATTACHMENTS**

Proposed Rules Highlights from WSLCB  
Frequently Asked Questions about the I-502 Proposed Rules



# Washington State Liquor Control Board

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## Proposed Rules Highlights

July 3, 2013

### LCB Rulemaking Objective

- Creating a tightly controlled and regulated marijuana market;
- Including strict controls to prevent diversion, illegal sales, and sales to minors; and
- Providing reasonable access to products to mitigate the illicit market.

### LCB Role and Responsibility

- Ensuring public safety is the top priority;
- Creating a three-tier regulatory system for marijuana;
- Creating licenses for producers, processors, and retailers;
- Enforcing laws and rules pertaining to licensees; and
- Collecting and distributing taxes.

### Timeline

December 6, 2012	Effective date of new law
May 16, 2013	Draft rules sent to stakeholders for input and vetting
July 03 2013	Proposed rules filed with Code Reviser (CR 102)
August 6-8, 2013	Public hearings on proposed rules
August 14, 2013	Rules adopted
September 16, 2013	Rules become effective
September 16, 2013	Begin accepting applications for all three licenses (30-day window)
December 1, 2013	Rules are complete (as mandated by law)
Dec. 2013 / Jan. 2014	Begin issuing producer, processor and retailer licenses

## Proposed Rules Highlights

### License Requirements

- **30 day window**
  - The LCB will open registration for all license types for a 30 calendar day window (mid-September)
  - LCB may extend the time or reopen application window at its discretion
- **State Residency Requirement**
  - I-502 requires a three month state residency requirement (all license structure types)
- **Background Checks**
  - Personal criminal history form with license forfeiture if incomplete or incorrect
  - Fingerprinting of all potential licensees
  - Background checks of license applicants and financiers
- **Point System**
  - The LCB will apply a disqualifying point system similar to liquor
  - Rules allow exceptions for two misdemeanor convictions of possession w/in three years

July 03, 2013

- **Costs and Fees**
  - \$250 application fee
  - \$1,000 annual renewal fee
  - Additional fees for background check and filing for local business license
- **Taxes**
  - License applicants must submit a signed attestation that they are current on taxes owed to the Washington State Department of Revenue.

## **Public Safety**

- **Producer Structures**
  - Rules allow producer operations in secure: indoor and outdoor grows as well as greenhouses
- **Traceability**
  - LCB will employ a robust and comprehensive traceability system (software) that will trace product from seed/clone to sale.
  - LCB enforcement can match records to actual product on hand.
- **Background Checks**
  - Personal criminal history form
  - Fingerprinting of all potential licensees
  - WSP and FBI back background checks of licensees and financiers
- **Point System**
  - LCB will apply a disqualifying point system similar to liquor (exceptions for possession)
- **Violation Guidelines / Standard Administrative Procedures Act Guidelines**
  - \$1,000 criminal penalty for sales to a minor
  - Sets strict tiered system of violation record over a three year period
    - Group 1 public safety:
      - First violation: 10 day suspension or \$2,500
      - Second violation: 30 day suspension
      - Third violation: license cancellation
- **Child Resistant Packaging**
  - Specific requirements for marijuana and marijuana-infused products in solid and liquid forms
- **Security and Safeguards**
  - Alarm and surveillance video camera requirements (including minimum pixels and lockbox encasement)
  - Strict transportation and record keeping requirements (no third party transport of product)
  - Hours of operation limited to 8:00 a.m. to 12:00 a.m.
- **Advertising Restrictions**
  - Law restricts advertising within 1,000 feet of schools, public parks, transit centers, arcades, and other areas where children are present.

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- May not contain statements or illustrations that: is false or misleading, promotes over consumption, represents that the use of marijuana has curative or therapeutic effects, depicts a child or may be appealing to children.
- **Limits on Retail Stores**
  - LCB to provide advance notice to local authority
  - Per I-502, LCB to determine number of retail outlets per county
    - LCB to hold county-by-county lottery accounting for population distribution
    - BOTEC Analysis Corporation determining county consumption levels.
      - Consumption will drive number of retail outlets.

## **Consumer Safety**

- **Behind the counter storage**
  - No open containers or handling of product
  - Sniff jars with sealed, screened-top lids allowed
- **Strict packaging and label requirements**
  - Limited servings and concentration per package
  - Lot number
  - Warning label
  - Net weight
  - Concentration of THC and five other cannabinoids
  - Usage warnings (specific warning for ingestible foods/liquids about effect delays)
  - Upon request
    - Third party lab that tested lot and results
    - All pesticides, herbicides, fungicides found in product
- **Defined Serving Size**
  - Defined serving sizes on marijuana-infused product label
    - 10 mg of THC per serving
    - 100 mg of THC per product
- **Lab Tested and Approved (monograph)**
  - All lots will be tested by independent accredited labs
  - Established and uniform testing standards
- **Store Signage and Product Warnings**
  - No minors allowed in stores
  - Required product and usage signs within stores

For more information regarding Initiative 502, please visit the Liquor Control Board website at [www.liq.wa.gov](http://www.liq.wa.gov).

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July 03, 2013



## Washington State Liquor Control Board

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### Frequently Asked Questions about the I-502 Proposed Rules

**Topic:** Initiative 502

**Date:** July 3, 2013

#### Licensing

##### **When can I get my license?**

We will begin accepting applications for all three license types (producer, processor and retailer) for 30 days on September 16, 2013 and expect to begin issuing licenses, at the earliest, in December 2013. Due to the anticipated turnout and rush to obtain a license it is possible that the process may take longer than the projected 90 days. The best way to stay up to date on the implementation process and when the applications become available is to register for [email notifications](#) on the WSLCB website.

##### **Why are you only accepting applications for 30 days?**

Opening up the licensing window for 30 days affords anyone who is qualified to apply for a license the opportunity to do so. Whether you are a small grower or larger company you will be given the same opportunity to get a license. Closing the window after 30 days allows the Board the opportunity to assess the market and see what changes, if any, are needed regarding the number of licenses. The Board may also reopen the window at its discretion.

##### **How many producer and processor licenses will be issued?**

Presently the WSLCB does not intend to limit the amount of producer or processor licenses it will issue. The LCB will open a 30 day window in September where anyone can apply, and qualified applicants will receive licenses.

##### **How many retail licenses will be issued?**

The number of retail locations will be determined using a formula that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. Once the number of locations per city and at-large have been identified, the specific locations will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county.

##### **How will the lottery work?**

WSLCB staff are developing the guidelines for the retail license lottery. As more information becomes available we will notify stakeholders via the [I-502 Listserv](#).

##### **If the local authority objects to my proposed location after filing my application can I move my location without refiling?**

Applicants will be able to change the location of a potential license if the local authority objects, as long as the application is still in the processing stage, without filing a new application.

##### **Will a criminal record impact my ability to get a license?**

The WSLCB will employ a disqualifying criminal history point system similar to liquor. An exception would be allowed for two misdemeanor convictions of possession within three years. A felony conviction will prohibit you from obtaining a marijuana license if the conviction was in the last 10 years.

**How do I prove three months residency?**

There are many ways to prove residency. Some examples include:

- Get a Washington State driver's license or ID card, which has an issue date on it
- Present three months worth of utility bills, pay stubs, etc.
- Register to vote

You can find out more about state residency requirements at [Access Washington](#).

**How do I show I'm current on my taxes?**

Prospective licensees will be required to sign an attestation that they are current on their taxes. Failure to do so or misrepresentation of the status of your taxes is grounds to deny the application.

**Can I get my \$250 application fee back?**

Marijuana application fees are non-refundable.

**Is it true that the WSLCB is just going to license current medical marijuana outlets to retail marijuana?**

No. Retail licenses will be issued to qualified applicants who meet the licensing criteria. A medical marijuana outlet that wants to convert to a recreational outlet will have to go through the same application process as any other potential applicant. If they were to obtain a retail license they would only be allowed to sell marijuana purchased from the recreational system, they would not be allowed to comingle medical and recreational marijuana.

**Can local jurisdictions prevent me from opening a location?**

The LCB has no authority to dictate zoning requirements to local governments. Municipalities could conceivably zone marijuana/related businesses out of their geographical area, check with your local authority to understand their requirements.

**Since there are a limited number of retail licenses available can I apply for a retail license and a processor and/or producer license at the same time to ensure that I'm not left out and then withdraw the processor and/or producer license application in the event that I get the retail license?**

No. Applicants must decide ahead of time which license type they are pursuing. If an applicant applies for a retail license in addition to one of the other two license types all of the applications will be rejected.

**Can I be a processor and a producer?**

Yes. Licensees may hold a both a producer and processor license together.

**Is there a producer/processor license?**

No. Applicants must apply for, and obtain, both licenses separately and must pay the application and renewal fees on both licenses.

**Do I have to pay the 25% tax on sales between producer and processor if I hold both licenses?**

No. If you hold a producer/processor license you avoid the 25% tax that would be applied to a producer to processor sale.

**Do I have to provide proof from my landlord that they are aware of how their property is being used?**

No. The provision requiring an applicant to provide a signed affidavit showing their landlord is aware of the marijuana related business using their property has been removed.

**There is a bus stop in front of my location; will that disqualify me from getting a license?**

The rules define "public transit center" as 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.

**Can I have multiple locations?**

Yes. However each location must be licensed separately and the licensee must meet the previously mentioned requirements on license types.

**How will the WSLCB measure distance from a restricted area to a potential marijuana location?**

I-502 directs the WLCB to measure, in a straight line, from the perimeter of a restricted area to the perimeter of a potential location.

**If I'm providing financial backing do I have to be a resident?**

Yes. Financiers will be required have three months Washington state residency and to pass the same criminal background checks as a licensee.

**Testing**

**How can I get my laboratory certified to test marijuana?**

The LCB will contract (via the request for proposals process) with a firm who will be responsible for accrediting labs.

**How will I get my products tested?**

The LCB will furnish a list, via our website, of accredited labs for producers to contract with for testing services.

**Traceability/Product**

**What is the traceability system?**

A robust and comprehensive traceability software system will that will trace product from start to sale. Licensees will have to use tracking software that is compatible with LCB's traceability system and allows the LCB to monitor and track any plant at any time.

**When do my plants need to be entered into the traceability system?**

Prior to reaching eight inches in height or width each plant must be tagged and tracked individually

**How do I obtain startup inventory?**

Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises and recorded into the traceability system. No flowering marijuana plants may be brought into the facility during this fifteen day timeframe. After the 15 days pass, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

**Growing**

**Where can I grow?**

- **Indoors/Greenhouse**

Fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

- **Outdoor**

Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

**Can a current farm just convert its crop to marijuana?**

Converting a crop to marijuana would require a producer license and the farm would have to meet all of the guidelines set forth in the rules pertaining to outdoor growing.

**Can I grow in my personal residence?**

No. The rules state that “the Board will not approve a license for any location where law enforcement access, without notice or cause, is limited. This includes personal residences.” Private residences are afforded a degree of privacy under the 4<sup>th</sup> amendment of the U.S. Constitution that is incompatible with the regulatory requirements of I-502.

**Are there any limits on how much marijuana I can produce or keep on hand?**

Presently the LCB does not plan to limit the amount of marijuana on hand at licensed locations. All marijuana products must be tracked through the traceability software.

**How many plants can I grow? Are there any size restrictions on growing operations?**

Presently the WSLCB is not capping the number of plants that a producer can grow or how large of a production facility they operate. However producers will have to track and trace every plant and grant access to that information upon request of the WSLCB.

**How can I get my marijuana certified as organic?**

Marijuana may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

## **Processing**

**Why can't I advertize marijuana's medical benefits?**

The WSLCB is regulating the recreational marijuana market and does not evaluate the medical claims of a recreational product. Prospective licensees who want to produce/market marijuana for medical purposes should research Washington's medical marijuana laws.

**How will you prevent children from accidentally ingesting marijuana products?**

Marijuana infused products must be packaged in child resistant packaging in accordance with Title 16 CFR 1700 of the Poison Prevention Packaging Act.

**What happened to the “Produced in Washington” icon?**

During the public comment period the WSLCB heard a variety of comments on the icon and ultimately decided to remove it from the rules. The intent of the icon was to provide parents, teachers, etc with a visual aid that helped them readily identify a product as marijuana. Many of the comments were positive and appreciated the WSLCB's work on this issue, while others were concerned that the icon may be seen

as promotional. The Board does reserve the ability to require an icon be included on packaging in the future for public safety purposes if they deem it necessary.

**Why does the Board want to ban concentrates?**

The Board's analysis believes that the definition of usable marijuana or infused product in I-502 does not cover concentrates. While the Board was willing to allow concentrates they are not inclined to break the law to do so.

**Does hash qualify as usable marijuana?**

No. Under the definitions of I-502 hash does not qualify as usable marijuana.

**Can I infuse concentrates with an inert oil, or similar substance, and sell it?**

Yes. This would qualify as a marijuana infused product.

**What is the minimum level of added marijuana for a product to be considered a marijuana infused product?**

The Board has not set minimum thresholds for what constitutes an "infused" product.

**Retail**

**Can I run a retail delivery business?**

No. Third party delivery is not allowed. All retail sales must take place in a licensed retail establishment.

**Can a medical marijuana outlet and a retail outlet share the same space?**

No. The two operations would have to be separate. Retail outlets are only allowed to sell marijuana that comes from a licensed processor and licensed processors are not allowed to sell to unlicensed entities, such as a medical marijuana outlet.

**Are there any restrictions on retail hours of operation?**

Retail marijuana operations may take place between the hours of 8:00AM and 12:00AM.

**Why can't I hold the marijuana before purchase?**

I-502 is very clear that there can be no open containers of marijuana, or consumption of marijuana at licensed locations. The WSLCB cannot write rules that contradict the law.

**Why can't I smell the marijuana before purchase?**

Retail licensees are allowed to provide a sample jar with a plastic or metal mesh screen to allow customers the ability to smell the product before purchasing. Opened marijuana products are not allowed inside a licensed retail outlet.

**Miscellaneous**

**Will the WSLCB be setting prices?**

No. The WSLCB will not set prices but licensees are not allowed to sell marijuana products below their acquisition cost.

**Can I provide samples?**

Producers are allowed to provide samples to a processor and processors are allowed to provide samples to a retailer. Retailers are not allowed to supply samples to the public.