

City of
Bellevue



MEMORANDUM

DATE: July 6, 2014

TO: Chair Laing, Members of the Planning Commission

FROM: Catherine A. Drews, Legal Planner, Development Services Department
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SUBJECT: Staff Recommendation: Recreational Marijuana Uses 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 recreational marijuana producers, processors, and retailers (collectively “recreational marijuana uses”) in appropriate land use districts in Bellevue. Recreational marijuana uses would be prohibited in residential areas.

At the conclusion of the June 25 study session, the Planning Commission discussed the possible need for additional study sessions after the public hearing, and after the Planning Commission reviews the new mapping and the effects of the direction provided on June 25. The subject matter of the public hearing is being noticed broadly to allow for consideration of a range of options, including those included in the interim regulations and those discussed by the Planning Commission on June 25 to maximize the possibility of staying on schedule as further described below. The Council has stated its desire to receive the Planning Commission’s recommendation with adequate time to allow for adoption of permanent regulations before the expiration of the current interim regulations on October 21.

To address scheduling constraints, staff has included two proposed code amendments for the Planning Commission’s consideration that comprise the bookends of a possible code amendment framework. The first proposed code amendment is based on the interim regulations with modifications to include the Planning Commission’s direction from the June 25 study session (Option A). The second proposed code amendment comprises only the interim regulations (Ordinances Nos. 6133 B-1 and 6156) (Option B). Copies of both proposed code amendments are included with this memorandum as Attachments A (Option A) and B (Option B). It is anticipated that the two proposed code amendments and the new mapping will provide the opportunity for discussion of the desired outcome during the public hearing and allow the Planning Commission to take public comment on the range of options and topics. This process should allow the Planning Commission to recommend or amend either proposed code amendment without the need to hold a second public hearing, thus allowing for a timely recommendation to the Council.

Based on analysis of the two options using mapping produced by the City’s GIS department, staff recommends that the Planning Commission consider recommending Option B, as it is most consistent with Council direction to begin with the interim regulations and not to prohibit the uses. The Planning Commission modifications have the potential consequence of virtually eliminating access to recreational marijuana uses by reducing the number of parcels to locate a recreational use. After conclusion of the July 30 public hearing and consideration of public comment, staff requests the Planning Commission either to prepare a recommendation to the City Council on the proposed code amendments included in either Attachment A or B, or to provide additional direction to staff. Below is sample motion language for the recommendation on either option A or B:

Draft motion language: I move that the Planning Commission recommend to the Bellevue City Council adoption of the draft recreational marijuana uses Land Use Code amendments as presented in Attachment [A] or [B]

Regulatory and Procedural Background

At the November 6, 2012, General Election, Washington voters approved Initiative 502 (I-502) legalizing the possession of limited amounts of marijuana. In Bellevue, over 59% of voters approved the initiative. I-502 became effective on December 6, 2012, and is codified into Chapter 69.50 RCW, the state Uniformed Controlled Substances Act.

In general I-502:

- Legalizes the use of marijuana by people 21 years and older. Adults 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;
- 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, public playgrounds, recreation centers, state-licensed day cares, public parks, public transit centers, libraries, and arcades¹; and
- Limits signage to a maximum of one that is no larger than 11 square feet in area.

I-502 prohibits retail outlets from:

- Selling marijuana or marijuana products to anyone under the age of 21;
- Permitting anyone under the age of 21 from entering the premise;
- Displaying marijuana or marijuana products so they are visible from the public right-of-way; and
- Selling anything other than marijuana, marijuana-infused products², and paraphernalia; and

I-502 prohibits for all recreational uses from:

- Advertising in any medium, within 1,000 feet from schools, public playgrounds, recreation centers, state-licensed day cares, public parks, public transit centers, libraries, and arcades; and
- Advertising on publically-owned or operated property or within a public transit vehicle or shelter; and
- Consumption of marijuana and marijuana products on premises.

I-502 also establishes a standard for driving under the influence of marijuana. I-502 did not repeal or amend the Medical Cannabis Act, Chapter 69.51A RCW.

The Washington State Liquor Control Board (“LCB”) is the agency tasked with developing and implementing regulations for recreational marijuana producers, processors, and retailers. The LCB published draft rules in the fall of 2013 and adopted final rules in December 2013.

¹ These facilities are defined at WAC 314-55-010. The separation distance is measured as the shortest line between the property lines of the proposed recreational marijuana use and the uses listed in the Washington State Liquor Control Board’s (LCB) rules. WAC 314-55-050(10).

² Marijuana extracts, such as hash, hash oil, shatter, and wax may be infused into products sold by a marijuana retailer, but the extracts alone may not be sold. WAC 314-55-079(1). On June 25, the LCB passed an emergency amendment (Emergency Rule #14-23) to its rules addressing infused products to require portion control, product consistency, and prohibiting products appealing to children. <http://liq.wa.gov/rules/recently-adopted-rules> (last visited July 8, 2014).

Under federal law, the production, processing, and dispensing of marijuana is illegal.³ On August 29, 2013, however, the United States Department of Justice, Office of the Attorney General, (“DOJ”) released updated guidance regarding marijuana enforcement. According to DOJ, the guidance was updated in response to state ballot initiatives, such as I-502, which legalize the possession of small amounts of marijuana and regulate the production, processing, and sale of marijuana. The guidance reiterates that DOJ is committed to using its investigative and prosecutorial resources to address the most significant threats to public safety related to marijuana crimes in “the most effective, consistent, and rational way.” The guidance directs federal prosecutors to review potential marijuana-related charges in cases to determine whether the conduct at issue implicates one or more of the eight stated federal enforcement priorities set forth in the guidance. The DOJ guidance rests on expectations that state and local governments implement a strong and effective regulatory system.

During the Council’s July 15, 2013, Study Session, staff sought and received direction to develop recommendations for an emergency interim zoning ordinance implementing land use regulations for recreational marijuana producers, processors, and retailers. Based on the LCB’s schedule, there was insufficient time for the City to pursue enactment of permanent zoning regulations using the process generally employed under the Land Use Code of delegating consideration of proposed zoning to the Planning Commission for a public hearing and subsequent recommendation to Council. Instead of this process, the City used the emergency ordinance and interim zoning control processes allowed under the Growth Management Act (“GMA”).

On October 7, 2013, staff presented recommendations to Council in preparation for adoption of an emergency ordinance implementing an interim zoning control. In response to the draft rules and to ensure that the City had appropriate zoning established for recreational marijuana uses, on October 21, 2013, the City Council adopted Ordinance No. 6133 B-1, a copy of which is included as Attachment C. This ordinance implemented an emergency interim zoning control regulating the location of recreational marijuana uses and providing performance standards intended to address impacts related to the operation of recreational marijuana uses. These standards went beyond the LCB’s rules for security and odor control. Council subsequently held a public hearing on the ordinance as required under the GMA on December 2, 2013, and extended the ordinance for a six-month period as allowed under the GMA. The Council also adopted planning principles to direct the work of the Planning Commission, which are included as Attachment D.

Shortly after Council adopted planning principles on December 2, 2013, the Washington legislature began its 2013-14 session. During this session, there was uncertainty regarding what action the legislature would take on pending bills regarding recreational marijuana regulation and medical cannabis during the 2014 legislative session. Because of the legislative uncertainty, staff waited to introduce the recreational marijuana work to the Planning Commission.

The City Council again extended the interim regulations on March 17, 2014. During the public hearing, Council adopted Ordinance No. 6156 extending and amending Ordinance No. 6133 B-1 to require that marijuana retail outlets be located no closer than 1,000 feet to another marijuana retail outlet. A copy of Ordinance No. 6156 is included as Attachment E to this memorandum. The notice, however, for the March 17 public hearing did not anticipate this action, so another public hearing was held on May 12, 2014, to provide the public with an opportunity to comment on the amendment. Two people commented in opposition to marijuana uses in Bellevue.

Also at the May 12 Study Session, Council discussed imposing a moratorium on the acceptance and processing of permit and licensing applications for both recreational marijuana uses and medical cannabis

³ 21 U.S.C. 801 et. seq.

collective gardens. A motion was made to impose a six-month moratorium, but the motion failed by a vote of 2 -5. At the close of the public hearing, Council directed staff to begin working with the Planning Commission to develop a recommendation for permanent regulations for recreational marijuana uses consistent with the planning principles adopted in December 2013.

Staff introduced the topic of permanent regulations for recreational marijuana uses to the Planning Commission on May 28. Staff presented additional information based on questions raised by the Planning Commission during study sessions on May 28 and June 11. Public comments were received both opposing and supporting recreational marijuana uses.

II. Recreational Marijuana in Colorado

Councilmember Stokes attended the June 25 study session and after hearing public comment and a presentation on recreational marijuana enforcement, requested information about the differences between how Boulder and Denver Colorado regulate recreational marijuana. Staff prepared a matrix comparing recreational separation distances proposed by Bellevue and those adopted in Boulder and Denver. The matrix is included as Attachment F. Many of the differences between Bellevue and Boulder/Denver may be attributable to differences in the state laws and regulations. For example, Boulder's system allows the conversion of legally-established medical marijuana businesses to recreational marijuana businesses, or the two may be co-located. These kinds of co-locations are not permissible under Washington's regulations, because retail licenses cannot be combined with any other license.

III. Proposals

The interim zoning regulations (Ordinances Nos. 6133 B-1 and 6156) were used as the starting point for the two proposed code amendments and include Council's adopted Bellevue-appropriate performance standards. These performance standards include separation requirements from other uses, and requirements beyond LCB rules for security and odor control. Both options prohibit recreational marijuana uses in residential land use districts and in neighborhood-oriented retail centers, such as Northtowne, Lake Hills, and Newport Hills.

To assist the Planning Commission and staff as they work to develop recommendations for the permanent regulation of recreational marijuana uses in Bellevue, the Council adopted project principles on December 2. See Attachment D. The principles represent Council's desire for Bellevue-appropriate regulations for recreational marijuana uses that protect neighborhood character, bolster security requirements, provide a predictable regulatory structure that is understandable and enforceable, and the permanent regulations are consistent with state law.

Option A contains the following provisions in addition those included in the interim regulations:

1. Increases the separation distance between recreational marijuana uses and certain uses from 1,000 feet to 1,320 feet;
2. Amends the park separation requirement by deleting the term "public," so that all parks fall within the separation requirement;
3. Defines "park" to mean those parks included on the City of Bellevue GIS mapping system;
4. Prohibits recreational marijuana uses in the Perimeter Design District, sub-district A;
5. Requires an Administrative Conditional Use Permit; and
6. Includes a provision addressing legally-established non-conforming uses consistent with the Land Use Code. This allows for the continuation of the use until it is abandoned.

To assist in consideration of the permanent regulations and to understand the effects of the direction received on June 25, the Planning Commission directed staff to prepare maps showing the additional

requirements under consideration. Although the Planning Commission did not direct staff to include religious institutions as a use that should be separated from recreational marijuana uses, the Commission did ask staff to map religious institutions with the 1,320 foot buffer. Staff has prepared three maps to assist the Planning Commission consideration of the permanent regulations:

1. Map 1: Interim Regulations with 1,000 foot buffer;
2. Map 2: Planning Commission Direction June 25 (without Religious Institutions); and
3. Map 3: Planning Commission Direction June 25 (with Religious Institutions buffered).

Maps 1, 2, and 3 are included respectively as Attachments G, H, and I. Map 2 contains the direction the Planning Commission provided to staff on June 25. Parks include only those parks available in the City's graphical information system (GIS). The City's GIS system contains two types of parks data: (1) city parks; and (2) other parks. The "other parks" layer consists of other regional parks, golf courses (Glendale, Tam O'Shanter), Chevy Chase Park, and Vasa Park. Consequently, only parks in the City's GIS data are included in Maps 2 and 3. The "other park" data is inconsistent with the definition of private parks in the Land Use Code, so parks must be defined specifically for recreational marijuana otherwise the provision will be difficult to administer and enforce. A comparison of the three maps demonstrates the following facts about the Planning Commission's June 25 direction:

1. Limits available parcels zoned Light Industrial to one; thus effectively banning production and processing uses that are not grandfathered to the interim regulations (Map 2);
2. With religious institutions buffered there are no LI zoned parcels available (Map 3)
3. Clusters retail uses in the Bel-Red and Lake Bellevue (map 2);
4. Reduces the number of parcels in Factoria for retail locations; and
5. Results in all current licensees proposed locations and those who have established locations,⁴ becoming non-conforming uses.
6. The prohibition of recreational marijuana uses in the Perimeter Design District may create some confusion because the use is otherwise allowed in the land use districts underlying the design district, in other parts of downtown.
7. Adding religious institutions eliminates all Light Industrial parcels. Bel-Red would provide 3 parcels for retail uses and there would be 24 parcels available in Wilburton (South of 8th). (Map 3).

The maps also demonstrate that even without the elimination of the Perimeter Design District, Sub-district A, the Downtown is unavailable because of separation requirements. (See Maps 2 and 3).

Option B contains the interim regulations in Ordinances Nos. 6133 B-1 and 6156, and is consistent with the principles adopted by the City Council.

⁴ Three producer processors and one retail outlet have submitted complete building permit applications to the City. These uses are vested to the development regulations, but are subject to future changes in the Bellevue City Code.

ANALYSIS OF CONSISTENCY WITH COUNCIL DIRECTION

Council Direction	Option A	Option B	Notes
Begins with Interim Regulations	Yes	Yes	
Consistent with Council Planning Principles?			
PP 1: <u>Bellevue Appropriate</u> . Establish appropriate land use zones for recreational marijuana uses. To the extent permitted, establish performance standards consistent with Ch. 69.50 RCW and Ch. 314-55-WAC that ensure the uses represent community values and goals set forth in the Comprehensive Plan	Yes and No	Yes	Mapping demonstrates that Option A results in clustering of retail uses, an effective ban on producers and processors, and making all existing uses non-conforming. Imposes permitting requirements not required of similar uses.
PP2: <u>Protect Neighborhood Character</u> . The uses shall not be located in residential land use districts. The uses shall be separated by 1,000 feet from schools, playgrounds, recreational center or facility, child care center, public park; public transit center; library; arcade where admission is not restricted to age 21 or older; or medical cannabis collective garden. The uses shall use appropriate ventilation to ensure abutting uses or properties are not impacted by order	Yes and No.	Yes	Both options prohibit the uses in residential land use districts. Option A increases separation distance to 1,320 feet and amends the scope of included parks to all parks. Two different standards may be confusing and may also create difficulty coordinating with LCB. Private parks are not mapped and will be difficult to administer.
PP3: <u>Security measures are required</u> . Must conform to state requirements and consistent with state requirements for securing controlled substances.	Yes	Yes	
PP4: <u>Specific and Understandable</u> . The permanent regulations should be specific about the requirements to locate and operate recreational marijuana uses so that qualified licensees understand what is expected under the regulation.	No	Yes	Option A increases separation distance to 1,320 feet and amends the scope of included parks to all parks. Two different standards may be confusing and may also create difficulty coordinating with LCB. Private parks are not mapped and will be difficult to administer.
*PP5: <u>Administration and Enforcement</u> is straightforward. Ensure regulations are capable of	No	Yes	Option B is consistent with state separation

Council Direction	Option A	Option B	Notes
being administered and enforced.			requirements of 1,000 feet providing consistency and predictability for the community and ease of administration and enforcement. Also, the 1,000 foot requirement is based on federal sentencing enhancements for marijuana crimes. The 1,320 foot separation requirement in Option A presumably is based on the size of a city block. Two different standards may be confusing and may also create difficulty coordinating with LCB. Private parks are not mapped and will be difficult to administer.
PP6: The Outcome Conforms to Applicable Law. The establishment and operation of recreational marijuana uses must conform with, and not frustrate state law. Recreational marijuana uses must conform to the applicable requirements of Ch. 69.50 RCW and Ch. 314-55 WAC.	No	Yes	Option A provides only one parcel in the LI for producers and processors.

*Non-land use directives were omitted.

Councilmember Stokes attended the June 25 study session and during deliberations inquired if the City required other retail uses to obtain an Administrative Conditional Use Permit (ACU). An ACU is used when the compatibility of a use is not fully understood, so imposing conditions to address that uncertainty is appropriate. An ACU is a Process II land use decision requiring notice, and providing opportunity for comment and an administrative appeal to the City Hearing Examiner.

The land use charts demonstrate the City’s view of where both retail and agricultural uses are generally understood to be compatible by designating those uses as either permitted, ACU or CUP (conditional use permit) for existing retail and agricultural uses. Under the Wholesale and Retail Use charts, only retail auto sales, gas stations, and recycling centers require either a conditional use permit or an administrative conditional use permit in the land use districts where such uses are allowed. All other allowed retail uses are permitted outright. In Bel-Red, only auto sales require an administrative conditional use permit. Agricultural production and processing uses, where allowed, are also permitted outright. In the Light Industrial land use district, only rubber products manufacturing requires a conditional use permit. The LCB regulates marijuana producers operations, including the processes and equipment they may use to process marijuana. (*See e.g.*, WAC 314-55-095 through -125). Emissions from producers now fall under

the administration of the Puget Sound Clean Air Agency. Designating these uses as requiring an ACU is an indication that some aspect of these new uses may be unique or present challenges that need more tailored conditions based on the actual proposed location when a specific location is proposed.

IV. Staff Recommendation – Option B (Interim Regulations)

Because Option A is not consistent with Council direction, staff recommends approval of Option B to implement permanent regulations for recreational marijuana uses that allow the uses while providing mitigation from the impacts related to recreational marijuana impacts. The Planning Commission could also direct staff to proceed with Option A, provide alternative recommendation to staff, or direct staff to proceed with the following code amendments:

1. Land Use Charts. The Land Use Code Amendment (LUCA) will amend the General and Bel-Red, resource and wholesale and retail use charts to allow recreational marijuana uses as an allowed use in certain land use districts in the city. The LUCA also includes a new footnote to each chart directing users to the new LUC 20.20.710, requirements for recreational marijuana uses.
2. General Requirements: LUC 20.20.720, Recreational Marijuana Uses. LUC 20.20.710 is a new section that describes code applicability, the purpose for the provisions, and development requirements and performance standards. A summary of the provisions of LUC 20.20.710 follows:
 - Purpose (LUC 20.20.710.A). The purpose section informs applicants that only state-licensed recreational uses are allowed and only in appropriate land use districts. This section also reminds applicants that the possession, sale, and production of marijuana are illegal under federal law.
 - Definitions (LUC 20.20.710.C). The definition provision contains definitions specific to recreational marijuana uses. These new definitions apply only to recreational marijuana uses.
 - Compliance with Other Laws (LUC 20.20.710.D). This provision requires all recreational marijuana uses to comply with applicable state and city laws.
 - Limitations on Other Uses (LUC 20.20.710.E). This provision contains the separation requirements based on the uses in the LCB rules and 1,000 feet separation distance. Also included are the city-imposed separation requirements between recreational uses and medical cannabis collective gardens and between recreational marijuana retail outlets. Prohibits the uses in residential land use districts, prohibits retail outlets as subordinate or accessory uses, and requires all marijuana production occur indoors.
 - Marijuana Retail Outlets (LUC 20.20.710.F). This provision provides requirements address in odor and signage beyond the LCB rules.
 - Marijuana Producers and Processors (LUC 20.20.710.G). This provision provides additional performance standards for odor, signage, and secured and screened loading facilities.
 - Security (LUC 20.20.710.I). This provision imposes security requirements beyond those in the LCB's rules. Specifically, during non-business hours, all useable cannabis must be stored in a safe of substantially constructed and locked cabinet, as the state requires pharmacies to secure controlled substances. All cash must likewise be secured.
 - Release and Hold Harmless (LUC 20.20.710.I). 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 that arise 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 20.20.710.H). The conflicts section specifies that in the event of a conflict between the state's recreational marijuana provisions and LUC 20.20.710, the most restrictive provision shall apply.

V. 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 draft 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 10, 2014. A copy of the final threshold determination will be attached to this memorandum as Attachment J.

VI. PUBLIC NOTICE, PARTICIPATION, COMMENT AND RESPONSE

A Notice of Application for this proposed code amendment was published in the Weekly Permit Bulletin on June 5, 2014.

The recreational marijuana uses LUCA was introduced at a study session with the Planning Commission on May 28, 2014. A subsequent study session on recreational marijuana uses was held on June 25. 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 10.

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 September 2. Notice of the courtesy hearing will be published in the Seattle Times two weeks before the courtesy hearing. Typically the courtesy hearing is held before the Planning Commission's public hearing but because of scheduling and noticing constraints, staff was unable to schedule the courtesy hearing until September. 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 recreational marijuana LUCA was provided to the state agencies for review on July 3, 2014. 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 requesting that recreational marijuana uses be distributed throughout the city and not concentrated in East Bellevue. 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.

VII. 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 recreational marijuana uses, while allowing the uses to establish in appropriate land use districts throughout the City.

Land Use Element

Policy LU-1: Support a diverse and community in an open and natural setting comprised of strong residential communities composed of stable neighborhoods with a variety of housing types and densities; a vibrant, robust Downtown which serves as an urban center; other employment and commercial area; and distinctive community and neighborhood retail districts and distinctive community and neighborhood retail districts. Implement land use strategies by balancing community and neighborhood values, the neighborhood's quality of life, the natural environment, and the economy.

Policy LU-5. Ensure enough properly-zoned land to provide for Bellevue's share of the regionally-adopted demand forecasts for residential, commercial, and industrial uses for the next 20 years.

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-12. Retain land availability for specific commercial uses which are important to the community.

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

Policy LU-27. Encourage mixed residential/commercial development in all Neighborhood Business and Community Business land use districts where compatibility with nearby uses can be demonstrated.

Policy LU-29. Strengthen Downtown as the primary commercial area to provide local goods and services to the surrounding neighborhoods and to the residents and employees within the district.

Policy LU-34. Explore the appropriate long-term direction for the location of light industrial businesses such as light manufacturing and warehousing. Discussion: These uses are best situated in an area of limited traffic that facilitates the movement of goods. Because there are competing demands for this land from other business sectors, long-term impacts should be analyzed when considering the modification of land use regulations to permit additional uses in these areas. Retail sales in these areas should generally be limited to: 1. Uses that provide services to people employed in the area, and 2. Subject to a size limitation, uses that sell large items and bulk commodities requiring on-site warehousing (e.g., building materials, commercial equipment and supplies).

Policy LU-35. Maintain a balance of commercial and residential uses within the city. If appropriate, additional neighborhood-serving centers can be identified or expanded through the Comprehensive Plan update process.

Economic Development Element

Policy ED-3. Develop and maintain regulations that allow for continued economic growth while respecting the environment and quality of life of city neighborhoods.

Policy ED-20. Encourage economic development in designated locations through a mix of incentives, regulations, and strategic investments that support the city's adopted plans.

Housing Element

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

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 operation of recreational marijuana uses by requiring strict compliance with state and city law. The proposed amendment prohibits recreational marijuana uses from locating in residential land use districts and neighborhoods servicing residential areas where the uses would create incompatibility. Additional security and odor control provisions are included to protect adjacent uses where recreational marijuana uses are allowed.

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 and predictable regulatory framework for recreational marijuana uses.

VII. RECOMMENDATION

Recommend the recreational marijuana uses LUCA as drafted in Attachment B and transmit the ordinance on to the City Council for final approval.

ATTACHMENTS

- A. Draft Recreational Marijuana Uses Ordinance (Option A)
- B. Draft Recreational Marijuana Uses Ordinance (Option B).
- C. Ordinance No. 6133 B-1
- D. Council-approved project principles.
- E. Ordinance No. 6156.
- F. Colorado Marijuana Regulation Matrix
- G. Map 1: Interim Regulations with 1,000 foot buffer
- H. Map 2: Planning Commission Direction June 25 (without Religious Institutions)
- I. Map 3: Planning Commission Direction June 25 (with Religious Institutions buffered)
- J. Final DNS published on July 10, 2014

Option A
Proposed Draft Recreational Marijuana Regulations
Planning Commission Recommendations (June 25, 2014)

**PROPOSED DRAFT RECREATIONAL MARIJUANA REGULATIONS:
PC Recommendations**

Section 1. Section 20.10.440 – Resource Land Use Charts - of the Bellevue Land Use Code is hereby amended to add as separate entries “recreational marijuana production” and “recreational marijuana processing” as a permitted use in the following land use districts: Light Industrial (LI), and to add the following new note 5:

(5) [See LUC 20.20.710 for general development requirements for recreational marijuana uses.](#)

The “recreational marijuana production” use shall be placed alphabetically in the use chart immediately below the “Agriculture, Production of Food and Fiber Crops, Dairies, Livestock and Fowl, Excluding Hogs” listing. “Recreational marijuana processing” shall be placed directly below “Agricultural Processing” (Standard Land Use Code Reference 821).

Section 2: Section 20.10.440 – Wholesale and Retail Land Use Charts - of the Bellevue Land Use Code is hereby amended to add under standard land use code reference 59 “Recreational marijuana retail outlet” as a permitted use in the following land use districts: GC; CB; F1; DNTN O-1; DNTN O-2; DNTN-MU; DNTN-OB; and DNTN-OLB, and to add the following new notes 41 and 42:

(41) [See LUC 20.20.710 for general development requirements for recreational marijuana uses.](#)

(42) [Recreational marijuana uses are prohibited in the Perimeter Design District, Subdistrict A. See LUC 20.25A.090.](#)

Comment [CoB CD1]: Planning Commission direction from June 25, 2014 Study Session

The “recreational marijuana retail outlet” use shall be placed in the use chart immediately below the “Adult Retail Establishments” listing.

Section 3. Section 20.25D.070 -- Resources in Bel-Red Land Use Districts Chart of the Bellevue Land Use Code is hereby amended to add as separate entries “recreational marijuana production” and “marijuana processing” as a prohibited use in all Bel-Red land use districts.

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The “recreational marijuana production” use shall be placed alphabetically in the use chart immediately below the “Agriculture, Production of Food and Fiber Crops, Dairies, Livestock and Fowl, Excluding Hogs” listing. “Recreational marijuana processing” shall be placed directly below “Agricultural Processing” (Standard Land Use Code Reference 821).

Section 4. Section 20.25D.070 -- Wholesale and Retail in Bel-Red Land Use Districts Chart of the Bellevue Land Use Code is hereby amended to add under standard land use code reference 59 “Recreational marijuana retail outlet” as a permitted use in the following land use districts: BR-OR/OR1/OR2; BR-RC-1; RC-2; RC-3; BR-GC; BR-CR; and BR-ORT, and to add the following new note 17:

(17) [See LUC 20.20.710 for general development requirements for recreational marijuana uses.](#)

Option A
Proposed Draft Recreational Marijuana Regulations
Planning Commission Recommendations (June 25, 2014)

The "Recreational marijuana retail outlet" use shall be placed in the use chart immediately below the "Adult Retail Establishments" listing.

Section 5. A new section 20.20.710 of the Bellevue Land Use Code is hereby adopted as follows:

20.20.710 Recreational Marijuana Uses.

A. Purpose.

The purpose of this section is to regulate recreational marijuana producers, processors, and retailers under Chapter 69.50 RCW by identifying appropriate land use districts and establishing development and performance standards. Recreational marijuana producers, processors, and retailers shall only be permitted when licensed by the Washington State Liquor Control Board. The production, sale, and possession of marijuana remain illegal under the federal Controlled Substances Act. Nothing herein or as provided elsewhere shall be construed as authority to violate or circumvent federal law

Comment [CoB CD2]: Assist reader; Consistency with medical cannabis regulations

B. Applicability.

This section applies to recreational marijuana uses licensed by the Washington State Liquor Control Board. This section is not applicable to medical cannabis collective gardens, which are governed by LUC 20.20.526.

Comment [CoB CD3]: Clarity

C. Definitions Specific to Recreational Marijuana Uses.

The definitions codified at WAC 314-55-010, now or as hereafter amended, apply to this section. The following definitions are specific to recreational marijuana uses and shall have the following meanings:

1. "Director" means the Director of the City of Bellevue's Development Services Department or his or her designee.
2. "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
3. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.
4. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

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5. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" do not include useable marijuana.
6. "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.
7. ~~"Park" means parks mapped in the City's GIS system.~~
8. "Recreational Marijuana Uses" means the collective of Marijuana producer, retailer, and processor.
9. "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.
10. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

Comment [CoB CD4]: Clarity. Regulatory predictability, ease of administration and enforcement.

~~D. Required Review. An administrative conditional use permit (Part 20.30E LUC) is required to operate a recreational marijuana use. The director shall review applications to operate a medical cannabis collective garden for compliance with this section requirements of chapter 69.50 RCW, chapter 314-55 WAC, and all applicable City of Bellevue ordinances, standards, and codes, now or as hereafter amended.~~

Comment [CoB CD5]: Planning Commission direction from June 25, 2014 Study Session

~~E. Recreational marijuana producers, processors, and retailers must comply with all requirements of chapter 69.50 RCW, chapter 314-55 WAC, and all applicable City of Bellevue ordinances, standards, and codes, now or as hereafter amended.~~

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

1. A marijuana producer, retailer, or processor, shall not be located within 1,320 feet of the following uses or any use included in Chapter 314-55 WAC now or as hereafter amended:
 - a. Elementary or secondary school;
 - b. Playgrounds;
 - c. Recreation center or facility;
 - d. Child care centers;
 - e. ~~Public parks~~ Parks;
 - f. Public transit centers;
 - g. Libraries;
 - h. Any game arcade or
 - i. Any medical cannabis collective garden.
2. No marijuana retailer shall be located within 1,000 feet of any other marijuana retailer.
3. No marijuana producer, processor, or retailer shall be allowed in single family and multi-family land use districts (R-1 – R-30; DNTN-R; BR-R).
4. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.
5. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.

Comment [CoB CD6]: Planning Commission direction from June 25, 2014 Study Session

Comment [CoB CD7]: Planning Commission direction from June 25, 2014 Study Session

Comment [CoB CD8]: Added for clarity

F. Marijuana Retail Outlets.

1. Odor. Marijuana odor shall be contained within the retail outlet so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the

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marijuana retailer shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor.

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

G. Marijuana Producers and Processors. Marijuana production and processing facilities are allowed only in the Light Industrial land use district and shall comply with the following provisions:

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

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

I. Nonconforming Uses.

Recreational marijuana uses legally established on or before [insert effective date of ordinance] shall be considered nonconforming uses. The nonconforming use provisions in LUC 20.20.560 shall apply to recreational marijuana uses.

I. Release of Liability and Hold Harmless.

The permittee of a recreational marijuana use 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 recreational use. Additionally, within the release document, the permittee of a recreational use 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 recreational marijuana use and for any claims brought by any of the recreational use's members, employees, agents, guests, or invitees for problems, injuries, damages, or liability of any kind that may arise out of the operation of the recreational marijuana use.

J. Conflicts

Comment [CoB CD9]: Required to address any uses which may or have legally-established under the interim regulations.

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Comment [CoB CD10]: Consistency with medical cannabis collective gardens regulations.

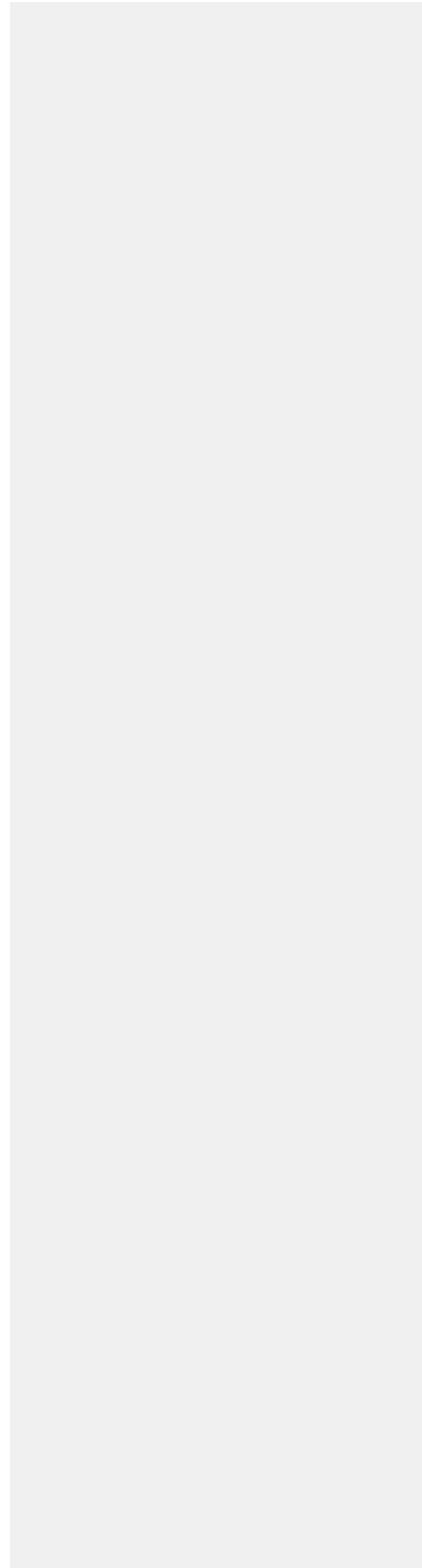
Option A
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In the event of a conflict between chapter 69.50 RCW, chapter 314-55 WAC, and this section, the most restrictive provision shall apply.

Section 5. 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 6. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

DRAFT



OPTION B
Interim Regulations (Ords. Nos. 6133 B-1 and 6156)

**PROPOSED DRAFT RECREATIONAL MARIJUANA REGULATIONS:
BASED ON INTERIM REGULATIONS**

Section 1. Section 20.10.440 – Resource Land Use Charts - of the Bellevue Land Use Code is hereby amended to add as separate entries “recreational marijuana production” and “recreational marijuana processing” as a permitted use in the following land use districts: Light Industrial (LI), and to add the following new note 5:

(5) [See LUC 20.20.710 for general development requirements for recreational marijuana uses.](#)

The “recreational marijuana production” use shall be placed alphabetically in the use chart immediately below the “Agriculture, Production of Food and Fiber Crops, Dairies, Livestock and Fowl, Excluding Hogs” listing. “Recreational marijuana processing” shall be placed directly below “Agricultural Processing” (Standard Land Use Code Reference 821).

Section 2: Section 20.10.440 – Wholesale and Retail Land Use Charts - of the Bellevue Land Use Code is hereby amended to add under standard land use code reference 59 “Recreational marijuana retail outlet” as a permitted use in the following land use districts: GC; CB; F1; DNTN O-1; DNTN O-2; DNTN-MU; DNTN-OB; and DNTN-OLB, and to add the following new note 41:

(41) [See LUC 20.20.710 for general development requirements for recreational marijuana uses.](#)

The “recreational marijuana retail outlet” use shall be placed in the use chart immediately below the “Adult Retail Establishments” listing

Section 3. Section 20.25D.070 -- Resources in Bel-Red Land Use Districts Chart of the Bellevue Land Use Code is hereby amended to add as separate entries “recreational marijuana production” and “marijuana processing” as a prohibited use in all Bel-Red land use districts.

The “recreational marijuana production” use shall be placed alphabetically in the use chart immediately below the “Agriculture, Production of Food and Fiber Crops, Dairies, Livestock and Fowl, Excluding Hogs” listing. “Recreational marijuana processing” shall be placed directly below “Agricultural Processing” (Standard Land Use Code Reference 821).

Section 4. Section 20.25D.070 -- Wholesale and Retail in Bel-Red Land Use Districts Chart of the Bellevue Land Use Code is hereby amended to add under standard land use code reference 59 “Recreational marijuana retail outlet” as a permitted use in the following land use districts: BR-OR/OR1/OR2; BR-RC-1; RC-2; RC-3; BR-GC; BR-CR; and BR-ORT, and to add the following new note 17:

(17) [See LUC 20.20.710 for general development requirements for recreational marijuana uses.](#)

The “Recreational marijuana retail outlet” use shall be placed in the use chart immediately below the “Adult Retail Establishments” listing.

Section 5. A new section 20.20.710 of the Bellevue Land Use Code is hereby adopted as follows:

OPTION B

Interim Regulations (Ords. Nos. 6133 B-1 and 6156)

20.20.710 Recreational Marijuana Uses.

A. Purpose.

The purpose of this section is to regulate recreational marijuana producers, processors, and retailers under Chapter 69.50 RCW by identifying appropriate land use districts and establishing development and performance standards. Recreational marijuana producers, processors, and retailers shall only be permitted when licensed by the Washington State Liquor Control Board. The production, sale, and possession of marijuana remains illegal under the federal Controlled Substances Act. Nothing herein or as provided elsewhere shall be construed as authority to violate or circumvent federal law

Comment [CoB CD1]: New provision from interim regulations

B. Applicability.

This section applies to recreational marijuana uses licensed by the Washington State Liquor Control Board. This section is not applicable to medical cannabis collective gardens, which are governed by LUC 20.20.526.

Comment [CoB CD2]: Clarity

C. Definitions Specific to Recreational Marijuana Uses.

The definitions codified at WAC 314-55-010, now or as hereafter amended, apply to this section. The following definitions are specific to recreational marijuana uses and shall have the following meanings:

1. "Director" means the Director of the City of Bellevue's Development Services Department or his or her designee.
2. "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
3. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.
4. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.
5. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" do not include useable marijuana.
6. "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.
7. "Recreational Marijuana Uses" means the collective of Marijuana producer, retailer, and processor.
8. "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

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Interim Regulations (Ords. Nos. 6133 B-1 and 6156)

9. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

D. Recreational marijuana producers, processors, and retailers must comply with all requirements of chapter 69.50 RCW, chapter 314-55 WAC, and all applicable City of Bellevue ordinances, standards, and codes, now or as hereafter amended.

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

1. A marijuana producer, retailer, or processor, shall not be located within 1,000 feet of the following uses or any use included in Chapter 314-55 WAC now or as hereafter amended:
 - a. Elementary or secondary school;
 - b. Playgrounds;
 - c. Recreation center or facility;
 - d. Child care centers;
 - e. Public parks;
 - f. Public transit centers;
 - g. Libraries;
 - h. Any game arcade or
 - i. Any medical cannabis collective garden.
2. No marijuana retailer shall be located within 1,000 feet of any other marijuana retailer.
3. No marijuana producer, processor, or retailer shall be allowed in single family and multi-family land use districts (R-1 – R-30; DNTN-R; BR-R).
4. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.
5. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.

Comment [CoB CD3]: Added for clarity

F. Marijuana Retail Outlets.

1. Odor. Marijuana odor shall be contained within the retail outlet so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the marijuana retailer shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor.
2. Signage for Marijuana Retail Outlets. Retail outlets shall comply with WAC 314-55-155(1), now or as hereafter amended. Additionally, signage for retail outlets must undergo design review in those land use districts requiring such review in the City of Bellevue Sign Code, Chapter 22B BCC.

G. Marijuana Producers and Processors. Marijuana production and processing facilities are allowed only in the Light Industrial land use district and shall comply with the following provisions:

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

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delivering or transferring marijuana, useable marijuana, and marijuana-infused products.

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

I. Release of Liability and Hold Harmless

Comment [CoB CD4]: Consistency with medical cannabis collective gardens regulations.

The permittee of a recreational marijuana use 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 recreational use. Additionally, within the release document, the permittee of a recreational use 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 recreational marijuana use and for any claims brought by any of the recreational use's members, employees, agents, guests, or invitees for problems, injuries, damages, or liability of any kind that may arise out of the operation of the recreational marijuana use.

J. Conflicts

In the event of a conflict between chapter 69.50 RCW, chapter 314-55 WAC, and this section, the most restrictive provision shall apply.

Section 5. 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 6. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

Option B-1

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6133 B-1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. Definitions. For the purposes of this interim regulation only, the definitions provided below and the definitions codified at WAC 314-55-010, now provided or as hereafter amended, shall apply to the provisions of this ordinance.
1. "Director" means the Director of the City of Bellevue's Development Services Department or his designee.
 2. "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of

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

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

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

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

1. A marijuana producer, retailer, or processor, shall not be located within 1,000 feet of the following uses or any use included in Chapter 314-55 WAC now or as hereafter amended:
 - a. Elementary or secondary school;
 - b. Playgrounds;
 - c. Recreation center or facility;
 - d. Child care centers;
 - e. Public parks;
 - f. Public transit centers;

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- g. Libraries;
 - h. Any game arcade or
 - i. Any medical cannabis collective garden.
2. No marijuana producer, processor, or retailer shall be allowed in single family and multi-family land use districts (R-1 – R-30).
 3. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.
 4. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.
- D. Marijuana Retail Outlets. For the purposes of this interim ordinance, marijuana retail outlets are considered within the land use classification of "Miscellaneous Retail Trade," and shall comply with all corresponding notes in the use charts for the underlying land use district where the retail outlet is located. Retail outlets shall also comply with the applicable requirements of Chapter 20.25 LUC, Special and Overlay Districts. Marijuana odor shall be contained within the retail outlet so that odor from the marijuana cannot be detected by a person with a normal sense of smell from any abutting use or property. If marijuana odor can be smelled from any abutting use or property, the marijuana retailer shall be required to implement measures, including but not limited to, the installation of the ventilation equipment necessary to contain the odor. Retail outlets may only be located in following land use districts:
1. General Commercial (GC);
 2. Community Business (CB);
 3. Factōria Land Use District 1 (F1);
 4. Downtown Office District (DNTN O-1);
 5. Downtown Office District (DNTN O-2)
 6. Downtown Mixed Use District (DNTN-MU);
 7. Downtown Old Bellevue Business District (DNTN-OB);
 8. Downtown Office and Limited Business District (DNTN-OLB)
 9. Bel-Red Office Residential and Nodes (BR-OR/OR1/OR2)
 10. Bel-Red Residential Commercial and Nodes (BR-RC-1, RC-2, RC-3);
 11. Bel-Red General Commercial (BR-GC);
 12. Bel-Red Commercial Residential (BR-CR);
 13. Bel-Red Office Residential Transition (BR-ORT).
- E. Signage for Marijuana Retail Outlets. Retail outlets shall comply with WAC 314-55-155(1), now or as hereafter amended. Additionally, signage for retail outlets must undergo design review in those land use districts requiring such review in City of Bellevue Sign Code, Chapter 22B BCC.
- F. Marijuana Producers and Processors. For the purposes of this interim ordinance, marijuana producers are considered within the land use

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

1. Marijuana production and processing facilities shall be ventilated so that the odor from the marijuana cannot be detected by a person with a normal sense of smell from any adjoining use or property;
 2. Signage for marijuana producers and processors shall comply with the City of Bellevue Sign Code, Chapter 22B of the Bellevue City Code.
 3. A screened and secured loading dock, approved by the director shall be required. The objective of this requirement is to provide a secure, visual screen from the public right of way and adjoining properties, and prevent the escape of orders when delivering or transferring marijuana, useable marijuana, and marijuana-infused products.
- G. Security. In addition to the security requirements in Chapter 315-55 WAC, during non-business hours, all recreational marijuana producers, processors, and retailers shall store all useable marijuana, marijuana-infused product, and cash in a safe or in a substantially constructed and locked cabinet. The safe or cabinet shall be incorporated into the building structure or securely attached thereto. For useable marijuana products that must be kept refrigerated or frozen, these products may be stored in a locked refrigerator or freezer container in a manner approved by the Director, provided the container is affixed to the building structure.

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

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

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

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

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

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

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

(SEAL)



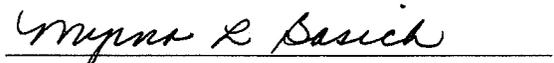
Conrad Lee, Mayor

Approved as to form: ..



Lori M. Riordan, City Attorney

Attest:



Myrna L. Basich, City Clerk

Published October 24, 2013,

**Project Principles for the
Regulation of Recreational Marijuana Producers, Processors, and Retailers
Approved by the Bellevue City Council**

December 2, 2013

1. Bellevue Appropriate. Bellevue will establish appropriate land use zones for recreational marijuana producers, processors, and retailers (“recreational marijuana uses”). To the extent permitted, Bellevue will establish performance standards consistent with applicable provisions of Chapter 69.50 RCW and Chapter 314-55 WAC, now or as hereafter amended, that ensure these business represent the community values and goals set forth in the City’s Comprehensive Plan.
2. Neighborhood Character is Protected. Recreational marijuana uses shall not be located in residential land use districts. Recreational marijuana uses shall be separated by 1,000 feet from elementary or secondary schools (public or private), playgrounds, recreation center or facility; child care center; public park; public transit center; library; and game arcade where admission is not restricted to persons age twenty-one or older, or a medical cannabis collective garden. Recreational marijuana use shall use appropriate ventilation to ensure abutting uses or properties are not impacted by odor.
3. Security Measures are Required. Recreational marijuana uses must have sufficient security measures to protect the public. Recreational marijuana uses must conform to state requirements for security and secure usable marijuana consistent with state pharmacy requirements for securing controlled substances.
4. Regulations are Specific and Understandable. The permanent regulations should be specific about the requirements to locate and operate recreational marijuana uses so that qualified licensees understand what is expected under the regulation.
5. Administration and Enforcement is Straightforward. Ensure regulations are capable of being administered and enforced. Development Services and the Bellevue police department should collaborate in matters of approval of license applications and renewals and where appropriate, enforcement.
6. The Outcome is in Conformance with Applicable Law. The establishment and operation of recreational marijuana uses must conform with, and not frustrate, the purpose of state law. Recreational marijuana uses must conform to the applicable requirements of Chapter 69.50 RCW and Chapter 314-55 WAC, now or as hereafter amended.
7. Processing of the Amendment is Inclusive. The code amendment process for recreational marijuana uses should seek and include input from a wide range of stakeholders.

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6156

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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04/08/14

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

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

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

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

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

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

Section 2. Section 1.C of Ordinance 6133 B-1 shall be amended as follows:

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

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

- a. Elementary or secondary school;
- b. Playgrounds;
- c. Recreation center or facility;
- d. Child care centers;
- e. Public parks;
- f. Public transit centers;
- g. Libraries;
- h. Any game arcade or
- i. Any medical cannabis collective garden.

2. No marijuana retailer shall be located within 1,000 feet of any other marijuana retailer.

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- 3. No marijuana producer, processor, or retailer shall be allowed in single family and multi-family land use districts (R-1 – R-30).
- 4. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.
- 5. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.

Section 3. 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 4. Findings of Fact. The findings contained in this ordinance are hereby adopted as findings of facts to justify extending Ordinance No. 6133 B-1 imposing the interim zoning ordinance.

Section 5. Effective Date. This ordinance shall take effect and be in force on April 21, 2014.

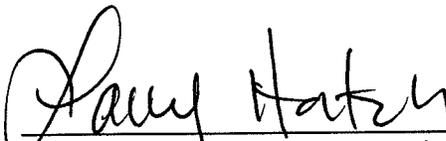
Passed by the City Council this 17th day of March, 2014 and signed in authentication of its passage this 14th day of April, 2014.

(SEAL)

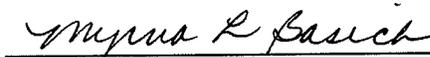

 Claudia Balducci, Mayor

Approved as to form:

Lori M. Riordan, City Attorney


 Lacey Hatch, Assistant City Attorney

Attest:


 Myrna L. Basich, City Clerk

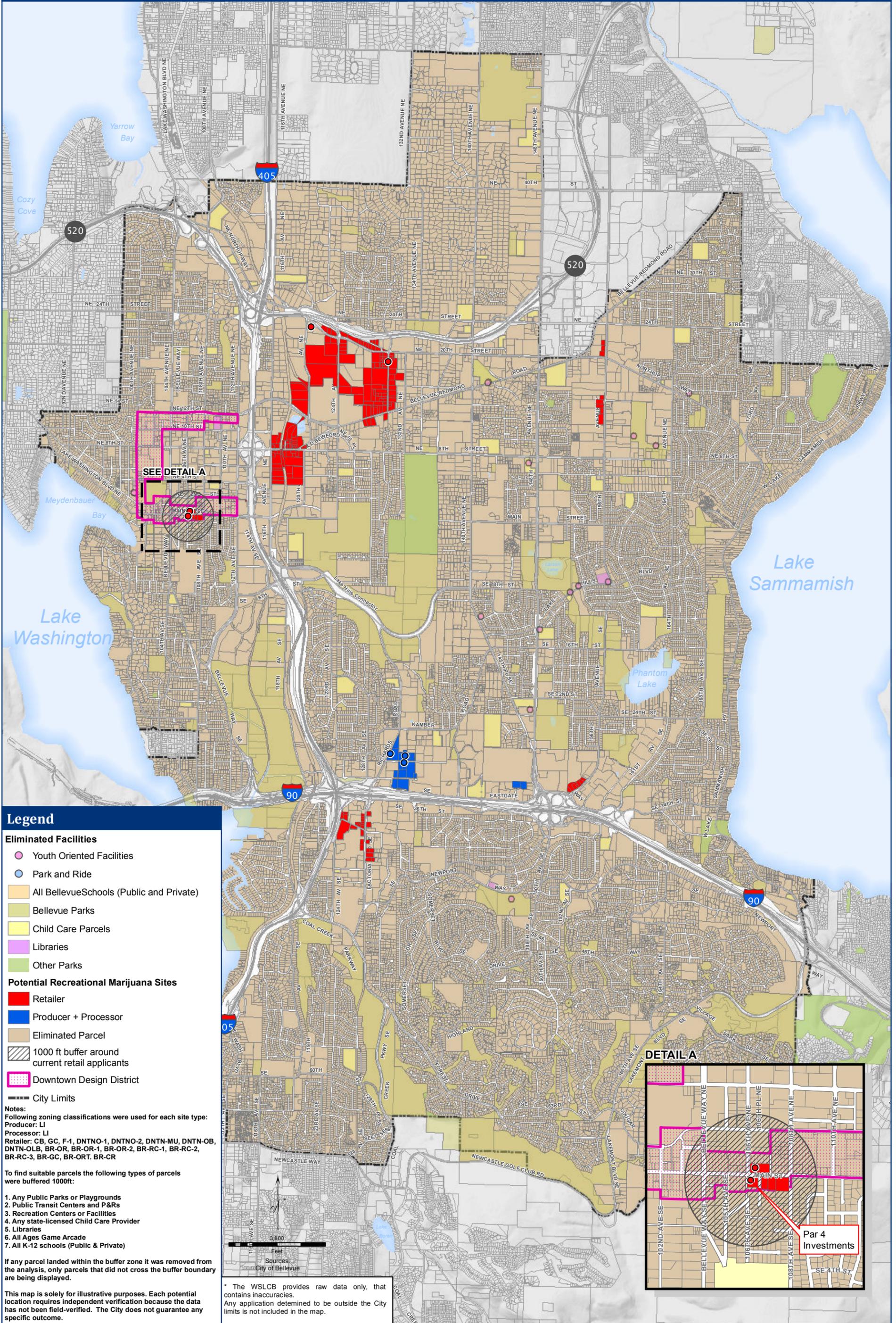
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Comparison of recreational marijuana separation distances (in feet) and requirements by City Code						
Specified Uses	Bellevue, WA		Boulder, CO		Denver, CO	
	Retail	Production	Retail	Production	Retail	Production ¹
Primary Schools	1,000	1,000	1,000	500	1,000	NA
Secondary Schools	1,000	1,000	1,000	500	1,000	NA
Childcare	1,000	1,000	1,000	500	1,000	NA
Playgrounds	1,000	1,000	NA	NA	NA	NA
Recreational Centers	1,000	1,000	NA	NA	NA	NA
Public Parks	1,000	1,000	NA	NA	NA	NA
Public Transit Centers	1,000	1,000	NA	NA	NA	NA
Libraries	1,000	1,000	NA	NA	NA	NA
Game Arcade	1,000	1,000	NA	NA	NA	NA
Medical Marijuana Uses	1,000	1,000	NA	NA	1,000	NA
Between retail marijuana uses	1,000	NA	NA	NA	1,000	NA
Drug/Alcohol Treatment Center	NA	NA	1,000	500	1,000	NA
Jr. College, College, University	NA	NA	1,000	500	NA	NA
Between any rec marijuana use	NA	NA	500 ²	500 ²	NA	NA
Recreational Marijuana uses allowed in residential zones	No	No	No	No	Yes ³	Yes ³
Co-Location with Medical Marijuana uses allowed	No	No	Yes	Yes	Yes	Yes
Public hearing required	No	No	No	No	Yes	Yes ⁴

¹ Denver separates marijuana production into cultivation, product manufacture, and testing uses
² No recreational marijuana use allowed within 500 feet of three other marijuana businesses
³ Denver’s form based zoning code regulates the building design rather than use but does specify certain zones as not allowing marijuana retail
⁴ A public hearing is required for cultivation uses if plant husbandry was not a permitted use in the zone prior to legalization of recreational marijuana

Possible Recreational Marijuana Sites under Interim Regulations

For Illustrative Purposes Only



Legend

Eliminated Facilities

- Youth Oriented Facilities
- Park and Ride
- All Bellevue Schools (Public and Private)
- Bellevue Parks
- Child Care Parcels
- Libraries
- Other Parks

Potential Recreational Marijuana Sites

- Retailer
- Producer + Processor
- Eliminated Parcel
- 1000 ft buffer around current retail applicants
- Downtown Design District
- City Limits

Notes:
 Following zoning classifications were used for each site type:
 Producer: LI
 Processor: LI
 Retailer: CB, GC, F-1, DNTNO-1, DNTNO-2, DNTN-MU, DNTN-OB, DNTN-OLB, BR-OR, BR-OR-1, BR-OR-2, BR-RC-1, BR-RC-2, BR-RC-3, BR-GC, BR-ORT, BR-CR

To find suitable parcels the following types of parcels were buffered 1000ft:

- Any Public Parks or Playgrounds
- Public Transit Centers and P&Rs
- Recreation Centers or Facilities
- Any state-licensed Child Care Provider
- Libraries
- All Ages Game Arcade
- All K-12 schools (Public & Private)

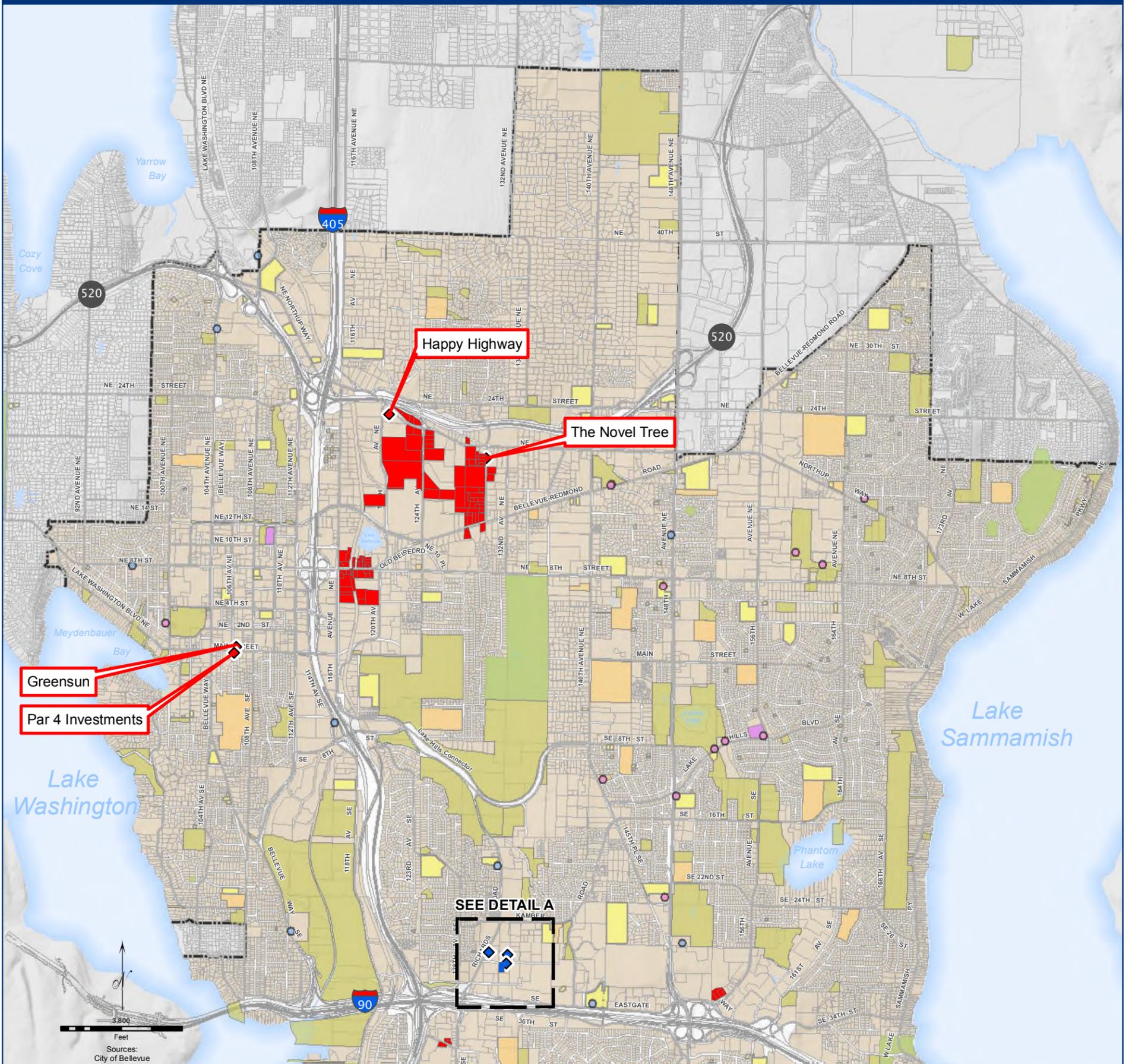
If any parcel landed within the buffer zone it was removed from the analysis, only parcels that did not cross the buffer boundary are being displayed.

This map is solely for illustrative purposes. Each potential location requires field-verified because the data has not been field-verified. The City does not guarantee any specific outcome.

* The WSLCB provides raw data only, that contains inaccuracies. Any application determined to be outside the City limits is not included in the map.

Possible Recreational Marijuana Sites Under PC June 25 Direction

For Illustrative Purposes Only



Legend

- Eliminated Facilities
 - Park and Ride
 - Youth Oriented Facilities
 - Bellevue Parks
 - Libraries
 - Child Care Parcels
 - All Bellevue Schools (Public and Private)
- Potential Recreational Marijuana Sites**
 - Retailer
 - Producer + Processor
 - Eliminated Parcel
- City Limits

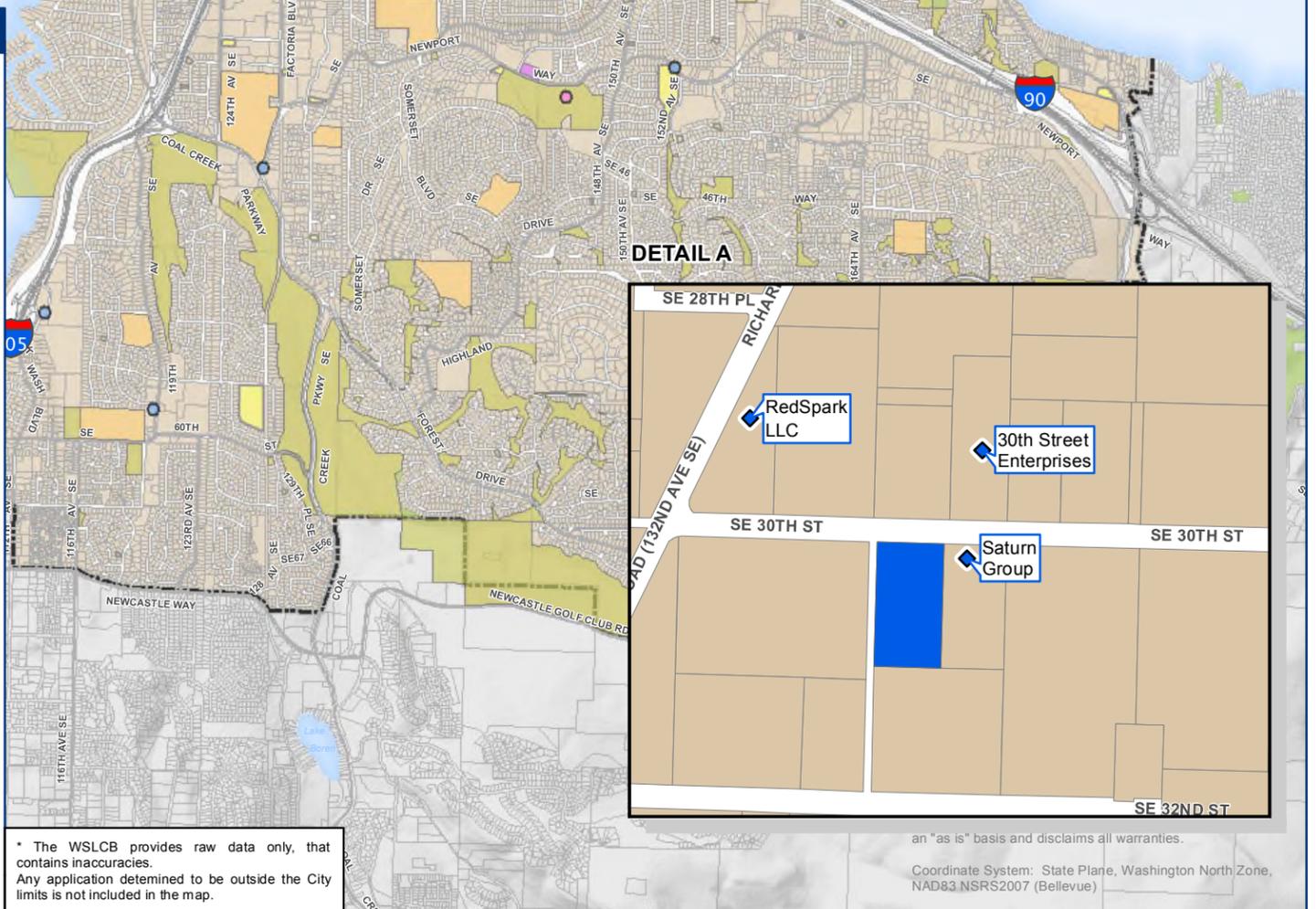
Notes:
 Following zoning classifications were used for each site type:
 Producer: LI
 Processor: LI
 Retailer: CB, GC, F-1, DNTNO-1, DNTNO-2, DNTN-MU, DNTN-OB, DNTN-OLB, BR-OR, BR-OR-1, BR-OR-2, BR-RC-1, BR-RC-2, BR-RC-3, BR-GC, BR-ORT, BR-CR

To find suitable parcels the following types of parcels were buffered 1/4 mile:

- Any Public Parks or Playgrounds
- Public Transit Centers and P&Rs
- Recreation Centers or Facilities
- Any state-licensed Child Care Provider
- Libraries
- All Ages Game Arcade
- All K-12 schools (Public & Private)

If any parcel landed within the buffer zone it was removed from the analysis, only parcels that did not cross the buffer boundary are being displayed.

This map is solely for illustrative purposes. Each potential location requires independent verification because the data has not been field-verified. The City does not guarantee any specific outcome.



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an "as is" basis and disclaims all warranties.
Coordinate System: State Plane, Washington North Zone, NAD83 NSRS2007 (Bellevue)

Possible Recreational Marijuana Sites Under PC June 25 Direction

With Religious Institutions Buffered
For Illustrative Purposes Only

