

CITY COUNCIL WORKSHOP

**January 6, 2014
5:30 p.m.**

AGENDA



“Where Dreams Can Soar”

The City of Bonney Lake’s Mission is to protect the community’s livable identity and scenic beauty through responsible growth planning and by providing accountable, accessible and efficient local government services.
www.ci.bonney-lake.wa.us

The City Council may act on items listed on this agenda, or by consensus give direction for future action. The Council may also add and take action on other items not listed on this agenda.

Location: Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

I. Call to Order: Mayor Neil Johnson

II. Roll Call:

Elected Officials: Mayor Neil Johnson, Jr., Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember James Rackley, and Councilmember Tom Watson.

III. Agenda Items:

A. **Council Open Discussion**

p. 3 B. **Review of Council Minutes:** November 25, 2014 Council Meeting, December 2, 2014 Workshop, and December 9, 2014 Council Meeting

C. **Discussion:** 2015 Council Retreat (No advance materials provided)

p. 19 D. **Discussion:** AB15-08 – Ordinance D15-08 – Regulation of State-Licensed Marijuana Businesses (Previously AB14-129)

IV. Executive Session: Pursuant to RCW 42.30.110, the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

V. Adjournment

For citizens with disabilities requesting translators or adaptive equipment for listening or other communication purposes, the City requests notification as soon as possible of the type of service or equipment needed.

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CITY COUNCIL MEETING

November 25, 2014
7:00 P.M.



“Where Dreams Can Soar”

The City of Bonney Lake's Mission is to protect the community's livable identity and scenic beauty through responsible growth planning and by providing accountable, accessible and efficient local government services.

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DRAFT MINUTES

Location: Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the meeting to order at 7:01 p.m.

- A. Flag Salute: Mayor Johnson led the audience in the Pledge of Allegiance.
- B. Roll Call: Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember Katrina Minton-Davis, Councilmember James Rackley, and Councilmember Tom Watson.

Staff members in attendance were City Administrator Don Morrison, Public Works Director Dan Grigsby, Community Development Director John Vodopich, Chief Financial Officer Cherie Gibson, Assistant Police Chief Kurt Alfano, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Kathleen Haggard, and Records & Information Specialist Susan Haigh.

C. Announcements, Appointments and Presentations:

- 1. Announcements: None.
- 2. Appointments: None.
- 3. Presentations: None.

D. Agenda Modifications: None.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings:

- 1. **AB14-138** – A Public Hearing Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, In Consideration Of Proposed Ordinance D14-141, Adopting The 2015-2016 Biennial Budget.

Mayor Johnson opened the public hearing at 7:02 p.m.

Mayor Johnson asked staff to explain the process. City Administrator Morrison said the Council will discuss the proposed budget ordinance and any public hearing comments at the December 2, 2014 Workshop and take action on December 9, 2014.

Seeing no one signed up or coming forward to speak, Mayor Johnson closed the public hearing at 7:03 p.m.

B. Citizen Comments:

Glenn Taylor, 4928 197th Ave E, Bonney Lake, spoke as a representative of the Greater Bonney Lake Historical Society. He presented the City Council with a certificate of appreciation for sponsoring the Milotte Film Festival. He said the 2014 event was a great success with about 300 attendees, two films, and two speakers. Mayor Johnson said he hopes to see this annual event continue and expand.

Bill Moffit, Kahne Properties, LLC, provided an update on Kahne Properties' issues with getting an easement on the Chan Property. He said the parties have worked out an acceptable document and hope to get a fully signed agreement back by the end of the year. He thanked the Council for their patience.

Tabitha Reynolds, 16709 191st Ave Ct E, Bonney Lake, said she is a junior at Bonney Lake High School and is competing in the DECA Community Service Project. She explained her project on Stroke Awareness and invited all to attend an educational program and fundraiser on Thursday, December 4, 2014 from 5:00-7:30 p.m. at BLHS.

Gwendolyn Fullerton, 9611 183rd Ave E, Bonney Lake, spoke about the moratorium on marijuana retail businesses. She spoke against lifting the moratorium and asked what process is available for her to address her concerns to the Council.

Mayor Johnson explained the current moratorium against retail marijuana sales. He said the Planning Commission is reviewing options currently and the City Council plans to review the Planning Commission's recommendations at the January 6, 2015 Workshop at 5:30 p.m. He encouraged Ms. Fullerton to attend the workshop and to contact the council via email in the meantime with her concerns.

C. Correspondence: None.**III. COUNCIL COMMITTEE REPORTS:**

- A. Finance Committee/Committee of the Whole: Deputy Mayor Swatman said the Committee met at 5:30 p.m. earlier in the evening as the Committee of the Whole and reviewed its meeting notes. The Committee discussed park fees, the proposed 2015-16 Budget Ordinance, a proposed 2013-14 Budget Amendment, the proposed 2015 cost of living adjustment for non-union employees, and utility tax rates. The Committee also discussed potential efficiencies by bringing the false alarm program back in-house.
- B. Community Development Committee: Councilmember Lewis said the Committee met on November 4, 2014 with Councilmember Minton-Davis and Deputy Mayor Swatman in attendance in place of Councilmembers McKibbin and Rackley. The Committee forwarded AB14-145 to the Consent Agenda and Resolution 2398 to Community Development Committee issues on the current Meeting agenda.
- C. Economic Development Committee: Councilmember Minton-Davis said the Committee met earlier in the afternoon and heard a presentation by Darrin Keaton from NotableWeb on potential updates to the Economic Development webpage. The Committee also discussed several ongoing items.

D. Public Safety Committee: Councilmember Watson said the committee met on November 3, 2014, and discussed the proposed lewd conduct ordinance (AB14-149), flashing crosswalk lights, the Lake Tapps addressing program, the proposed peddler's license ordinance (AB14-15), and a press release regarding multi-agency response to cargo theft. He said the Police Department plans to recognize several officers in an upcoming ceremony.

E. Other Reports:

Puget Sound Regional Council: Councilmember Hamilton said he attended the Puget Sound Regional Council meeting last week. The group heard a briefing from the Governor's task force on revenues from military establishments and discussed other issues related to Regional Centers.

Mayor Johnson noted that the City recently received official notice from the PSRC of the award of \$638,000 in grant funds for the SR410 and Veterans Memorial Drive East Intersection Improvements – Phase 1 project.

IV. **CONSENT AGENDA:**

- A. **Approval of Minutes:** October 21, 2014 Workshop, October 28, 2014 Meeting, and November 4, 2014 Workshop.
- B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers:** ... Accounts Payable checks/vouchers #69865-69894 (including wire transfer #'s 20141015, and 20141016) in the amount of \$33,588.10.
 Accounts Payable checks/vouchers #69895-69905 for utility customer refunds in the amount of \$2,774.93.
 Accounts Payable wire transfer #2014101701 for p-card purchases in the amount of \$38,264.87.
 Accounts Payable checks/vouchers #69906-69954 (including wire transfer #2014111101) in the amount of \$901,569.07.
 Accounts Payable checks/vouchers #69955-69974 for utility customer refunds in the amount of \$2,084.62.
 Accounts Payable checks/vouchers #69975-70013 (including wire transfer #'s 20141005, 20141101, 20141102, 20141103, 20141104, 20141105, and 20141106) in the amount of \$102,830.85.
 Accounts Payable checks/vouchers #70014-70015 for accounts receivable customer refunds in the amount of \$862.41.
 Accounts Payable checks/vouchers #70016 for utility customer refund in the amount of \$700.00.
- C. **Approval of Payroll:** Payroll for October 1st–15th, 2014 for checks #32031-32059 including Direct Deposits and Electronic Transfers is \$ 453,131.12.
 Payroll for October 16th-31st, 2014 for checks # 32060-32082 including Direct Deposits and Electronic Transfers is \$ 668,941.09.
 Payroll for November 1st–15th, 2014 for checks #32083-32103 including Direct Deposits and Electronic Transfers is \$ 464,794.86.
- D. ~~**AB14-149—Ordinance D14-149—An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 9.05 Of The Bonney Lake**~~

~~Municipal Code And Ordinance No. 1444 Relating To Criminal Lewd Conduct.~~
Moved to Full Council Issues, Item B.

- E. **AB14-151 – Ordinance 1495 [D14-151]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 9.11 Of The Bonney Lake Municipal Code And Ordinance No. 1444 Relating To The Issuance Of Peddlers’ Licenses.
- F. **AB14-132 – Resolution 2420** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Designating The Bonney Lake-Summer Courier Herald As The City’s Official Newspaper For 2014-2015.
- G. **AB14-133 – Resolution 2421** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Expressing The Intent To Adopt A Cultural Arts And Heritage Element.
- H. **AB14-145** – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Accept As Complete The 2014 Chip Seal Application With Doolittle Construction LLC.

Councilmember Watson requested the Consent Agenda be amended to pull item D. to Full Council Issues, Item B.

Councilmember Watson noted that revisions to the title and language were needed.

Councilmember Watson moved to approve the Consent Agenda as amended. Councilmember Lewis seconded the motion.

Consent Agenda approved as amended 7 – 0.

V. FINANCE COMMITTEE ISSUES: None.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES:

- A. **AB14-110 – Resolution 2398** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Fleet Maintenance Agreement With Korum Ford For 2014-2016 Fleet Maintenance.

Councilmember Lewis moved to approve Resolution 2398. Councilmember Watson seconded the motion.

Councilmember Minton-Davis said she reviewed the list of City vehicles and questioned the use of a Mercedes convertible, which was acquired during a drug seizure, in the fleet. She suggested it be disposed of as it sends the wrong message to the community. Mayor Johnson suggested this be discussed at a future Public Safety Committee meeting. Deputy Mayor Swatman agreed and said the maintenance costs should be reviewed and charged to the appropriate department if costs are higher.

Councilmember Watson asked why the contract is being awarded to a company outside the city limits. Councilmember Lewis said the Community Development Committee discussed this issue; he said not all local businesses in Bonney Lake submitted bids, and

Korum Ford offered a significantly lower bid. City Administrator Morrison noted this was a competitive bid process, so the lowest responsive bidder was selected.

Deputy Mayor Swatman asked how staff handle oil changes using a location outside the city. Public Works Director Grigsby said all service is done by appointment and staff coordinate to get a ride back to the City. Assistant Police Chief Alfano said officers are not paid overtime to take their cars in for service. Instead, an officer who is on regular duty takes the vehicle in for servicing. Public Works Director Grigsby said there are restrictions on which staff can work on Police cars and equipment, and vehicles receive a full inspection each time they are serviced.

Resolution 2398 approved 7 – 0.

VII. ECONOMIC DEVELOPMENT COMMITTEE ISSUES: None.

VIII. PUBLIC SAFETY COMMITTEE ISSUES: None.

IX. FULL COUNCIL ISSUES:

- A. **AB14-142 – Ordinance 1494 [D14-142]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Setting The Amount Of The Annual Ad Valorem Tax Levy Necessary For The Fiscal Year 2015 For The Purposes Set Forth Below.

**Councilmember Watson moved to approve Ordinance 1494 [D14-142].
Councilmember Lewis seconded the motion.**

Ordinance 1494 approved 7 – 0.

- B. **AB14-149 – Ordinance 1496 [D14-149]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 9.05 Of The Bonney Lake Municipal Code And Ordinance No. 1444 Relating To Public Nudity and Criminal Lewd Conduct. *Moved from Consent Agenda Issues.*

The City Clerk noted that the City Attorney submitted a proposed substitute ordinance and read the title aloud. City Attorney Haggard said changes in the substitute ordinance include an amendment to the ordinance title, adding ‘Section 1’ to revise the title in the Municipal Code chapter, and changing the effective date from 5 days to 30 days.

Councilmember Watson moved to approve Substitute Ordinance 1496 [D14-149] as presented by City Attorney Haggard. Councilmember Lewis seconded the motion.

Ordinance 1496 [D14-149] approved 7 – 0.

X. EXECUTIVE SESSION: None.

XI. ADJOURNMENT:

At 7:28 p.m., Councilmember Watson moved to adjourn the Council Meeting. Councilmember Lewis seconded the motion.

Motion to adjourn approved 7 – 0.

Harwood Edvalson, MMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the November 25, 2014 Meeting:

- City Attorney Kathleen Haggard – *Substitute Ordinance D14-149.*
- Tabitha Reynolds – *Stroke Event Flyer.*
- Glenn Taylor, Greater Bonney Lake Historical Society – *Certificate of Appreciation from the Greater Bonney Lake Historical Society for Support of the 3rd Annual Milotte Film Festival.*

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

**CITY COUNCIL
WORKSHOP**

**December 2, 2014
7:00 P.M.**



The City of Bonney Lake's Mission is to protect the community's livable identity and scenic beauty through responsible growth planning and by providing accountable, accessible and efficient local government services.

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DRAFT MINUTES

Location: Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

- I. Call to Order** –Mayor Neil Johnson, Jr. called the meeting to order at 5:32 p.m.
- II. Roll Call:** Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Randy McKibbin, Councilmember Donn Lewis, Councilmember James Rackley, and Councilmember Tom Watson. Councilmember Katrina Minton-Davis was absent.

Councilmember Watson moved to excuse Councilmember Minton-Davis's absence. Councilmember Rackley seconded.

Motion to excuse Councilmember Minton-Davis' absence approved 6 – 0.

Staff members in attendance were City Administrator Don Morrison, Community Development Director John Vodopich, Public Works Director Dan Grigsby, Chief Financial Officer Cherie Gibson, Police Chief Dana Powers, City Attorney Kathleen Haggard, Senior Planner Jason Sullivan, Facilities and Special Projects Manager Gary Leaf, Administrative Services Director/City Clerk Harwood Edvalson, and Administrative Specialist II Renee Cameron.

III. Agenda Items:

A. Presentation and Recognition: Stream Team in Bonney Lake – Lake Sampling Program.

Isabel Ragland, Water Quality Coordinator with Pierce Conservation District provided a PowerPoint presented for the Stream Team Volunteer Lake Monitoring Program for monitoring Lake Bonney and Lake Debra Jane from 2004-2014. She summarized the monitoring data and provided the Pierce Conservation District 2013 Annual Report. Facilities and Special Projects Manager Gary Leaf recognized the Stream Team monitoring volunteers with certificates, and plaques were presented to the Stream Team supervisors to show the City's appreciation for all of the hard work and hundreds of hours contributed to the program on behalf of the City and the community. No action was taken on this item, as it was for presentation, information, and recognition purposes only.

B. Council Open Discussion:

White River Families First Coalition Meeting: Councilmember Lewis said he attended the White River Families First Coalition Meeting at the Buckley Fire Station on November 24th. He said White River High School's Principal, Lainey Mathews, was the guest speaker and she spoke regarding the winter assistance programs available in Buckley and the Coalition

and volunteers will be running a campaign to collect warm clothing, backpacks, toys, and food programs.

Mountain View Middle School Youth Forum: Councilmember Watson said he attended the Youth Forum at Mountain View Middle School and the students highlighted and discussed their appreciation for Beautify Bonney Lake, the Bonney Lake Police Department, Victor Falls Park. Students advised that they enjoy the various Fun Runs held throughout the City. Students advised that they wish there was better control of teenage drug abuse in the community, and they spoke of a variety of ideas and some of the programs they would like to see implemented, as well as programs that they could assist and volunteer at. Mayor Johnson said the Bonney Lake High School Youth Forum is scheduled to be held on Monday, and he said he looks forward to comparing the desires and ideas of the high school students to those of the middle school students.

Joint City Council/Park Board Meeting. Deputy Mayor Swatman reminded Council of the upcoming Joint City Council/Park Commission Meeting that is scheduled for next Monday, December 8th. He asked Council to advise of any items they would like to discuss during the joint meeting.

Pierce County Urban Growth Annexation Area Meeting. Deputy Mayor Swatman asked for a briefing from the Pierce County's meeting regarding the Urban Growth Area Annexation ("UGA"). Senior Planner Jason Sullivan provided a summary of the meeting, and stated that the County was recommending denial of seven of the eight applications and that denial was primarily based on a previous Growth Management Hearings Board decision, which said that Pierce County is already considered over capacity, so even adding one new home to the capacity was inconsistent with the Growth Managements Act. He summarized the public's various comments and concerns with the applications, and advised that the Dieringer School District was going to emailed out a correction regarding their misunderstanding of students being added to the district if an application was approved. He said the County was recommending that Tehaleh be added to the City's UGA, but there is some concern from Tehaleh. Councilmember Hamilton clarified that the Tehaleh decision does not expand the UGA in the County, and Mr. Sullivan confirmed that. Deputy Mayor Swatman asked about concerns with the differences with the shorelines setbacks and how that would have been affected should the UGA have been allowed. Mr. Sullivan said there was some misinformation regarding the shoreline setbacks provided to some of the homeowners' associations. He said the next cycle for UGA to the County will be in 2017. Mr. Sullivan said the one question he took away from the meeting was a response as to why the City wants to annex those properties and why does it benefit the residents of the plateau. Councilmember Hamilton asked what the next step is and Mr. Sullivan said the recommendation will go to the Pierce County Planning Commission next week and he is uncertain how the recommendation will be considered, it will then go to the County Council.

C. Review of Council Minutes: November 18, 2014 Council Workshop.

Minor corrections were made to the minutes and this item was forwarded to the December 9, 2014 Council Meeting for action.

D. Discussion: AB14-134 – Resolution 2422 – 2014 Comprehensive Plan and Zoning Amendment – Old City Hall Site.

City Administrator Morrison stated this was a request from Administration that the Planning

Commission consider this amendment. He said this property has gone through a number of zoning changes, and he said the City had the property appraised, subsequent to the property being surplus, and the difference was about \$460,000 if zoned C2 as opposed to R3. He said the Planning Commission recommended the amendment unanimously. Senior Planner Sullivan advised that this is the City's only Comprehensive Plan Amendment for 2014. He clarified the ordinance number as well as. He said the City went through all of the requirements of the GMA and SEPA review and the Planning Commission recommended that the City Council adopt both the zoning change and the land use designation.

Deputy Mayor Swatman asked about the effect of the Midtown core area, and why it's not considered in the Midtown Subarea. Senior Planner Sullivan advised that C2 zoning allows for more residential uses because the Midtown core area does not allow for as many residential uses as the C2 zoning does. He said by zoning it C2 it opens it up for the market.

Councilmember Lewis recommended that this item stand alone and so this item was forwarded to the December 9, 2014 Council Meeting for Full Council Issues.

E. Discussion: AB14-140 – Ordinance D14-140 – Amendments to 2013-2014 Biennial Budget.

Chief Financial Officer Cherie Gibson summarized the agenda bill for this item and said the budget amendment keeps the City in check for the insurance fund which was under projected by approximately \$14,000. Council had no questions or comments. This item was forwarded to the December 9, 2014 Council Meeting for action.

F. Discussion (Pursuant to Public Hearing held 11/25/2014): AB14-141 – Ordinance D14-141 – 2015-2016 Biennial Budget.

Mayor Johnson advised that there were no speakers at the November 25, 2014 public hearing regarding the proposed 2015-2016 Biennial Budget. He asked for staff's input regarding discussion among Council from the November 25th Committee of the Whole meeting. City Administrator Morrison said the ordinance was amended to add the funds necessary for the Public Safety Building boiler, however, the ordinance was not amended to anticipate the utility tax revenues until Council appropriated it or determined how those revenues would be delegated. Councilmember Watson asked about a placeholder for updating the City's website, to add an economic development web page, and the cost associated with the entire City's web update. Mayor Johnson stated that he has looked at other cities' websites and he liked the appearance of Covington's fonts and Spokane's web page structure. Council briefly discussed their desires for the City's webpages. City Administrator Morrison said he wanted Council to be aware of the budgeted amount for the public defender contract and the funds that will be necessary for the contract. Councilmember Hamilton said the sooner the City initiates a utility tax the sooner it will help with the budget, as the utility tax will not be retroactive. City Administrator said the ordinance to be approved at the next Council Meeting which will have a 2% increase next year, and a 2% for 2016, and no increase for 2017. Deputy Mayor Swatman said associated with the utility tax that the City will need to consider doing a utility rate study in the near future. Councilmember Hamilton asked Mayor Johnson about the portable lights that are proposed for Allan Yorke Park and who will be responsible for maintaining them and the generator expenses. Mayor Johnson said the proposed portable lights are budgeted in the capital plan and they will be maintained by Public Works and Parks. City Administrator Morrison and Mayor Johnson agreed that maintenance of the portable lights could be included and budgeted from the ER&R fund. The

proposed ordinance was forwarded to the December 9, 2014 Meeting for action.

IV. EXECUTIVE SESSION: None.

V. ADJOURNMENT:

At 6:36 p.m., the Workshop was adjourned.

Motion to adjourn approved 6 - 0.

Harwood Edvalson, MMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the December 2, 2014 Workshop:

- Isabel Ragland, Water Quality Coordinator with Pierce Conservation District – *Monitoring Summary and Data Reports, PowerPoint Slides and Pierce County Conservation District’s 2013 Annual Report.*

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

CITY COUNCIL MEETING

**December 9, 2014
7:00 P.M.**

DRAFT MINUTES



“Where Dreams Can Soar”

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Location: Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

I. CALL TO ORDER – Mayor Neil Johnson, Jr. called the meeting to order at 7:00 p.m.

- A. Flag Salute: Mayor Johnson led the audience in the Pledge of Allegiance.
- B. Roll Call: Administrative Services Director/City Clerk Harwood Edvalson called the roll. In addition to Mayor Johnson, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Mark Hamilton, Councilmember Donn Lewis, Councilmember Randy McKibbin, Councilmember James Rackley, and Councilmember Tom Watson. Councilmember Katrina Minton-Davis was absent.

Councilmember Watson moved to excuse Councilmember Minton-Davis’ absence. Councilmember Rackley seconded the motion.

Motion to excuse Councilmember Minton-Davis’ approved 6 – 0.

Staff members in attendance were City Administrator Don Morrison, Community Development Director John Vodopich, Chief Financial Officer Cherie Gibson, Police Chief Dana Powers, Administrative Services Director/City Clerk Harwood Edvalson, City Attorney Kathleen Haggard, and Records & Information Specialist Susan Haigh. City Engineer John Woodcock arrived at 7:25 p.m.

C. Announcements, Appointments and Presentations:

1. Announcements: None.

2. Appointments:

- a. **Oath of Office:** Community Service Officer Nate Alvord.

Judge Ron Heslop administered the Oath of Office to Officer Nate Alvord. Councilmembers and others in attendance congratulated Officer Alvord.

3. Presentations:

- a. **AB14-135** – Market Analysis – BERK Consulting.

Community Development Director Vodopich introduced Brian Murphy and Kevin Gifford from BERK Consulting, who the City had contracted with to provide a market analysis earlier in the year (Resolution 2393). Mr. Murphy and Mr. Gifford provided an overview of the project purpose and scope and their progress to date. They reviewed the strengths, weaknesses, opportunities, and threats analysis (SWOT), and their suggestions about what should be focused on for the City’s future economic development. The firm’s final product will include

marketing materials and recommendations for the update to the Economic Development Element of the Comprehensive Plan.

Councilmember Hamilton asked about the feasibility of a regional commercial center concept, such as what the City of Sumner proposed in the past. Councilmember Watson asked for input about future planning for retail, housing, and trails to create interconnections and to provide residents with pedestrian access to commercial areas. Councilmember Lewis noted the lack of public transportation in the City, and the need for pedestrian facilities. Councilmember Rackley asked about the correlation between impact fees and quality of life; Mr. Murphy said their interviews with business owners showed a perception that development costs were high in Bonney Lake. Councilmember Rackley commented on the consultant's statement that Tehaleh can be seen as both a threat and an opportunity to the City, and noted that Tehaleh may become part of the City's UGA.

D. Agenda Modifications: None.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

A. Public Hearings: None.

B. Citizen Comments:

Kim Nygard, Sumner School District, 1503 Valley Ave, Sumner, thanked the City and staff for their support of the Bonney Lake High School Youth Forum on December 8, 2014. She said it is a great benefit to have the City staff involved in this event and discussions with students. Mayor Johnson said staff are working on a summary of the student's comments for the Council.

Dan Decker, 20401 70th St E, Bonney Lake, spoke about visiting a Bonney Lake Municipal Court session recently. He said the court room is an open public area and the bailiff should not ask visitors for their names. He said he had also called the Mayor about another item said he had called the Mayor and left a message.

C. Correspondence: None.

III. COUNCIL COMMITTEE REPORTS:

A. Finance Committee: Deputy Mayor Swatman said the Council met as the Committee of the Whole at 5:30 p.m. earlier in the evening, and reviewed minutes, heard a report from the City Administrator on city properties, OpenGov software, and updates on the Reed Property. The Committee discussed the proposed 2015-2016 biennial budget, SCADA System Upgrade contract, and Pierce County Historical grant for historical markers, which were all forwarded to the current agenda. The Committee also discussed the house alarm/false alarm program. The Finance Department has reviewed the options and determined this service can be provided in-house, rather than continuing the agreement with ATB, in order to improve customer service.

- B. Community Development Committee: Councilmember Lewis said the Committee met on December 2, 2014 and forwarded four items to the Consent Agenda – Resolution 2394, Resolution 2395, Resolution 2396, and motion AB14-146.
- C. Economic Development Committee: Councilmember McKibbin said the Committee met at 4:00 p.m. earlier in the evening, and no items were forwarded to the current agenda.
- D. Public Safety Committee: Councilmember Watson said the committee has not met since the last Council Meeting.
- E. Other Reports:

DM Disposal Food Drive: Mayor Johnson announced the first annual Mayor’s Food Drive, which is a partnership with DM Disposal to provide donations to the Bonney Lake Food Bank. He said DM is distributing bags this week on Monday & Tuesday and will pick up donations on Thursday. He said it is good to see so many events this time of year that support families in need.

Annual Tree Lighting Event: Councilmember Lewis complimented staff on this year’s Tree Lighting ceremony, and on the success of the Art Commission’s first Gingerbread House Competition. He said they had a large turnout for this event.

IV. CONSENT AGENDA:

- A. **Approval of Minutes**: November 18, 2014 Workshop.
- B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers**: Accounts Payable checks/vouchers #70017-70055 (including wire transfer # 20141108) in the amount of \$137,870.14.
Accounts Payable checks/vouchers #70056-70071 for utility customer refunds in the amount of \$1,778.69.
Accounts Payable checks/vouchers #70072-70084 in the amount of \$16,388.64.
VOIDS: Check #68231 – replaced with check #68995, Check #69651 – replaced with check #69907.
- C. **Approval of Payroll**: Payroll for November 16th-30th, 2014 for checks #32104-32129 including Direct Deposits and Electronic Transfers is \$ 669,255.10.
- D. **AB14-143 – Ordinance 1500 [D14-143]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 12.12 Of The Bonney Lake Municipal Code And The Corresponding Portions Of Ordinance No. 1338 Relating To Reservations, Fees And Group Use For Parks.
- E. **AB14-86 – Resolution 2394** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Awarding The SR410 Pedestrian Improvements Mile Post 13.91 Contract To WHH Nisqually Federal Services, LLC. [Tabled from June 24, 2014]
- F. **AB14-87 – Resolution 2395** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With Parametrix, Inc. For Construction Staking Of The SR410 Pedestrian Improvements MP 13.91 Project.

- G. **AB14-88 – Resolution 2396** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Contract With SCJ Alliance Construction Engineering Services (Amendment #3) Of The SR410 Pedestrian Improvements MP 13.91 Project.
- H. **AB14-146** – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, To Accept As Complete The Lakeridge 2 Water Main Extension Project With Archer Construction, Inc.

Councilmember Lewis moved to approve the Consent Agenda. Councilmember Watson seconded the motion.

Consent Agenda approved 6 – 0.

V. FINANCE COMMITTEE ISSUES:

- A. **AB14-154 – Ordinance 1501 [D14-154]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending Chapter 5.04 Of The Bonney Lake Municipal Code And Ordinance No. 1398 Relating To Utility Taxes On Water, Sewer, And Stormwater Services.

Councilmember Watson moved to approve Ordinance 1501 [D14-154]. Councilmember Lewis seconded the motion.

**Ordinance 1501 approved 5 – 1.
Councilmember Rackley voted no.**

- B. **AB14-130 – Resolution 2419** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign A Public Benefit Agreement With Pierce County To Assist With Placement Of Two Historical Markers.

Councilmember Lewis moved to approve Resolution 2428. Councilmember Watson seconded the motion.

Councilmember Hamilton said the new markers will be the same style as the previously-installed markers, and will be installed at the historic Michael Connell's historic homestead at the City-owned 'Reed Property' on Barkubein Road, and at the City-owned Victor Falls property.

Resolution 2419 approved 6 – 0.

- C. **AB14-153 – Resolution 2428** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Awarding The Phase 1 – SCADA System Upgrades Contract To Northeast Electric, LLC.

Councilmember Watson moved to approve Resolution 2428. Councilmember Lewis seconded the motion.

Deputy Mayor Swatman said the agreement was reviewed by Committee of Whole and was recommended for passage. He said this is the first of a several-phase project which will be completed over a period of years.

Resolution 2428 approved 6 – 0.

VI. COMMUNITY DEVELOPMENT COMMITTEE ISSUES: None.

VII. ECONOMIC DEVELOPMENT COMMITTEE ISSUES: None.

VIII. PUBLIC SAFETY COMMITTEE ISSUES: None.

IX. FULL COUNCIL ISSUES:

- A. **AB14-134 – Ordinance 1497 [D14-134]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending The Future Land Use Map And Section 18.12.010 Of The Bonney Lake Municipal Code And Ordinance No. 1459 Relating To Land Use Designation And Zoning Classification Of Certain Properties Within Bonney Lake.

**Councilmember Lewis moved to approve Ordinance 1497 [D14-134].
Councilmember Rackley seconded the motion.**

Mayor Johnson noted that this item went through the Planning Commission process.

Ordinance 1497 approved 6 – 0.

- B. **AB14-140 – Ordinance 1498 [D14-140]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Adopting The Mid-Biennial Budget Amendment For Budget Years 2013 And 2014.

**Councilmember Watson moved to approve Ordinance 1498 [D14-140].
Councilmember Rackley seconded the motion.**

City Administrator Morrison explained that the proposed ordinance amends one item on the current biennial budget to increase the insurance fund.

Ordinance 1498 approved 6 – 0.

- C. **AB14-141 – Ordinance 1499 [D14-141]** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Adopting The Biennial Budget For Calendar Years 2015 And 2016.

**Councilmember Rackley moved to approve Ordinance 1499 [D14-141].
Councilmember Watson seconded the motion.**

Mayor Johnson said there has been much Council discussion at Workshops and Meetings, and a public hearing was held. Councilmember Lewis thanked Finance staff for their work to present the budget and answer the Council's questions.

Ordinance 1499 approved 6 – 0.

X. EXECUTIVE SESSION: None.

XI. ADJOURNMENT:

**At 7:48 p.m., Councilmember Watson moved to adjourn the Council Meeting.
Councilmember Lewis seconded the motion.**

Motion to adjourn approved 6 – 0.

Harwood Edvalson, MMC
City Clerk

Neil Johnson, Jr.
Mayor

Items presented to Council at the December 9, 2014 Meeting: None.

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: Community Development/ Jason Sullivan – Senior Planner	Meeting/Workshop Date: January 6, 2015	Agenda Bill Number: AB15-08
Agenda Item Type: Discussion	Ordinance/Resolution Number: D15-08A and D15-08B	Councilmember Sponsor: Councilmember Lewis

Agenda Subject: State-Licensed Marijuana Industry

Full Title/Motion:

Administrative Recommendation:

Background Summary: On April 8, 2014 the City Council adopted Ordinance 1481 directing the Planning Commission to study and propose development regulations to the Council. The Planning Commission was instructed to study a range of approaches including zoning, development regulations, and a complete or partial prohibition in all zones.

The Planning Commission held a public meeting on April 16, 2014 and hosted a panel discussion on August 20, 2014 related to the regulation of state-licensed marijuana businesses. On September 3, 2014, the Planning Commission reviewed its memorandum which outlined three options for the City Council to consider and voted 7-0 that the memorandum be presented to the City Council.

Subsequently, on September 9, 2014, the Planning Commission presented three different options for the Council to consider: (1) complete ban on medical and recreational marijuana; (2) allow retail establishments and ban producers, processors, and collective gardens; and (3) continue to ban collective gardens and only rely on the LCB regulations to control recreational marijuana. On September 16, 2014 the City Council directed the staff to prepare ordinances implementing Options 1 and 2 and for the Planning Commission to hold public hearings on both options.

On November 5, 2014, the Planning Commission held a public hearing on Ordinance D14-129A (Option 1) and D14-129B (Option 2). Following the public hearing the Planning Commission voted 6-1-0 to recommend that the City Council not adopt Ordinance D14-129A and that the City Council adopt Ordinance D14-129B. This recommendation would authorize state-licensed marijuana retail establishments and ban state-licensed marijuana producers and processors.

Additionally, the Planning Commission voted 7-0-0 to recommend that the City Council adopt an ordinance that would set aside a percentage of the sales tax that the City receives from the operation of state-licensed marijuana retail establishments within the City for youth drug education programs or other programs that support healthy lifestyles of the City’s youth.

Attachments: Ordinance D15-08A/B, Community Development Briefing Memo, Planning Commission Recommendation Memo, Planning Commission Briefing Memo: State-Licensed Marijuana Industry Regulation Options

BUDGET INFORMATION			
Budget Amount	Current Balance	Required Expenditure	Budget Balance
Budget Explanation:			

COMMITTEE, BOARD & COMMISSION REVIEW

Council Committee Review:

Date:

Approvals:

Chair/Councilmember

Councilmember

Councilmember

Yes No

Forward to:

Consent Agenda: Yes No

Commission/Board Review: Planning Commission

Hearing Examiner Review:

COUNCIL ACTION

Workshop Date(s): October 15, 2013,
April 1, 2014, and
September 16, 2014

Public Hearing Date(s):

Meeting Date(s): October 22, 2013,
April 8, 2014, and
September 9, 2014

Tabled to Date:

APPROVALS

Director:
John P. Vodopich, AICP

Mayor:

Date Reviewed
by City Attorney: October 1, 2014
(if applicable):

ORDINANCE NO. D15-08A

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING SECTIONS 18.04.030, 18.04.130, AND 18.08.030 OF THE BONNEY LAKE MUNICIPAL CODE, RELATING TO THE PRODUCTION, PROCESSING, AND RETAIL SALES OF MARIJUANA.

WHEREAS, in November 2012 the voters of the State of Washington approved Initiative 502, providing a framework whereby individuals and business entities may be granted a state license authorizing them to produce, process, or sell marijuana and marijuana-infused products for recreational use; and

WHEREAS, pursuant to Initiative 502, the Washington State Liquor Control Board has developed and implemented regulations governing the licensing, location, and operation of marijuana producers, processors, and retailers; and

WHEREAS, the Washington State Liquor Control Board has begun issuing licenses authorizing individuals and businesses to produce, process, and sell marijuana, marijuana concentrates, and marijuana-infused products; and

WHEREAS, marijuana remains a Schedule 1 drug under the federal Controlled Substances Act, and the production, possession, and use of marijuana for any purpose, including medical use, remains illegal under federal law; and

WHEREAS, in 2012 the City enacted a ban on medical cannabis collective gardens and dispensaries in Bonney Lake Municipal Code section 18.08.030; and

WHEREAS, unless the City acts to address the production, processing, and retail sales of recreational marijuana and marijuana-infused products, such uses will be able to locate in Bonney Lake, resulting in the adverse secondary effects on the City and its citizens; and

WHEREAS, on September 9, 2014, the Planning Commission made recommendations to the City Council for the regulation of licensed marijuana businesses through zoning and other land use controls; and

WHEREAS, in its recommendation, the Planning Commission presented the City Council with three options: (1) a ban of all marijuana businesses; (2) establish zoning regulations allowing retail locations in the Easttown and Midtown zoning districts, impose additional regulations on marijuana retail businesses, and prohibit marijuana producers and processors in all zoning districts; and (3) pass no regulations related to marijuana businesses; and

WHEREAS, the issues considered by the Planning Commission in its report included the substantial number of private parks that are dedicated for public use in the City, potential City liability arising from lawsuits related to marijuana businesses, the potential for increased crime associated with marijuana businesses, air pollution and odors associated with marijuana producers and processors, hazardous materials associated with marijuana production and processing, the high energy use required by marijuana producers, and the lack of food safety regulations governing marijuana processors; and

WHEREAS, the City is a family-oriented community, and is concerned about the adverse secondary effects the opening of marijuana producers, processors, and retailers could have on the community, such as increased crime associated with the valuable products and large amounts of cash kept in these businesses, environmental impacts of producers and processors, and the increased visibility of marijuana to children with the message that marijuana use is “acceptable”; and

WHEREAS, the City’s police department is not provided any additional funding by the state to address the potential for increased crime created by marijuana producers, processors, and retailers; and

WHEREAS, on January 16, 2014 the Washington State Attorney General issued an opinion stating that local governments are not preempted by state law from banning the location of a Washington State Liquor Control Board licensed marijuana producer, processor, or retailer within their jurisdiction, and that nothing in Initiative 502 limits the broad authority that local governments have to regulate within their jurisdictions, including regulations concerning licensed marijuana businesses; and

WHEREAS, article XI, section 11 of the Washington Constitution grants local governments jurisdiction over issues such as land use, zoning, and standards for the issuance of business licenses; and

WHEREAS, local ordinances are entitled to a presumption of constitutionality; and

WHEREAS, Washington courts have consistently upheld local ordinances banning an activity when state law regulates the activity but does not grant an unfettered right or entitlement to engage in that activity; and

WHEREAS, notwithstanding the State’s decriminalization of the production, processing, and retail sales of marijuana, local governments retain authority over zoning, development regulations, and the issuance of business licenses within their jurisdictions; and

WHEREAS, the City Council has determined that it is in the best interest of the City and its citizens to prohibit the production, processing, and retail sales of marijuana in the City of Bonney Lake.

WHEREAS, the City issued a Determination of Non-Significance on October 7, 2014 pursuant to WAC 197-11-340 in order to comply with the requirements of Chapter 43.21C RCW; and

WHEREAS, pursuant to the Growth Management Act - Chapter 36.70A RCW this Ordinance was provided to the Department of Commerce for 60-day review and comment by the Department and other State agencies; and

WHEREAS, expedited review was requested and granted by Commerce and the review period concluded on October 21, 2014.

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was held by the Planning Commission on November 5, 2014,

NOW THEREFORE, the City Council of Bonney Lake, Washington, do ordain as follows:

Section 1. Section 18.04.030, “C,” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance Nos. 1442 § 2, 746 § 19, and 740 § 2 are hereby amended to read as follows:

18.04.030 “C”.

“Camouflaged” means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure or new structure, tower, or mount within trees so as to be significantly screened from view or camouflaged to appear as a non-antenna structure (i.e., tree, flagpole with flag, etc.).

~~“Cannabis” means all parts of the plant cannabis, whether growing or not; 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. For the purposes of this definition, “cannabis” 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. The term “cannabis” includes cannabis products and usable cannabis.~~

~~“Cannabis collective garden” means a garden where “qualifying patients” as described in RCW 69.51A.085 may engage in the production, processing, and/or delivery of cannabis for medical use.~~

~~“Cannabis dispensary” means any facility or location where cannabis is grown, produced, manufactured or made available and/or distributed.~~

“Cell site” or “site” means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

“City center and view corridor area” means an area defined by the boundaries of the city center and the view corridor for Mt. Rainier along SR 410 from approximately 500 feet northwest of the intersection with Sumner/Buckley Highway (Bonney Lake Main Street to the dip in SR 410 just west of Angeline Road undercrossing (the point where Mt. Rainier disappears from view)).

“Co-location” means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

“Conditional use” means a use permitted in one or more classifications as defined by this title but which use because of characteristics peculiar to it, or because of size, technological processes, or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demand upon public facilities, required a special degree of control to

make such uses consistent with and compatible to other existing or permissible uses in the same zones or zones, and to assure that such use shall not be harmful to the public interest.

“Conditional use permit” or “CUP” means the documented evidence of authority granted by the hearing examiner to locate a conditional use at a particular location.

“Condominium” means a multiple-family dwelling and its accessory uses and grounds in which each dwelling unit is individually owned, and all or any part of the dwelling structure, accessory uses and grounds are owned cooperatively by the owners of said dwelling units, and maintenance functions are performed by required subscriptions from said owners.

“Convalescent home,” see “Nursing home.”

“COW” means “cell on wheels.”

Section 2. Section 18.04.130, “M,” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance Nos. 1364 § 3, 746 § 19, and 740 § 2 are hereby amended to read as follows:

“Manufactured home” means a structure constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

- A. Is comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;
- B. Was originally constructed and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch;
- C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences;
- D. Is built on a permanent chassis and designed solely for the purpose of human habitation.

“Marijuana” means all parts of the plant Cannabis, whether growing or not, with a THC (tetrahydrocannabinol) 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.

“Marijuana collective garden” (also referred to as “medical marijuana collective garden,” “cannabis collective garden,” and “medical cannabis collective garden”) means a location where “qualifying patients,” as defined in RCW 69.51A.010(4), may engage in the production, processing, and/or delivery of marijuana for medical use, as described in RCW 69.51A.090.

“Marijuana concentrates” means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than sixty percent.

“Marijuana dispensary” (also referred to as “medical marijuana dispensary,” “cannabis dispensary,” and “medical cannabis dispensary”) means any facility where marijuana or marijuana products are grown, produced, manufactured, sold or otherwise made available and/or distributed that is not licensed by the Washington State Liquor Control Board.

“Marijuana-infused products” means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term “marijuana-infused products” does not include either useable marijuana or marijuana concentrates.

“Marijuana processor” means a person, business, or organization licensed by the Washington State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana, marijuana concentrates, and marijuana-infused products for sale in retail outlets, and sell useable marijuana, marijuana concentrates, and marijuana-infused products at wholesale to marijuana retailers.

“Marijuana producer” means a person, business, or organization licensed by the Washington State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana retailer” means a person, business, or organization licensed by the Washington State Liquor Control Board to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet.

“Massage therapy/spa” means a scientific or skillful manipulation of soft tissue for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting health and physical well-being. The term includes, but is not limited to, manual and mechanical procedures for the purpose of treating soft tissue only, the use of supplementary aids such as rubbing alcohol, liniments, oils, antiseptics, powders, herbal preparations, creams or lotions, procedures such as oil rubs, salt glows and hot or cold packs or other similar procedures or preparations commonly used in this practice. This term specifically excludes manipulation of the spine or articulations and excludes sexual contact.

“Medical-dental clinic” means an establishment for the treatment of outpatients, and providing no overnight care for patients.

“Microbrewery” means a facility that produces beer and sells it to the public by one or more of the following methods: through the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and in some cases, directly to the consumer through carry-outs or on-site taproom sales. Microbreweries shall have a production capacity not to exceed 15,000 U.S. barrels per year and shall have a full food menu.

“Mini-day care center” means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through 12 children in the family abode of such person or persons.

“Mobile home” means a single-family prefabricated residential unit manufactured according to the standards of the statutes of the state and federal government, capable of being moved upon the public roads and highways, so designed and equipped as to be served by a sanitary sewer or septic tank system, supported by leveling jacks or blocks.

“Mobile home park” is a tract of land used or designated for the use of two or more mobile homes.

“Modification” means the changing of any portion of a facility such as a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

“Modular home” means any structure other than a mobile or manufactured home designed primarily for human occupancy, which is either entirely or substantially prefabricated or assembled at a place other than a building site and which has been approved pursuant to RCW 43.22.455 and bears the insignia of the Washington State Department of Labor and Industries.

“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

A. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.

B. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.

C. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, electrical transmission towers, utility poles, and bridges.

Section 3. Section 18.08.030, formerly titled “Marijuana producers, processors, and retailers,” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. 1442 § 3 are hereby amended to read as follows:

18.08.030 ~~Cannabis collective gardens and dispensaries~~ Marijuana uses prohibited.

A. Marijuana collective gardens and dispensaries prohibited. Notwithstanding any other provision of the Bonney Lake Municipal Code, ~~cannabis~~ marijuana collective gardens and ~~cannabis~~ marijuana dispensaries are prohibited in all zoning districts.

B. Marijuana producers, processors, and retailers prohibited. Notwithstanding any other provision of the Bonney Lake Municipal Code, marijuana producers, marijuana processors, and marijuana retailers are prohibited in all zoning districts.

Section 4. Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force effect.

Section 5. Effective Date. This ordinance shall take effect five (5) days after its passage, approval and publication as required by law. Upon taking effect, this Ordinance shall supersede

and nullify Ordinance Nos. 1468, 1469, 1481, and 1489, which enacted a temporary moratorium on marijuana uses.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2015.

Neil Johnson, Jr., Mayor

AUTHENTICATED:

Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

Kathleen Haggard, City Attorney

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ORDINANCE NO. D15-08B

AN ORDINANCE OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AMENDING SECTIONS 5.08.225, 18.04.030, 18.04.130, 18.04.160, 18.08.020, AND 18.08.030 OF THE BONNEY LAKE MUNICIPAL CODE, RELATING TO MARIJUANA RETAILERS, PRODUCERS AND PROCESSORS.

WHEREAS, in November 2012 the voters of the State of Washington approved Initiative 502, providing a framework whereby individuals and business entities may be granted a state license authorizing them to produce, process, or sell marijuana and marijuana-infused products for recreational use; and

WHEREAS, pursuant to Initiative 502, the Washington State Liquor Control Board has developed and implemented regulations governing the licensing, location, and operation of marijuana producers, processors, and retailers; and

WHEREAS, the Washington State Liquor Control Board has begun issuing licenses authorizing individuals and businesses to produce, process, and sell marijuana, marijuana concentrates, and marijuana-infused products; and

WHEREAS, marijuana remains a Schedule 1 drug under the federal Controlled Substances Act, and the production, possession, and use of marijuana for any purpose, including medical use, remains illegal under federal law; and

WHEREAS, in 2012 the City enacted a ban on medical cannabis collective gardens and dispensaries in Bonney Lake Municipal Code section 18.08.030; and

WHEREAS, unless the City acts to address the production, processing, and retail sales of recreational marijuana and marijuana-infused products, such uses will be able to locate in Bonney Lake without City regulations, resulting in the adverse secondary effects on the City and its citizens; and

WHEREAS, the City has grown quickly over the last three decades, with much of that growth occurring in the form of private residential or mixed-use subdivision developments; and

WHEREAS, the City has required private developments to construct a substantial number of parks and playgrounds, which were then dedicated in perpetuity for recreational use, yet remain privately owned and managed; and

WHEREAS, there is no meaningful difference between the privately owned and managed parks and playgrounds in the City that are dedicated in perpetuity for public use and public parks and playgrounds; both function as areas for outdoor recreation and for children to congregate; and

WHEREAS, on September 9, 2014, the Planning Commission made recommendations to the City Council for the regulation of licensed marijuana businesses through zoning and other land use controls; and

WHEREAS, in its recommendation, the Planning Commission presented the City Council with three options: (1) a ban of all marijuana businesses; (2) establish zoning regulations allowing retail locations in the Eastown and Midtown zoning districts, impose additional regulations on marijuana retail businesses, and prohibit marijuana producers and processors in all zoning districts; and (3) pass no regulations related to marijuana businesses; and

WHEREAS, the issues considered by the Planning Commission in its report included the substantial number of private parks that are dedicated for public use in the City, potential City liability arising from lawsuits related to marijuana businesses, the potential for increased crime associated with marijuana businesses, air pollution and odors associated with marijuana producers and processors, hazardous materials associated with marijuana production and processing, and the high energy use required by marijuana producers; and

WHEREAS, the City is a family-oriented community, and is concerned about the adverse secondary effects the opening of marijuana producers, processors, and retailers could have on the community, such as increased crime associated with the valuable products and large amounts of cash kept in these businesses, the environmental impacts of producers and processors, and the increased visibility of marijuana to children and the message that marijuana use is “acceptable”; and

WHEREAS, the City’s police department is not provided any additional funding by the state to address the potential for increased crime created by marijuana producers, processors, and retailers; and

WHEREAS, the City Council has determined that the best way to minimize the adverse effects of marijuana retailers while still allowing marijuana retailers to operate in the City is to confine marijuana retail locations to the Eastown and Midtown zoning districts while imposing additional regulations; and

WHEREAS, on January 16, 2014 the Washington State Attorney General issued an opinion stating that local governments are not preempted by state law from banning the location of a Washington State Liquor Control Board licensed marijuana producer, processor, or retailer within their jurisdiction, and that nothing in Initiative 502 limits the broad authority that local governments have to regulate within their jurisdictions, including regulations concerning licensed marijuana businesses; and

WHEREAS, article XI, section 11 of the Washington Constitution grants local governments jurisdiction over issues such as land use, zoning, and standards for the issuance of business licenses; and

WHEREAS, local ordinances are entitled to a presumption of constitutionality; and

WHEREAS, Washington courts have consistently upheld local ordinances banning an activity when state law regulates the activity but does not grant an unfettered right or entitlement to engage in that activity; and

WHEREAS, notwithstanding the State’s decriminalization of the production, processing, and retail sales of marijuana, local governments retain authority over zoning, development regulations, and the issuance of business licenses within their jurisdictions; and

WHEREAS, the City Council has determined that it is in the best interest of the City and its citizens to establish zoning regulations allowing retail locations in the Eastown and Midtown zoning districts, impose additional regulations on marijuana retail businesses, and prohibit marijuana producers and processors in all zoning districts.

WHEREAS, the City issued a Determination of Non-Significance on October 7, 2014 pursuant to WAC 197-11-340 in order to comply with the requirements of Chapter 43.21C RCW; and

WHEREAS, pursuant to the Growth Management Act - Chapter 36.70A RCW this Ordinance was provided to the Department of Commerce for 60-day review and comment by the Department and other State agencies; and

WHEREAS, expedited review was requested and granted by Commerce and the review period concluded on October 21, 2014.

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was held by the Planning Commission on November 5, 2014,

NOW THEREFORE, the City Council of Bonney Lake, Washington, do ordain as follows:

Section 1. The following section 5.08.225, “Additional business license requirements for marijuana retail businesses.” is hereby added to the Bonney Lake Municipal Code:

5.08.225 Additional business license requirements for marijuana retail businesses.

In order to qualify for a business license, retail businesses who sell marijuana, marijuana concentrates, or marijuana infused products must comply with the following requirements, in addition to the other requirements contained in this Chapter 5.08:

A. State license required. Marijuana retail businesses must have a valid state marijuana retailer license issued by the Washington State Liquor Control Board and must present the City with evidence of this state license when applying for a business license.

B. Indemnification. By accepting a business license pursuant to this Chapter 5.08 or any other provision of the Bonney Lake Municipal Code, the owner(s) of the marijuana retailer shall agree, jointly and severally, to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool, if any, against all liability, claims and demands, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the marijuana retail business that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and

attorney fees. The City may require the owner(s) of the marijuana retail business to execute a written instrument confirming the provisions of this chapter.

C. Insurance. The City of Bonney Lake shall be named as an additional insured on all general liability, umbrella, and excess insurance policies that provide coverage for the marijuana retail business. This includes, but is not limited to, all insurance policies required by WAC 314-55-082.

D. Subject to federal law. By accepting a business license pursuant to this Chapter 5.08 or any other provision of the Bonney Lake Municipal Code, the owner(s) of the marijuana retailer acknowledge that he/she/they may still be subject to arrest, prosecution, imprisonment, and/or fines for violating federal law, the City shall have no duty, responsibility, or liability based on any of those events, and that the City may be the entity to arrest, prosecute, imprison or fine the applicant.

Section 2. Section 18.04.030, “C,” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance Nos. 1442 § 2, 746 § 19, and 740 § 2 are hereby amended to read as follows:

18.04.030 “C”.

“Camouflaged” means a personal wireless service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure or new structure, tower, or mount within trees so as to be significantly screened from view or camouflaged to appear as a non-antenna structure (i.e., tree, flagpole with flag, etc.).

~~“Cannabis” means all parts of the plant cannabis, whether growing or not; 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. For the purposes of this definition, “cannabis” 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. The term “cannabis” includes cannabis products and usable cannabis.~~

~~“Cannabis collective garden” means a garden where “qualifying patients” as described in RCW 69.51A.085 may engage in the production, processing, and/or delivery of cannabis for medical use.~~

~~“Cannabis dispensary” means any facility or location where cannabis is grown, produced, manufactured or made available and/or distributed.~~

“Cell site” or “site” means a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

“City center and view corridor area” means an area defined by the boundaries of the city center and the view corridor for Mt. Rainier along SR 410 from approximately 500 feet northwest of the

intersection with Sumner/Buckley Highway (Bonney Lake Main Street to the dip in SR 410 just west of Angeline Road undercrossing (the point where Mt. Rainier disappears from view)).

“Co-location” means the use of a personal wireless service facility or cell site by more than one personal wireless service provider.

“Conditional use” means a use permitted in one or more classifications as defined by this title but which use because of characteristics peculiar to it, or because of size, technological processes, or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demand upon public facilities, required a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zones or zones, and to assure that such use shall not be harmful to the public interest.

“Conditional use permit” or “CUP” means the documented evidence of authority granted by the hearing examiner to locate a conditional use at a particular location.

“Condominium” means a multiple-family dwelling and its accessory uses and grounds in which each dwelling unit is individually owned, and all or any part of the dwelling structure, accessory uses and grounds are owned cooperatively by the owners of said dwelling units, and maintenance functions are performed by required subscriptions from said owners.

“Convalescent home,” see “Nursing home.”

“COW” means “cell on wheels.”

Section 3. Section 18.04.130, “M,” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance Nos. 1364 § 3, 746 § 19, and 740 § 2 are hereby amended to read as follows:

“Manufactured home” means a structure constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

- A. Is comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;
- B. Was originally constructed and now has a composition of wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch;
- C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences;
- D. Is built on a permanent chassis and designed solely for the purpose of human habitation.

“Marijuana” means all parts of the plant Cannabis, whether growing or not, with a THC (tetrahydrocannabinol) 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.

“Marijuana collective garden” (also referred to as “medical marijuana collective garden,” “cannabis collective garden,” and “medical cannabis collective garden”) means a location where “qualifying patients,” as defined in RCW 69.51A.010(4), may engage in the production, processing, and/or delivery of marijuana for medical use, as described in RCW 69.51A.090.

“Marijuana concentrates” means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than sixty percent.

“Marijuana dispensary” (also referred to as “medical marijuana dispensary,” “cannabis dispensary,” and “medical cannabis dispensary”) means any facility where marijuana or marijuana products are grown, produced, manufactured, sold or otherwise made available and/or distributed that is not licensed by the Washington State Liquor Control Board.

“Marijuana-infused products” means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term “marijuana-infused products” does not include either useable marijuana or marijuana concentrates.

“Marijuana processor” means a person, business, or organization licensed by the Washington State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana, marijuana concentrates, and marijuana-infused products for sale in retail outlets, and sell useable marijuana, marijuana concentrates, and marijuana-infused products at wholesale to marijuana retailers.

“Marijuana producer” means a person, business, or organization licensed by the Washington State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana retailer” means a person, business, or organization licensed by the Washington State Liquor Control Board to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet.

“Massage therapy/spa” means a scientific or skillful manipulation of soft tissue for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting health and physical well-being. The term includes, but is not limited to, manual and mechanical procedures for the purpose of treating soft tissue only, the use of supplementary aids such as rubbing alcohol, liniments, oils, antiseptics, powders, herbal preparations, creams or lotions, procedures such as oil rubs, salt glows and hot or cold packs or other similar procedures or preparations commonly used in this practice. This term specifically excludes manipulation of the spine or articulations and excludes sexual contact.

“Medical-dental clinic” means an establishment for the treatment of outpatients, and providing no overnight care for patients.

“Microbrewery” means a facility that produces beer and sells it to the public by one or more of the following methods: through the traditional three-tier system (brewer to wholesaler to retailer to

consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and in some cases, directly to the consumer through carry-outs or on-site taproom sales. Microbreweries shall have a production capacity not to exceed 15,000 U.S. barrels per year and shall have a full food menu.

“Mini-day care center” means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through 12 children in the family abode of such person or persons.

“Mobile home” means a single-family prefabricated residential unit manufactured according to the standards of the statutes of the state and federal government, capable of being moved upon the public roads and highways, so designed and equipped as to be served by a sanitary sewer or septic tank system, supported by leveling jacks or blocks.

“Mobile home park” is a tract of land used or designated for the use of two or more mobile homes.

“Modification” means the changing of any portion of a facility such as a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

“Modular home” means any structure other than a mobile or manufactured home designed primarily for human occupancy, which is either entirely or substantially prefabricated or assembled at a place other than a building site and which has been approved pursuant to RCW 43.22.455 and bears the insignia of the Washington State Department of Labor and Industries.

“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

- A. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.
- B. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.
- C. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, electrical transmission towers, utility poles, and bridges.

Section 4. Section 18.08.020, “Land Use Matrix,” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance Nos. 1416 and 1483 are hereby amended to read as follows:

Zone Use	RC- 5	R- 1	R- 2	R- 3	C- 1	C- 2	E	MC	DC	DM	PF
Residential Uses											

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Accessory dwelling unit			P ¹	P ¹							
Adult family home	P	P	P	P	P						
Apartments/condominiums				P		P ²	P ²		P ³	P	
Boarding homes			P	P							P
Duplexes (two-family residences)			P	P							
Family day cares	A	A	A	A	A				A	A	
Group homes				C							C
Home occupations; provided the criteria in BLMC 18.22.010 are met	A	A	A	A	A				A	A	
Mobile/manufactured homes subject to Chapter 15.08 BLMC	P	P	P								
Mobile/manufactured home parks in existence as of annexation into the city							P				
Nursing homes and continuing care communities (NAICS 623110 and NAICS 623311)							P	C			C
Senior assisted living facilities (NAICS 623312)			P	P		C	P	C	P ³	P	
Private docks, mooring facilities and boathouses; provided the project complies with shoreline management regulations and the provisions of BLMC 18.22.070	A	A	A	A							P
Residences in connection with a business establishment					P	C	A	C	P ³	P	
Residential care facilities				P							
Single-family residences, detached	P	P			P						
Townhouses			P	P	C	C	P	C			
Educational Uses											
Colleges and universities or extension classrooms						P	P	P	P ³	P	P
Dancing, music, art, drama and instructional/vocational schools					P	P	P	P	P ³	P	P

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Elementary school		C	P	P	P	C		C			P
Junior high, high schools and junior colleges, public or private		C	C	C	C	C		C			P
Preschool		C	P	P	P	P		P			
Cultural, Religious, Recreational, and Entertainment Uses											
Adult entertainment facilities subject to the provisions of Chapter 18.32 BLMC							P				
Amphitheater						P	P	P			
Campgrounds							P	C			C
Essential public facilities							P				C
Galleries					P	P		P	P	P	
Golf courses	C										C
Golf driving range							P				C
Government buildings and facilities		C	C	C	P	P	P	P	P	P	P
Gymnasiums and fitness centers, public or commercial						P	P	P			P
Libraries				P	P	P	P	P	P	P	P
Museums	C	C			P	P	P	P	P	P	P
Parks, open space and trails	P	P	P	P	P	P	P	P	P	P	P
Pocket park	P	P	P	P	P	P	P	P	P	P	P
Private meeting halls	A	A	C	P	P	P	P	P			P
Public meeting halls			C	P	P	P	P	P			P
Recreation facilities, outdoor	C						P				P
Recreational vehicle parks							P				
Religious institutions	P ⁴	P ⁴	P ⁴	P ⁴	P	P		P	P ³	P	C
Swimming pools, public or private	A	A	A	A	A	P	P	P			P
Theaters						P	P	P	P	P	
Industrial Uses											

Zone Use	RC- 5	R- 1	R- 2	R- 3	C- 1	C- 2	E	MC	DC	DM	PF
Assembly or processing of previously prepared materials in a fully enclosed building							C ¹				
Junk, salvage or wrecking yard; provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the open storage use							C				
On-site treatment and storage facility as an accessory use to a permitted use which generates a hazardous waste subject to compliance with the state siting criteria adopted pursuant to the requirements of Chapter 70.105 RCW and issuance of state hazardous waste management facility permit						A	A				
Storage or distribution of sand, gravel, top soil, or bark; provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the storage area							P				
Storage or processing of any hazardous waste as defined in Chapter 70.105 RCW is not permitted as a principal use							C				
Trailer-mix concrete plant; provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the concrete plant and storage yard							C				
Retail and wholesale warehousing and distribution of goods within a fully enclosed building						P	P	P			
Resource Management Uses											
Agriculture and orchards	P										
Forestry and tree farms	P										
Raising of livestock, small animals and fowl; provided the requirements of BLMC 18.22.060 are met	P										

Zone Use	RC- 5	R- 1	R- 2	R- 3	C- 1	C- 2	E	MC	DC	DM	PF
Transportation, Communication, Utilities											
Parking garages						C	P	C	C		
Public utility facility; provided the requirements of BLMC 18.22.050 are met	P		P	P	P	P	P	P			
Commercial Uses											
Ambulance service						C	P	C			
Antique shops					C	P	P	P	P	P	
Arcade							P	P			
Automatic teller machines (ATMs)						P	P	P		P	
Automatic teller machines (ATMs) with no drive-through					P	P	P	P	P	P	
Automobile fuel and recharging stations and car washes						P	P	P			
Automobile, boat and trailer sales							P	C			
Automobile, boat and trailer repair						P	P	P			
Bakery, retail					P	P	P	P	P	P	
Bakery, wholesale							P				
Banks, savings and loan associations						P	P	P			
Banks, savings and loan associations with no drive-through					P	P	P	P	P	P	
Barber shops and beauty shops					P	P	P	P	P	P	
Bars					C	P	P	P	P	P	
Bed and breakfast houses; provided the criteria in BLMC 18.22.030 are met	A	C	C	C	P						
Beer and wine specialty shops					P	P	P	P	P	P	
Bookstores				A	P	P	P	P	P	P	
Bowling alley											
Brewpubs and microbreweries					C	P	P	P	P	P	

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Cabinet and carpenter shop						C	P	C			
Candy shop					P	P	P	P			
Cart vendors					P	P	P	P			
Cinema						P	P	P			
Coffee shops, cafes, no drive-through					P	P	P	P	P	P	A
Coffee stand, drive-through						P	P	P			
Commercial, professional and service uses associated with a residential complex, including banks, savings and loan associations, barber and beauty shops, business and professional offices, medical and dental clinics and neighborhood grocery, coffee shops, or restaurants, provided such uses occupy no more than 10 percent of the land area of the parcel or parcels within the residential complex and no individual commercial, professional or service use exceeds 5,000 square feet of floor area				A			P				
Commercial uses associated with a permitted use, such as a snack bar or gift shop, provided the commercial activity is open for business no more than 150 days per year or is within the same building as the permitted use							P				A
Contractor yards, provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the open storage use							P				
Day care centers				C	P	P	P	P			P
Department store						P	P	P			
Dry cleaning						P	P	P	P	P	
Food markets, delicatessen and meat markets (beer and wine may be sold)					P	P	P	P	P	P	
Furniture and small household appliance repair shops					C	P	P	C			

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Furniture building, repair and upholstering							P				
Hardware stores						P	P	P	P	P	
Horticultural nursery and garden supply, indoor or outdoor						P	P	P	P	P	
Hospitals		C	C	C		P	P	P			C
Hotels, motels						C	P	C	P	P	
Kennels	C		C	C	A	A	P	A			
Laundromats					P	P	P	P			
Liquor stores					C	P	P	P			
Locksmiths and security alarm shops					P	P	P	P			
Machine shops						C	P	C			
<u>Marijuana Retail Stores - Licensed by the Liquor Control Board</u>							<u>P</u>	<u>P</u>			
Massage therapy/spas					P	P	P	P	P	P	
Medical-dental clinics						P	P	P	P ³	P	
Medical offices					P	P	P	P	P ³	P	
Mini day care center				C	P	A	P	A	P	P	
Mini-storage facilities						C	C	C			
Nail salons					P	P	P	P	P	P	
Nightclub							P				
Open storage yards, including storage and sale of building materials and heavy equipment, provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the open storage use							P				
Outdoor storage and sale of building materials and nursery stock, provided such use is accessory to a						A	A	A			

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
permitted use and enclosed within a sight-obscuring fence											
Pet shop, grooming and supplies					P	P	P	P	P	P	
Pharmacies						P	P	P	P	P	
Photographic processing and supply						P	P	P	P	P	
Photography studios					P	P	P	P	P	P	
Plumbing shops, electricians, heating, air conditioning sales or repair						C	P	C			
Pool hall						P	P	P			
Printing, copying and mailing services					P	P	P	P	P	P	
Professional offices					P	P	P	P	P ³	P	
Restaurants, including drive-in restaurants					C	P	P	P			
Restaurants, no drive-through					C	P	P	P	P	P	
Retail shops					C	P	P	P	P	P	
Roadside produce stands	P				P	P	P	P			P
Shoe repair					P	P	P	P	P	P	
Shopping center						P	P	P			
Skating rink						P	P	P			
Stables and riding schools	P										P
Tailor shops					P	P	P	P	P	P	
Tanning salon					P	P	P	P	P	P	
Tavern					C	P	P	P	P	P	
Veterinary clinics, animal hospitals						P	P	P			
Veterinary clinics with no outdoor kennel space or dog runs						P	P	P	P ³	P	

Zone Use	RC- 5	R- 1	R- 2	R- 3	C- 1	C- 2	E	MC	DC	DM	PF
Wireless communications facilities are permitted as principal or accessory uses provided the requirements of Chapter 18.50 BLMC are met	P		P	P	A	A	P	A			

P = Permitted

C = Conditional use

A = Accessory use

P¹ = No accessory dwelling units are allowed in conjunction with a duplex

P² = Subject to the commercial design standards of Chapter [18.31](#) BLMC

P³ = Allowed outright on second floor, requires a CUP if on the first floor

P⁴ = Subject to the provisions of BLMC [18.22.040](#)

C¹ = Exclusions are listed in BLMC [18.29.040](#)

Section 5. Section 18.08.030, formerly titled “Marijuana producers, processors, and retailers,” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. 1442 § 3 are hereby amended to read as follows:

18.08.030 ~~Cannabis collective gardens and dispensaries~~ Marijuana uses.

- A. In addition to the definition in Chapter 18.04 BLMC, the following definitions are utilized for this section:
 - 1. “Privately owned public park” means privately-owned land made available for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, including but not limited to Swiss Park.
 - 2. “Privately owned public playground” means an outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, on a tract of land dedicated for recreational use, which is owned and/or managed by a homeowners association.
- B. Marijuana collective gardens and dispensaries prohibited. Notwithstanding any other provision of the Bonney Lake Municipal Code, ~~cannabis~~ marijuana collective gardens and ~~cannabis~~ marijuana dispensaries are prohibited in all zoning districts.
- C. Marijuana producers and processors prohibited. Notwithstanding any other provision of the Bonney Lake Municipal Code, marijuana producers and marijuana processors are prohibited in all zoning districts.
- D. Marijuana retailers. Marijuana retailers are permitted in the Easttown (E) and Midtown Core (MC) zoning districts, and are prohibited from all other zoning districts. In addition to the requirements imposed on marijuana retailers established in Chapter 69.50 RCW and

Chapter 314-55 WAC, marijuana retailers shall comply with the following zoning and development requirements:

1. Marijuana retailers may not be located within 1000 feet of any privately-owned public playground. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the privately-owned public playground.
2. Marijuana retailers may not be located within 1000 feet of any privately-owned public park. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the privately-owned public park.
3. Marijuana retailers must implement, to the fullest extent practical at the location, Crime Prevention Through Environmental Design (CPTED). At a minimum, marijuana retailers must incorporate the following CPTED design elements:
 - a. Adequate lighting levels shall be provided in all pedestrian areas, including building entries, along walkways, parking areas, and other public areas. Lights plans shall be submitted and shall meet the following minimum standards:
 - i. Provide an overlapping pattern of light.
 - ii. Provide consistent lighting with a gradual transition to unlighted areas. Avoid creating highly contrasting pools of light and dark areas.
 - iii. Provide at least 2 foot-candles or 22 lux at building entrances and primary pedestrian walkways as measures 36 inches above the ground, and at least 1 foot-candle or 11 lux in parking areas as measures 36 inches above the ground.
 - iv. Provide lighting at all building entrances, exits and corridors between buildings, especially where doors are recessed.
 - v. Ensure that site lighting is confined to the project site and does not cause glare on adjacent properties.
 - b. The following building and design features shall be employed to increase security:
 - i. Parking stalls shall not be located directly in front of any exterior door.
 - ii. Every exterior door shall include at a minimum an eye-viewer, door-scope, window, or adjacent window allowing the occupant the ability to see who is at the door without the need to open it first.

- iii. All single or double swinging exterior doors shall be equipped with a single cylinder Grade 1 deadbolt lock as determined by the most current version of ANSI/BHMA A156.
- iv. All exterior windows shall either be Standard Laminated Architectural Glass (LAG) that is a ¼ inch thick glass with a 0.060” thick lamination or meet the requirements of the most current version of ASTM F standard for security glazing.

Section 6. Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force effect.

Section 7. Effective Date. This ordinance shall take effect five (5) days after its passage, approval and publication as required by law. Upon taking effect, this Ordinance shall supersede and nullify Ordinance Nos. 1468, 1469, 1481, and 1489, which enacted a temporary moratorium on marijuana uses.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2015.

Neil Johnson, Jr., Mayor

AUTHENTICATED:

Harwood T. Edvalson, MMC, City Clerk

APPROVED AS TO FORM:

Kathleen Haggard, City Attorney

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Community Development Department Briefing Memorandum

Date: December 4, 2014
To: Mayor Johnson and City Council
From: Jason Sullivan – Senior Planner
Re: **Ordinance D15-08A/B – Regulation of State-Licensed Marijuana Businesses.**

PURPOSE:

The purpose of the memorandum is to brief City Administration and the City Council on an upcoming City Council item related to the regulation of state-licensed marijuana businesses within the City of Bonney Lake.

BACKGROUND:

Initiative 502 (I-502), now codified in Chapter 69.50 RCW, was passed by Washington voters in 2012. The initiative authorized three types of license (producer, processor, and retailer) and directed the Washington State Liquor Control Board (LCB) to develop rules regarding the issuances of the licenses and regulating the production, processing, and sale of marijuana. Final rules went into effect on September 16, 2013, at which time applications for licenses could be submitted to the LCB.

On October 22, 2013, the City Council passed Ordinance 1498 establishing a six month moratorium on the issuance of permits or business licensed for state-licensed marijuana business. April 8, 2014, the City Council passed Ordinance 1481 extending the moratorium related to the issuance of permits associated with the State-licensed marijuana industry and adding the development of regulations to the Planning Commission's work plan. The Planning Commission was directed to study a range of approaches to regulation, including zoning, development regulations, and a complete or partial prohibition in all zones.

The Planning Commission held a public meeting on April 16, 2014 and hosted a panel discussion on August 20, 2014 related to the regulation of state-licensed marijuana businesses. On September

3, 2014, the Planning Commission reviewed its memorandum which outlined three options for the City Council to consider and voted 7-0 that the memorandum be presented to the City Council.

Subsequently, on September 9, 2014, the Planning Commission presented three different options for the Council to consider: (1) complete ban on medical and recreational marijuana; (2) allow retail establishments and ban producers, processors, and collective gardens; and (3) continue to ban collective gardens and only rely on the LCB regulations to control recreational marijuana. On September 16, 2014 the City Council directed the staff to prepare ordinances implementing Options 1 and 2 and for the Planning Commission to hold public hearings on both options. The City Council also extended the moratorium an additional 120 days to complete the above requested actions.

DISCUSSION:

I. Option 1: Ordinance D15-08A: Permanent Ban of All Marijuana Businesses

Ordinance D15-08A would establish a complete ban on all state-licensed marijuana businesses. Based on the Opinion issued by the Washington State Attorney General in January 2014, as well as a decision issued by Pierce County Superior Court on August 29, 2014, the City is not preempted by state law from totally prohibiting marijuana related businesses under its traditional zoning authority. Under this option, the City would also maintain the ban on marijuana collective gardens and dispensaries.

II. Option 2: Ordinance D15-08B: Establish Zoning Regulations for Marijuana Businesses

Ordinance D15-08B would maintain the ban on collective gardens and dispensaries and ban state licensed marijuana producers and processors. The draft ordinance would allow state-licensed marijuana retail operations subject to zoning and land use controls, which are in addition to the regulations already imposed by the LCB. These additional regulations are discussed below:

A. Easttown and Midtown

The only commercial areas within Bonney Lake that would allow state-licensed marijuana retail businesses would be portions of Midtown and Easttown.

B. Definition of Parks/Playground

The current definition of playground and public park used by the LCB in WAC 314-55-010(16) and (17), respectively, requires that the playground or park be owned and/or managed by a city, county, state, or federal government. Based on these definitions, marijuana business can be located within a 1,000 feet of a private park facility like Swiss Park or homeowner association parks. Bonney Lake had significant development

of residential subdivisions over the past two decades, resulting in a substantial number of private recreational facilities. The City has typically required subdivisions to provide private park facilities for their residents, and record covenants that these areas will be preserved for park use in perpetuity. Therefore, private park facilities are not meaningfully different than public park facilities.

Given the intent to keep marijuana uses away from areas where children congregate and outdoor recreation occurs, Ordinance D15-08B expands the definition of “park” and “playground” to include privately-owned and managed recreational areas and playgrounds. Ordinance D15-08B also includes regulations that the City will not issue business licenses to retailers within 1,000 feet of these park facilities.

C. Liability Language

Ordinance D15-08B adds a new section to the City’s business license regulations that requires the any individual or company receiving a marijuana retail business license to indemnify the City. The new section also requires that that the insurance for the business required by WAC 314-55-082 name the City as additional insured for claims or lawsuits arising out of the operation of the business. Licensees are already required to identify the LCB as an additional insured on all insurance policies as a condition of the license per WAC 314-55-082(3).

D. Crime Prevention Through Environmental Design

Ordinance D15-08B establishes specific measures to implement Crime Prevention Through Environmental Design (CPTED) which include:

- Adequate lighting levels shall be provided in all pedestrian areas, including building entries, along walkways, parking areas, and other public areas. Lights plans shall be submitted and shall meet the following minimum standards:
 - Provide an overlapping pattern of light.
 - Provide consistent lighting with a gradual transition to unlighted areas. Avoid creating highly contrasting pools of light and dark areas.
 - Provide at least 2 foot-candles or 22 lux at building entrances and primary pedestrian walkways as measures 36 inches above the ground, and at least 1 foot-candle or 11 lux in parking areas as measures 36 inches above the ground.
 - Provide lighting at all building entrances, exits and corridors between buildings, especially where doors are recessed.

- Ensure that site lighting is confined to the project site and does not cause glare on adjacent properties.
- The following building and design features shall be employed to increase security:
 - Parking stalls shall not be located directly in front of any exterior door.
 - Signs or advertisements shall not cover more than 15% of the window area.
 - Every exterior door shall include at a minimum an eye-viewer, door-scope, window, or adjacent window allowing the occupant the ability to see who is at the door without the need to open it first.
 - All single or double swinging exterior doors shall be equipped with a single cylinder Grade 1 deadbolt lock as determined by the most current version of ANSI/BHMA A156.
 - All exterior windows shall either be Standard Laminated Architectural Glass (LAG) that is a ¼ inch thick glass with a 0.060” thick lamination or meet the requirements of the most current version of ASTM F standard for security glazing.



Memo

Date : November 5, 2014
To : Mayor and City Council
From : Grant Sulham, Planning Commission Chair
Re : **Ordinance D15-08A/B – State Licensed Marijuana Regulations**

The City Council has directed the Planning Commission to study and propose development regulations to the Council. The Planning Commission was directed to study a range of approaches to regulation, including zoning, development regulations, and a complete or partial prohibition in all zones. This Planning Commission presumes the Council will want to keep the existing ban on medical marijuana collective gardens and dispensaries, which has been on the books since 2012. With this presumption, the Commission developed three different options for the Council to consider for new regulations: (1) Complete ban on State-licensed marijuana uses in all zones; (2) allow licensed retail establishments in specific zones but ban producers and processors; or (3) pass no legislation concerning state-licensed marijuana uses.

On September 16, 2014, the City Council reviewed the three options proposed by the Planning Commission and requested that the Planning Commission prepare two ordinances for the City Council to consider: (Option 1) Complete ban on State-licensed marijuana uses in all zones and (Option 2) allow licensed retail establishments in specific zones but ban producers and processors.

On November 5, 2014, the Planning Commission held a public hearing on Ordinance D15-08A (Option 1) and D15-08B (Option 2). Following the public hearing the Planning Commission voted 6-1-0 to recommend that the City Council **not adopt Ordinance D15-08A** and that the City Council **adopt Ordinance D15-08B**. This recommendation would authorize state-licensed marijuana retail establishments and ban state-licensed marijuana producers and processors.

Additionally, the Planning Commission voted 7-0-0 to recommend that the City Council adopt an ordinance that would set aside a percentage of the sales tax that the City receives from the operation of state-licensed marijuana retail establishments within the City for youth drug education programs or other programs that support healthy lifestyles of the City's youth.

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Memo

Date : September 3, 2014
To : Mayor Johnson and City of Bonney Lake City Council
From : Bonney Lake Planning Commission
Re : **State-Licensed Marijuana Industry Regulations**

PURPOSE:

On April 8, 2014, the City Council passed Ordinance 1481 extending the moratorium related to the issuance of permits associated with the State-licensed marijuana industry and adding the development of regulations to the Planning Commission's work plan. The purpose of this memo is to present three options developed by the Planning Commission related to the regulation of marijuana uses within the City.

BACKGROUND:

In 1998, voters approved I-692 which legalized the use of marijuana for medicinal purposes. In 2011, the Washington State Legislature approved Engrossed Second Substitute Bill (ESSB) 5073 allowing medical marijuana collective gardens which was partially vetoed by Governor Gregoire. The veto removed all sections that established a state registry for collective gardens. The remaining sections of ESSB 5073 were codified as Chapter 69.51A RCW. The Court of Appeals ruled last spring that medical marijuana collective gardens are illegal. The City currently has no medical marijuana collective gardens or dispensaries, and these uses have been prohibited in the City since 2012.

Initiative 502 (I-502), now codified in Chapter 69.50 RCW, was passed by Washington voters in 2012. The initiative authorized three types of licenses (producer, processor, and retailer) and directed the Washington State Liquor Control Board (LCB) to develop rules regarding the issuances of the licenses and regulating the production, processing, and sale of marijuana. As explained in the City Attorney's letter to the City Council on October 14, 2013:

A producer's license authorizes its holder to produce, possess, deliver, distribute, and sell marijuana. A processor's license authorizes its holder to process, package, and label marijuana and

marijuana products for sale to marijuana retailers. A retailer's license authorizes its holder to possess, deliver, distribute, and sell usable marijuana and marijuana-infused products. A single licensee can hold licenses for both production and processing. However, a marijuana retailer cannot hold a production or processing license. All three types of marijuana licenses are subject to regulation by the Liquor Control Board and are also subject to the Board's annual renewal. Additionally all three licenses are limited to the specific location for which the license is issued and are not freely transferrable from the licensee to another individual.

Final rules went into effect on September 16, 2013, at which time applications for licenses could be submitted to the LCB. The major provisions of the rules adopted by the LCB, codified as Chapter 314-55 WAC, include:

- Provisions that require businesses to allow law enforcement officers unfettered access to the business, without notice or cause. Home occupation businesses are not allowed.
- Prohibition on allowing employees or customers to consume marijuana or marijuana-infused products on the premises.
- Prohibition that businesses and advertising may not be located within 1000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park (excluding trails), public transit center, library, or any game arcade (where admission is not restricted to persons age twenty-one or older).
- Limitations placed on retailers of marijuana by the LCB as explained in the City Attorney's October 14, 2013 letter:

Retailers are not allowed to sell anything other than usable marijuana, marijuana-infused products, or products related to the storage or use of marijuana or marijuana-infused products. RCW 69.50.357; WAC 314-55-079. Retailers are prohibited from selling pure marijuana extract, in addition to being prohibited from selling their products over the internet or by home delivery. Retailers are restricted to a 1,600 square inch [about 11 square feet] sign stating the business's name and may not display usable marijuana or marijuana-infused products in a manner that makes them visible to the general public.

- Required background checks which will be used to deny licenses to those who have a criminal background that exceeds a certain threshold based upon a point system developed by the LCB. The point system is provided in WAC 314-55-040.

- Security requirements on licensees as explained in the City Attorney's October 14, 2013 letter:

All employees are required to display an identification badge issued by the licensed employer at all times when they are on the premises. Each licensed premises must have a security alarm system installed on all perimeter entry points and all perimeter windows. Additionally, each licensed premises must maintain an extensive surveillance system, as detailed in the WAC 314-55-083.

The regulations also contain traceability requirements to ensure that marijuana or marijuana-infused products do not make their way out of the regulated stream of commerce. WAC 314-55-083(4). These traceability requirements include providing the Liquor Control Board with notification of certain events such as harvesting plants, destroying marijuana or marijuana products, and any theft of an item containing marijuana. The licensee must also maintain a complete inventory and retain all point of sale records.

Any time a licensee transports marijuana or a marijuana-infused product, the licensee must notify the board of the amount and type of marijuana products being transported, along with the name of the transporter and the times of departure and expected delivery. Licensees who receive such shipments must also report the amount and type of marijuana products received. WAC 314-55-085.

To further ensure that marijuana products do not escape the state-regulated stream of commerce, the Liquor Control Board has also included extensive marijuana waste disposal procedures in its regulations. WAC 315-55-097.

I-502 imposes a 25% excise tax at each transaction point (producer to processor, processor to retailer, and retailer to consumer) but local governments will not receive any of the excise tax revenues. Local governments will receive sales tax revenue that will be collected on retail sale of marijuana in the same way they do for all retail sales. In Colorado, local governments do receive a share of the state-imposed taxes on marijuana, and Association of Washington Cities (AWC) is making efforts to encourage the legislature to enact a similar provision in Washington.

DISCUSSION:

The City Council has directed the Planning Commission to study and propose development regulations to the Council. The Planning Commission was directed to study a range of approaches to regulation, including zoning, development regulations, and a complete or partial prohibition in all zones. This Planning Commission presumes the Council will want to keep the existing ban on medical marijuana collective gardens and dispensaries, which has been on the books since 2012. With this presumption, the Commission developed three different options for the Council to

consider for new regulations: (1) Complete ban on State-licensed marijuana uses in all zones; (2) allow licensed retail establishments in specific zones but ban producers and processors; or (3) pass no legislation concerning state-licensed marijuana uses.

I. Option 1: Permanent Ban of All Marijuana Businesses

The first option that is available to the City is a complete ban on all state-licensed marijuana businesses. In exploring this option the Planning Commission considered legal advice on:

1. Whether or not the City was preempted from establishing a complete prohibition on marijuana business in light of I-502; and
2. Whether or not the City can rely on the Federal Controlled Substances Act of 1970 (CSA) to ban marijuana businesses.

Based on the Opinion issued by the Washington State Attorney General (AG) in January 2014, as well as a decision issued by Pierce County Superior Court on August 29, 2014, the City is not preempted by state law from totally prohibiting marijuana related businesses under its traditional zoning authority; whether the City can rely on the CSA to ban marijuana related businesses has not been answered and may be a riskier argument.

A. State Preemption of Local Ordinances

The AG issued AGO 2014 No. 2 on January 16, 2014 which stated that I-502 did not include any specific language to preempt a local jurisdiction's ability to regulate marijuana business under traditional zoning authority. The opinion went on to conclude that given the strong presumption against finding that state law preempts local ordinances, the broad power granted by the Washington Constitution to local jurisdiction to regulate land use, and the lack of any specific preemption language in I-502, cities do have the authority to ban marijuana procedures, processors, and retailers. While the Courts are not bound by the AG's opinion, it is given substantial weight by the Courts. However, the LCB has indicated that a local ban will not be reason that the LCB would deny a licenses and it would be up to the local jurisdiction to enforce the ban.

On August 29th, Judge Ronald Culpepper of Pierce County Superior Court upheld the City of Fife's ban on marijuana businesses under the rationale that I-502 does not preempt traditional zoning authority. Fife also raised the federal law supremacy argument in support of the ban, but this argument was opposed by both the AG and the ACLU, who intervened in the case. Judge Culpepper did not make a decision on the federal law argument because the state law preemption issue disposed of the case. Judge Culpepper's decision will be appealed, most likely directly to the Washington State Supreme Court.

The Council should keep in mind that the legislature could amend the law in the 2015 session to include clear language preempting local zoning authority. In Colorado, the legislature gave cities express authority to zone out marijuana businesses; about a third of municipalities have done so.

B. Federal Preemption of Legalized Marijuana

No court has addressed the argument justifying a ban based on the supremacy of federal law. The AG and advocacy groups like the American Civil Liberties Union (ACLU) vigorously challenge any argument that could threaten the viability of Initiative 502 – including the argument that legalizing marijuana at the State level violates federal law. Courts that choose to uphold the argument that I-502 does not preempt local zoning authority do not have to answer the federal law question. Therefore, the federal law supremacy argument remains untested and risky.

II. Option 2: Establish Zoning Regulations for Marijuana Businesses

The second option that is available to the City is to establish specific zoning and land use controls related to the regulation of State-licensed marijuana businesses. Any zoning or development regulations the City adopts will be in addition to the regulations already imposed by the LCB, including the 1,000 foot rule, surveillance and alarm systems, and regulations on the size and placement of signage.

A. City approaches to regulation

Cities in Washington have chosen an array of approaches to regulating State-licensed marijuana uses. Some have imposed bans (e.g., University Place, Fife, Wenatchee). Others have opted for no regulations other than what is imposed by the LCB (e.g., Shelton). Others have adopted specific zoning and development regulations. A summary of these regulatory approaches from a number of cities in Washington is provided below:

- Carnation limits marijuana uses to the City's Horticultural Zone.
- Des Moines limits marijuana uses to areas zoned Business Park, which is a light industrial zone, and two commercial zones along SR-99 within the City.
- Ellensburg allows marijuana uses in all of the commercial zones in the City. The City limits the maximum size of retail facilities to 3,000 square feet, prohibits drive-thru facilities, requires that all production facilities be located in-doors, and prohibits all off-site signage.

- Gig Harbor allows marijuana uses in some of the City’s commercial zones. The City requires that no collective garden or other marijuana use be within 1,000 feet of each other, establishes parking requirements, and expands the definition of game arcade. The City is also considering legislation that would expand the definition of schools to include non-traditional school sites not covered in the LCB definitions. Gig Harbor also establishes a more formal permit review process in addition to any required building permits and state licenses.
- Issaquah allows marijuana uses in some of the City’s commercial zones. The City requires that no collective garden or other marijuana use be within 1,000 feet of each other and requires that all marijuana uses be within an enclosed building. Issaquah also establishes security requirements in addition to the LCB regulations related to security cameras, and implements crime prevention through environmental design (CPTED) regulations. Issaquah also utilizes a more formal permit review process in addition to any required building permits and state licenses.
- Renton allows marijuana uses in some of the City’s commercial zones, provided that the use is within an enclosed building or structure. The City requires that any person obtaining a business license from the City for a marijuana use to:

... indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool, if any, against all liability, claims and demands, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the marijuana-related business that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees.

Renton’s procedures also require that the person obtain the business licenses from the City acknowledges that marijuana is still illegal under federal law and that:

Based on the Supremacy Clause and federal law in general, the applicant may still be subject to arrest, prosecution, imprisonment, and/or fines for violating federal law, the Renton [sic] shall have no duty, responsibility, or liability based on any of those events, and that Renton may be the entity to arrest, prosecute, imprison or fine the applicant.

A complete map of the approaches, including bans, taken by cities within Washington is available on the MSRC website at the following link:

<http://www.mrsc.org/subjects/legal/502/recmarijuana.aspx#rreads>. The interactive map provides links to the actual ordinance adopted by cities by clicking on the city and then the ordinance link provided in the popup.

B. Recommended additional regulations for Bonney Lake

The Planning Commission studied approaches taken by other cities and recommends the Council consider adopting any or all of the following regulations for state-licensed marijuana businesses, if the City Council decides to pursue Option II:

1. Allow State-licensed marijuana businesses only in Eastown and Midtown.

The only commercial areas within Bonney Lake that would allow state-licensed marijuana businesses would be portions of Midtown and Eastown, based on the LCB's current regulations. If the City Council adopts the expanded definition of parks discussed below, most of Midtown would also likely be excluded as appropriate areas for state-licensed marijuana business. Given that Eastown is a substantial distance away from the City's commercial centers and family-oriented uses most of the area would still be available for state-licensed marijuana businesses.

2. Expand the Definition of Parks/Playground

The current definition of playground and public park used by the LCB in WAC 314-55-010(16) and (17), respectively, requires that the playground or park be owned and/or managed by a city, county, state, or federal government. Based on these definitions, marijuana business can be located within a 1,000 feet of a private park facility like Swiss Park or homeowner association parks. Bonney Lake had significant development of residential subdivisions over the past two decades, resulting in a substantial number of private recreational facilities. The City has typically required subdivisions to provide private park facilities for their residents, and record covenants that these areas will be preserved for park use in perpetuity. Therefore, private park facilities are not meaningfully different than public park facilities.

Given the intent to keep marijuana uses away from areas where children congregate and outdoor recreation occurs, the Planning Commission recommends that as part of any adopted regulations the Council expand the definition of "park" and "playground" to include privately-owned and managed recreational areas and playgrounds.

3. Include Liability Language

The Planning Commission also recommends that if the City Council allows retail marijuana businesses that the indemnification language in the Renton Ordinance be included in the City's business license materials. The City may also want to consider requiring that the insurance for the business required by WAC 314-55-082 name the City as additional insured for claims or lawsuits arising out of the operation of the business. Licensees are already required to identify the LCB as an additional insured on all insurance policies as a condition of the license per WAC 314-55-082(3).

4. Require Crime Prevention Through Environmental Design

The Planning Commission recommends the Council adopt Crime Prevention Through Environmental Design (CPTED) requirements for marijuana businesses. Given the valuable product and cash on premises, the Commission expects marijuana businesses to be potential targets for robberies, similar to businesses like jewelry stores, gun shops, or pawn shops. CPTED standards modify the environment to deter criminal activity and increase overall safety for citizens by ensuring that the layout and design of a building does not facilitate criminal activity. CPTED imposes standards for additional lighting, maintenance of landscaping, putting doors in visible locations, and building layouts that eliminate exterior hiding spaces.

C. Ban producers and processors

If the Council elects to allow marijuana retail businesses, the Planning Commission recommends a complete ban on producers and processors, to be revisited later if the State solves some of the environmental and safety problems with these types of uses.

1. Air Pollution and Odors

The Clean Air Agency's primary concern is the emissions that may come from facilities for producers and processors. The primary concern is that grow operations create a significant amount of odorous emissions which may cause nuisance impacts off-site, if they are not properly controlled and managed by the licensees. As a result of these concerns, producers and processors are required to obtain a license from the Clean Air Agency in addition to the license from the LCB. The permits entail a case-by-case review of individual applications and will result in each facility using the best available control technology to control odor and other emissions. The Clean Air Agency does not have concerns related to retail operations.

Given that producers and processors are required to obtain a license from the Clean Air Agency, the construction activities associated with these use would not be categorical exempt from SEPA pursuant to WAC 197-11-800(1) and (2). Therefore, the City would have to complete a review under SEPA for every building permit, including tenant improvements, associated producers and processors.

2. Hazardous Materials

The production and processing of marijuana involves a number of chemicals and other hazardous materials.

During the grow operations, producers use a number of fertilizers and pesticides that must be treated before entering the City's sewer or storm water system. Grow operations also pump oxygen into indoor grow operations to provide an oxygen rich environment that facilitates plant production and also increase the fire danger as high oxygen environments are highly flammable.

During the processing of marijuana, hydrocarbon solvents like N-butane and isobutane are used to extract tetrahydrocannabinol (THC) from other parts of the plant. These materials are highly combustible and must be used correctly to prevent explosions. In addition to the hydrocarbon solvents other solvents are used like ethanol, propylene glycol, and vegetable glycerin. In addition to the fire hazardous of the solvents, steps must also be taken to ensure that the waste products from processing do not end up in the City's sewer or storm water systems.

3. Energy Consumption

One of the biggest environmental concerns with indoor grow operations is the carbon footprint of the industry. Indoor grow operations typically rely on multiple 1,000 watt High Intensity Discharge (HID) Grow Lights that are either high pressure sodium or metal halide. The energy consumption for one HID Grow Light is approximately 360 kilowatts (KW) per month. A small grow operation can easily use 15 grow lights consuming 5,400 KW per month. The average single family home utilizes 700 to 1,200 KW per month.

4. Food Safety Regulations

Typically businesses that handle or process food for sale for human consumption are required to get a license from the Washington State Department of Agriculture (WSDA). While marijuana-infused products must be made in facilities that meet the WSDA requirements in Chapters 16-165 and 167-167, the Assistant Director of the WSDA

issued a letter on May 6, 2014 stating that individuals interested in producing marijuana-infused products would need to get a license from the LCB. The letter also stated that WSDA license facilities are not allowed to process both conventional food products and marijuana infused products due to safety requirements. At this time there do not appear to be inspection and license procedures for marijuana-infused food products.

At the federal level, food handling and processing are either regulated by the USDA or the FDA to ensure the safety of the food supply. However, since marijuana is still illegal under federal law, the USDA and FDA will not issue licenses or inspect producers of marijuana-infused products.

III. Option 3: Pass no new legislation.

The third option is to allow the current moratorium expire and rely on the City's existing land use controls and the LCB regulations to regulate marijuana businesses. Within Bonney Lake, the only areas where marijuana uses could be allowed under the State's regulations would be a portion of Midtown and Eastown as a result of the 1,000 foot buffer zone established by WAC 314-55-050(10). Marijuana uses are also not allowed in association with a residential structure pursuant to WAC 314-55-015(5).

CONCLUSION:

At this time the Planning Commission is looking for further guidance from the City Council as to the City Council's preferred option. The Planning Commission is aware that the identification of a preferred option does not obligate the City to vote in favor of that option when the final ordinance is presented to the City Council.

The City Council may need to extend the moratorium to provide sufficient time to prepare a draft ordinance, complete the required SEPA review, provide the required sixty day notice to the Department of Commerce, conduct the required public hearing on the draft ordinance, and provide time for final council action on the draft ordinance.