

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.¹ 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.² 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 1st 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

¹ 21 U.S.C. 801 et. seq.; Chapter 69.50 RCW.

² Chapter 69.51A RCW (formerly the Medical Marijuana Act).

amendments.³ 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.

³ 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 |
| 8192 | Other Horticultural Specialties: Medical Cannabis Collective Gardens | | | | A (4) | A (4) | | | | | |
| 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;

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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

City of Bellevue Planning Commission
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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.

Carole Nystellend 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

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.

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.¹ 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.² 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.

¹ 21 U.S.C. 801 et. seq.; Chapter 69.50 RCW.

² 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 22nd day of October, 2012 and signed in authentication of its passage this 22nd day of October, 2012.

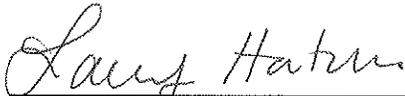
(SEAL)



Conrad Lee
Mayor

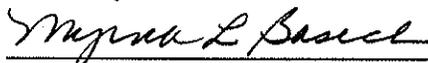
Approved as to form:

Lori M. Riordan, City Attorney



Lacey Hatch, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published Oct. 25, 2012