

**PLANNING COMMISSION
MEETING**

**August 20, 2014
6:30 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

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

Planning Commission Members:

Grant Sulham – Chair
L. Winona Jacobsen – Vice Chair
David Baus
Brad Doll
Dennis Poulsen
Craig Sarver
Debbie Strous-Boyd

City Staff:

Jason Sullivan, Senior Planner
Debbie McDonald, Planning Commission Clerk

- I. Call to Order**
- II. Roll Call & Next Meeting Poll**
(September 2, 2014)
- III. Approval of Minutes**
(No Minutes to Approve)
- IV. Public Hearing**
(None)
- V. Public Comments and Concerns**
- VI. New Business**
- VII. Old / Continuing Business**
 - A. Regulation of Marijuana in the City of Bonney Lake
 - B. Planning Commission Futures
- VIII. For the Good of the Order**
 - A. Correspondence
 - B. Staff Comments
 - C. Commissioner Comments
- IX. Adjournment**

Next Meeting: September 2, 2014

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Memo

Date : August 15, 2014
To : Bonney Lake Planning Commissioners
From : Jason Sullivan – Senior Planner
Re : **Recreational Marijuana Regulations**

PURPOSE:

On April 8, 2014 the City Council passed Ordinance 1481 extending the moratorium related to the issuance of permits associated with the recreational marijuana industry and adding the development of regulations to the Planning Commission’s work plan. The purpose of this memo is to facilitate the Planning Commission’s discussion of the possible options related to the regulation of the recreational marijuana industry.

ATTACHMENTS

- 1. Washington State Attorney General’s Opinion
- 2. United States Attorney General’s Opinion
- 3. City of Carnation Marijuana Regulations
- 4. City of Des Moines Marijuana Regulations
- 5. City of Ellensburg Marijuana Regulations
- 6. City of Gig Harbor Marijuana Regulations
- 7. City of Issaquah Marijuana Regulations
- 8. City of Renton Marijuana Regulations

BACKGROUND:

In 1998 voters had 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 vetoed removed all sections that established a state registry for collective gardens. The remaining sections of ESSB 5073 were codified as Chapter 69.51A RCW.

Initiative 502, codified as Chapter 69.50 RCW, was passed by Washington voters in 2012 directing the Washington State Liquor Control Board (LCB) to develop rules for regulating the sale, processing and production of marijuana. It does not supersede, or even address, regulations pertaining to medical marijuana. 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 include:

- Licenses will not be issued to businesses in "...a location where law enforcement access, without notice or cause, is limited. This includes a personal residence." Thus home occupation businesses are not allowed;
- Licenses will not be issued to 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, public transit center, library, or any game arcade (where admission is not restricted to persons age twenty-one or older);"
- On premises advertising signs for retailers are limited to 1600 square inches (a little over 11 square feet);
- Licenses will normally not be issued to those who have a criminal background that exceeds a threshold based upon a point system developed by the Board;
- Marijuana is not permitted to be consumed on licensed premises;
- Three types of licenses will be issued: producer, processor and retailer.

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.

Because I-502 is silent regarding medical marijuana it is generally viewed as creating a separate licensing process for providing marijuana for recreational use and thus any existing regulations for providing marijuana for medicinal use will remain as-is. That said, it is clear that existing outlets providing medical marijuana will not automatically become outlets licensed by the State, although they still could apply to be a licensed outlet. The City currently has not medical marijuana collective gardens and the use is prohibited in the City.

The Federal government's Controlled Substances Act still prohibits the possession and distribution of marijuana for any purpose.

DISCUSSION:

The City Council has directed the Planning Commission to study and propose development regulations to the Council on or before the expiration of the moratorium. 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 Washington State Attorney General (AG) recently issued an opinion stating that cities do have the authority to ban marijuana procedures, processors, and retailers. 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.

The Washington State Court of Appeals – Division 1 did uphold the authority of cities to ban collective gardens since the preemption against local bans was only for collective gardens registered with the state and there is no state registry for collective gardens as the result of Governor Gregoire’s veto. However, it is unclear whether or not the Washington State Courts would reach the same conclusion that cities have the authority to prohibit other marijuana business authorized under Chapter 69.50 RCW

A number of cities within Washington have adopted regulations related to the production, processing and sale of marijuana for recreational purposes. The regulatory approaches from a number of large and small cities in Washington is provided below:

- Carnation limits all marijuana uses to the City’s Horticultural Zone. Carnation does not adopt any additional standards than those established by the LCB.
- Des Moines limits all marijuana uses only area zoned Business Park which is a light industrial zone and two commercial zones along SR-99 within the City. Des Moines does not adopted any additional standards than those established by the LCB.
- Ellensburg allows marijuana uses in all of the commercial zones in the City. In addition to the LCB regulations, the City limits the maximum size of retail facilities to 3,000 square feet, prohibits drive-thru facilities, requires that all productions facilities be located in-doors, and prohibits all off-site signage.
- Gig Harbor allows marijuana uses in some of the City’s commercial zones. In addition to the LCB regulations, 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. Gig Harbor also establishes a more formal permit review process in addition to the require building permits and state licenses.

- Issaquah allows marijuana uses in some of the City’s commercial zones. In addition to the LCB regulations, the City requires that no collective garden or other marijuana use be within 1,000 feet of each other and requires that all marijuana use be within an enclosed building. Issaquah also establishes security requirements in addition to the LCB regulations related to security cameras and implementing crime prevention through environmental design (CPTED) regulations. Issaquah also utilizes a more formal permit review process in addition to the require 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. While Renton simply adopts the LCB regulations to govern marijuana use, 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.

Each city took slightly different approaches and are provided to simple illustrative some of the approaches taken by cities.

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

<http://www.msrc.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.

If the City wants to regulate marijuana facilities, its primary tool would be zoning regulations. Within the City of 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).

In addition to the land use issues, there are also other regulatory issues that must be addressed which include the classification of the buildings associated for producers and processors for building code purposes, regulations established by the Clean Air Agency, and agricultural issues regulated by the Department of Agriculture.

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**STATUTES—INITIATIVE AND
REFERENDUM—ORDINANCES—COUNTIES—CITIES AND
TOWNS—PREEMPTION—POLICE POWERS—Whether Statewide
Initiative Establishing System For Licensing Marijuana Producers,
Processors, And Retailers Preempts Local Ordinances**

- 1. Initiative 502, which establishes a licensing and regulatory system for marijuana producers, processors, and retailers, does not preempt counties, cities, and towns from banning such businesses within their jurisdictions.**
- 2. Local ordinances that do not expressly ban state-licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction's police power.**

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January 16, 2014

The Honorable Sharon Foster
Chair, Washington State Liquor Control Board
3000 Pacific Avenue SE
Olympia, WA 98504-3076

Cite As:
AGO 2014 No. 2

Dear Chair Foster:

By letter previously acknowledged, you have requested our opinion on the following paraphrased questions:

- 1. Are local governments preempted by state law from banning the location of a Washington State Liquor Control Board licensed marijuana producer, processor, or retailer within their jurisdiction?**
- 2. May a local government establish land use regulations (in excess of the Initiative 502 buffer and other Liquor Control Board requirements) or business license requirements in a fashion that makes it impractical for a licensed marijuana business to locate within their jurisdiction?**

**BRIEF
ANSWERS**

1. No. Under Washington law, there is a strong presumption against finding that state law preempts local ordinances. Although Initiative 502 (I-502) establishes a licensing and regulatory system for marijuana producers, processors, and retailers in Washington State, it includes no clear indication that it was intended to preempt local authority to regulate such

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businesses. We therefore conclude that I-502 left in place the normal powers of local governments to regulate within their jurisdictions.

2. Yes. Local governments have broad authority to regulate within their jurisdictions, and nothing in I-502 limits that authority with respect to licensed marijuana businesses.

BACKGROUND

I-502 was approved by Washington voters on November 6, 2012, became effective 30 days thereafter, and is codified in RCW 69.50. It decriminalized under state law the possession of limited amounts of useable marijuana^[1] and marijuana-infused products by persons twenty-one years or older. It also decriminalized under state law the production, delivery, distribution, and sale of marijuana, so long as such activities are conducted in accordance with the initiative's provisions and implementing regulations. It amended the implied consent laws to specify that anyone operating a motor vehicle is deemed to have consented to testing for the active chemical in marijuana, and amended the driving under the influence laws to make it a criminal offense to operate a motor vehicle under the influence of certain levels of marijuana.

I-502 also established a detailed licensing program for three categories of marijuana businesses: production, processing, and retail sales. The marijuana producer's license governs the production of marijuana for sale at wholesale to marijuana processors and other marijuana producers. RCW 69.50.325(1). The marijuana processor's license governs the processing, packaging, and labeling of useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. RCW 69.50.325(2). The marijuana retailer's license governs the sale of useable marijuana and marijuana-infused products in retail stores. RCW 69.50.325 (3).

Applicants for producer, processor, and retail sales licenses must identify the location of the proposed business. RCW 69.50.325(1), (2), (3). This helps ensure compliance with the requirement that "no license may be issued authorizing a marijuana business within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older." RCW 69.50.331 (8).

Upon receipt of an application for a producer, processor, or retail sales license, the Liquor Control Board must give notice of the application to the appropriate local jurisdiction. RCW 69.50.331(7)(a) (requiring notice to the chief executive officer of the incorporated city or town if the application is for a license within an incorporated city or town, or the county legislative authority if the application is for a license outside the boundaries of incorporated

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cities or towns). The local jurisdiction may file written objections with respect to the applicant or the premises for which the new or renewed license is sought. RCW 69.50.331(7)(b).

The local jurisdictions' written objections must include a statement of all facts upon which the objections are based, and may include a request for a hearing, which the Liquor Control Board may grant at its discretion. RCW 69.50.331(7)(c). The Board must give "substantial weight" to a local jurisdiction's objections based upon chronic illegal activity associated with the applicant's operation of the premises proposed to be licensed, the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. RCW 69.50.331(9). Chronic illegal activity is defined as a pervasive pattern of activity that threatens the public health, safety, and welfare, or an unreasonably high number of citations for driving under the influence associated with the applicant's or licensee's operation of any licensed premises. RCW 69.50.331(9).^[2]

In addition to the licensing provisions in statute, I-502 directed the Board to adopt rules establishing the procedures and criteria necessary to supplement the licensing and regulatory system. This includes determining the maximum number of retail outlets that may be licensed in each county, taking into consideration population distribution, security and safety issues, and the provision of adequate access to licensed sources of useable marijuana and marijuana-infused products to discourage purchases from the illegal market. RCW 69.50.345(2). The Board has done so, capping the number of retail licenses in the least populated counties of Columbia County, Ferry County, and Wahkiakum County at one and the number in the most populated county of King County at 61, with a broad range in between. *See* WAC 314-55-081.

The Board also adopted rules establishing various requirements mandated or authorized by I-502 for locating and operating marijuana businesses on licensed premises, including minimum residency requirements, age restrictions, and background checks for licensees and employees; signage and advertising limitations; requirements for insurance, recordkeeping, reporting, and taxes; and detailed operating plans for security, traceability, employee qualifications and training, and destruction of waste. *See generally* WAC 314-55.

Additional requirements apply for each license category. Producers must describe plans for transporting products, growing operations, and testing procedures and protocols. WAC 314-55-020(9). Processors must describe plans for transporting products, processing operations, testing procedures and protocols, and packaging and labeling. WAC 314-55-020(9). Finally, retailers must also describe which products will be sold and how they will be displayed, and may only operate between 8 a.m. and 12 midnight. WAC 314-55-020(9), -147.

The rules also make clear that receipt of a license from the Liquor Control Board does not entitle the licensee to locate or operate a marijuana processing, producing, or retail business in violation of local rules or without any necessary approval from local jurisdictions. WAC 314-

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-55-020(11) provides as follows: "The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances

including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

ANALYSIS

Your question acknowledges that local governments have jurisdiction over land use issues like zoning and may exercise the option to issue business licenses. This authority comes from article XI, section 11 of the Washington Constitution, which provides that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.” The limitation on this broad local authority requiring that such regulations not be “in conflict with general laws” means that state law can preempt local regulations and render them unconstitutional either by occupying the field of regulation, leaving no room for concurrent local jurisdiction, or by creating a conflict such that state and local laws cannot be harmonized. *Lawson v. City of Pasco*, 168 Wn.2d 675, 679, 230 P.3d 1038 (2010).

Local ordinances are entitled to a presumption of constitutionality. *State v. Kirwin*, 165 Wn.2d 818, 825, 203 P.3d 1044 (2009). Challengers to a local ordinance bear a heavy burden of proving it unconstitutional. *Id.* “Every presumption will be in favor of constitutionality.” *HJS Dev., Inc. v. Pierce County ex rel. Dep’t of Planning & Land Servs.*, 148 Wn.2d 451, 477, 61 P.3d 1141 (2003) (internal quotation marks omitted).

A. Field Preemption

Field preemption arises when a state regulatory system occupies the entire field of regulation on a particular issue, leaving no room for local regulation. *Lawson*, 168 Wn.2d at 679. Field preemption may be expressly stated or may be implicit in the purposes or facts and circumstances of the state regulatory system. *Id.*

I-502 does not express any indication that the state licensing and operating system preempts the field of marijuana regulation. Although I-502 was structured as a series of amendments to the controlled substances act, which does contain a preemption section, that section makes clear that state law “fully occupies and preempts the entire field of *setting penalties* for violations of the controlled substances act.” RCW 69.50.608 (emphasis added).[3] It also allows “[c]ities, towns, and counties or other municipalities [to] enact only those laws and

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ordinances relating to controlled substances that are consistent with this chapter.” RCW 69.50.608. Nothing in this language expresses an intent to preempt the entire field of regulating businesses licensed under I-502.

With respect to implied field preemption, the “legislative intent” of an initiative is derived from the collective intent of the people and can be ascertained by material in the official voter’s pamphlet. *Dep’t of Revenue v. Hoppe*, 82 Wn.2d 549, 552, 512 P.2d 1094 (1973); *see also Roe v. TeleTech Customer Care Mgmt., LLC*, 171 Wn.2d 736, 752-53, 257 P.3d 586 (2011). Nothing in the official voter’s pamphlet evidences a collective intent for the state regulatory system to preempt the entire field of marijuana business licensing or operation. Voters’ Pamphlet 23-30 (2012). Moreover, both your letter and the Liquor Control Board’s rules recognize the authority of local jurisdictions to impose regulations on state licensees. These facts, in

addition to the absence of express intent suggesting otherwise, make clear that I-502 and its implementing regulations do not occupy the entire field of marijuana business regulation.

B. Conflict Preemption

Conflict preemption arises “when an ordinance permits what state law forbids or forbids what state law permits.” *Lawson*, 168 Wn.2d at 682. An ordinance is constitutionally invalid if it directly and irreconcilably conflicts with the statute such that the two cannot be harmonized. *Id.*; *Weden v. San Juan County*, 135 Wn.2d 678, 693, 958 P.2d 273 (1998). Because “[e]very presumption will be in favor of constitutionality,” courts make every effort to reconcile state and local law if possible. HJS Dev., 148 Wn.2d at 477 (internal quotation marks omitted). We adopt this same deference to local jurisdictions.

An ordinance banning a particular activity directly and irreconcilably conflicts with state law when state law specifically entitles one to engage in that same activity in circumstances outlawed by the local ordinance. For example, in *Entertainment Industry Coalition v. Tacoma-Pierce County Health Department*, 153 Wn.2d 657, 661-63, 105 P.3d 985 (2005), the state law in effect at the time banned smoking in public places except in designated smoking areas, and specifically authorized owners of certain businesses to designate smoking areas. The state law provided, in relevant part: “A smoking area may be designated in a public place by the owner” Former RCW 70.160.040(1) (2004), *repealed by* Laws of 2006, ch. 2, § 7(2) (Initiative Measure 901). The Tacoma-Pierce County Health Department ordinance at issue banned smoking in all public places. The Washington Supreme Court struck down the ordinance as directly and irreconcilably conflicting with state law because it prohibited what the state law authorized: the business owner’s choice whether to authorize a smoking area.

Similarly, in *Parkland Light & Water Co. v. Tacoma-Pierce County Board of Health*, 151 Wn.2d 428, 90 P.3d 37 (2004), the Washington Supreme Court invalidated a Tacoma-Pierce County Health Department ordinance requiring fluoridated water. The state law at issue authorized the water districts to decide whether to fluoridate, saying: “A water district by a

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majority vote of its board of commissioners may fluoridate the water supply system of the water district.” RCW 57.08.012. The Court interpreted this provision as giving water districts the ability to regulate the content and supply of their water systems. *Parkland Light & Water Co.*, 151 Wn.2d at 433. The local health department’s attempt to require fluoridation conflicted with the state law expressly giving that choice to the water districts. As they could not be reconciled, the Court struck down the ordinance as unconstitutional under conflict preemption analysis.

By contrast, 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. In *Weden v. San Juan County*, the Court upheld the constitutionality of the County’s prohibition on motorized personal watercraft in all marine waters and one lake in San Juan County. The state laws at issue created registration and safety requirements for vessels and prohibited operation of unregistered vessels. The Court rejected the argument that state

regulation of vessels constituted permission to operate vessels anywhere in the state, saying, “[n]owhere in the language of the statute can it be suggested that the statute creates an unabridged right to operate [personal watercraft] in all waters throughout the state.” *Weden*, 135 Wn.2d at 695. The Court further explained that “[r]egistration of a vessel is nothing more than a precondition to operating a boat.” *Id.* “No unconditional right is granted by obtaining such registration.” *Id.* Recognizing that statutes often impose preconditions without granting unrestricted permission to participate in an activity, the Court also noted the following examples: “[p]urchasing a hunting license is a precondition to hunting, but the license certainly does not allow hunting of endangered species or hunting inside the Seattle city limits,” and “[r]eaching the age of 16 is a precondition to driving a car, but reaching 16 does not create an unrestricted right to drive a car however and wherever one desires.” *Id.* at 695 (internal citation omitted).

Relevant here, the dissent in *Weden* argued: “Where a state statute licenses a particular activity, counties may enact reasonable regulations of the licensed activity within their borders but they may not prohibit same outright[,]” and that an ordinance banning the activity “renders the state permit a license to do nothing at all.” *Weden*, 135 Wn.2d at 720, 722 (Sanders, J., dissenting). The majority rejected this approach, characterizing the state law as creating not an unabridged right to operate personal watercraft in the state, but rather a registration requirement that amounted only to a precondition to operating a boat in the state.

In *State ex rel. Schillberg v. Everett District Justice Court*, 92 Wn.2d 106, 594 P.2d 448 (1979), the Washington Supreme Court similarly upheld a local ban on internal combustion motors on certain lakes. The Court explained: “A statute will not be construed as taking away the power of a municipality to legislate unless this intent is clearly and expressly stated.” *Id.* at 108. The Court found no conflict because nothing in the state laws requiring safe operation of vessels either expressly or impliedly provided that vessels would be allowed on all waters of the state.

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The Washington Supreme Court also rejected a conflict preemption challenge to the City of Pasco’s ordinance prohibiting placement of recreational vehicles within mobile home parks. *Lawson*, 168 Wn.2d at 683-84. Although state law regulated rights and duties arising from mobile home tenancies and recognized that such tenancies may include recreational vehicles, the Court reasoned “[t]he statute does not forbid recreational vehicles from being placed in the lots, nor does it create a right enabling their placement.” *Id.* at 683. The state law simply regulated recreational vehicle tenancies, where such tenancies exist, but did not prevent municipalities from deciding whether or not to allow them. *Id.* at 684.

Accordingly, the question whether “an ordinance . . . forbids what state law permits” is more complex than it initially appears. *Lawson*, 168 Wn.2d at 682. The question is not whether state law permits an activity in some places or in some general sense; even “[t]he fact that an activity may be licensed under state law does not lead to the conclusion that it must be permitted under local law.” *Rabon v. City of Seattle*, 135 Wn.2d 278, 292, 957 P.2d 621 (1998) (finding no preemption where state law authorized licensing of “dangerous dogs” while city ordinance forbade ownership of “vicious animals”). Rather, a challenger must meet the heavy burden of proving that state law creates an entitlement to engage in an activity in circumstances outlawed by the local ordinance. For example, the state laws authorizing business

owners to designate smoking areas and water districts to decide whether to fluoridate their water systems amounted to statewide entitlements that local jurisdictions could not take away. But the state laws requiring that vessels be registered and operated safely and regulating recreational vehicles in mobile home tenancies simply contemplated that those activities would occur in some places and established preconditions; they did not, however, override the local jurisdictions' decisions to prohibit such activities.

Here, I-502 authorizes the Liquor Control Board to issue licenses for marijuana producers, processors, and retailers. Whether these licenses amount to an entitlement to engage in such businesses regardless of local law or constitute regulatory preconditions to engaging in such businesses is the key question, and requires a close examination of the statutory language.

RCW 69.50.325 provides, in relevant part:

(1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor control board and subject to annual renewal. . . .

(2) There shall be a marijuana processor's license to process, package, and label useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers, regulated by the state liquor control board and subject to annual renewal. . . .

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(3) There shall be a marijuana retailer's license to sell useable marijuana and marijuana-infused products at retail in retail outlets, regulated by the state liquor control board and subject to annual renewal. . . .

RCW 69.50.325(1)-(3). Each of these subsections also includes language providing that activities related to such licenses are not criminal or civil offenses under Washington state law, provided they comply with I-502 and the Board's rules, and that the licenses shall be issued in the name of the applicant and shall specify the location at which the applicant intends to operate. They also establish fees for issuance and renewal and clarify that a separate license is required for each location at which the applicant intends to operate. RCW 69.50.325.

While these provisions clearly authorize the Board to issue licenses for marijuana producers, processors, and retail sales, they lack the definitive sort of language that would be necessary to meet the heavy burden of showing state preemption. They simply state that there "shall be a . . . license" and that engaging in such activities with a license "shall not be a criminal or civil offense under Washington state law." RCW 69.50.325(1). Decriminalizing such activities under state law and imposing restrictions on licensees does not amount to entitling one to engage in such businesses regardless of local law. Given that "every presumption" is in favor of upholding local ordinances (*HJS Dev., Inc.*, 148 Wn.2d at 477), we find no irreconcilable conflict between I-502's licensing system and the ability of local governments to prohibit licensees from operating in their jurisdictions.

We have considered and rejected a number of counterarguments in reaching this conclusion. First, one could argue that the statute, in allowing Board approval of

licenses at specific locations (RCW 69.50.325(1), (2), (3)), assumes that the Board can approve a license at any location in any jurisdiction. This argument proves far too much, however, for it suggests that a license from the Board could override any local zoning ordinance, even one unrelated to I-502. For example, I-502 plainly would not authorize a licensed marijuana retailer to locate in an area where a local jurisdiction's zoning allows no retail stores of any kind. The Board's own rules confirm this: "The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements." WAC 314-55-020(11).

Second, one could argue that a local jurisdiction's prohibition on marijuana licensees conflicts with the provision in I-502 authorizing the Board to establish a maximum number of licensed retail outlets in each county. RCW 69.50.345(2); *see also* RCW 69.50.354. But there is no irreconcilable conflict here, because the Board is allowed to set only a maximum, and nothing in I-502 mandates a minimum number of licensees in any jurisdiction. The drafters of I-502 certainly could have provided for a minimum number of licensees per jurisdiction, which would have been a stronger indicator of preemptive intent, but they did not.

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Third, one could argue that because local jurisdictions are allowed to object to specific license applications and the Board is allowed to override those objections and grant the license anyway (RCW 69.50.331(7), (9)), local jurisdictions cannot have the power to ban licensees altogether. But such a ban can be harmonized with the objection process; while some jurisdictions might want to ban I-502 licensees altogether, others might want to allow them but still object to specific applicants or locations. Indeed, this is the system established under the state liquor statutes, which I-502 copied in many ways. *Compare* RCW 69.50.331 *with* RCW 66.24.010 (governing the issuance of marijuana licenses and liquor licenses, respectively, in parallel terms and including provisions for local government input regarding licensure). The state laws governing liquor allow local governments to object to specific applications (RCW 66.24.010), while also expressly authorizing local areas to prohibit the sale of liquor altogether. *See generally* RCW 66.40. That the liquor opt out statute coexists with the liquor licensing notice and comment process undermines any argument that a local marijuana ban irreconcilably conflicts with the marijuana licensing notice and comment opportunity.

Fourth, RCW 66.40 expressly allows local governments to ban the sale of liquor. Some may argue that by omitting such a provision, I-502's drafters implied an intent to bar local governments from banning the sale of marijuana. Intent to preempt, however, must be "clearly and expressly stated." *State ex rel. Schillberg*, 92 Wn.2d at 108. Moreover, it is important to remember that cities, towns, and counties derive their police power from article XI, section 11 of the Washington Constitution, not from statute. Thus, the relevant question is not whether the initiative provided local jurisdictions with such authority, but whether it removed local jurisdictions' preexisting authority.

Finally, in reaching this conclusion, we are mindful that if a large number of jurisdictions were to ban licensees, it could interfere with the measure's intent to supplant the illegal marijuana market. But this potential consequence is insufficient to overcome the lack of clear preemptive language or intent in the initiative itself. The

drafters of the initiative certainly could have used clear language preempting local bans. They did not. The legislature, or the people by initiative, can address this potential issue if it actually comes to pass.

With respect to your second question, about whether local jurisdictions can impose regulations making it “impractical” for I-502 licensees to locate and operate within their boundaries, the answer depends on whether such regulations constitute a valid exercise of the police power or otherwise conflict with state law. As a general matter, as discussed above, the Washington Constitution provides broad authority for local jurisdictions to regulate within their boundaries and impose land use and business licensing requirements. Ordinances must be a reasonable exercise of a jurisdiction’s police power in order to pass muster under article XI, section 11 of the state constitution. *Weden*, 135 Wn.2d at 700. A law is a reasonable regulation if it promotes public safety, health, or welfare and bears a reasonable and substantial relation to accomplishing the purpose pursued. *Id.* (applying this test to the personal watercraft ordinance); *see also Duckworth v. City of Bonney Lake*, 91 Wn.2d 19, 26, 586 P.2d 860 (1978) (applying this

[original page 10]

test to a zoning ordinance). Assuming local ordinances satisfy this test, and that no other constitutional or statutory basis for a challenge is presented on particular facts, we see no impediment to jurisdictions imposing additional regulatory requirements, although whether a particular ordinance satisfies this standard would of course depend on the specific facts in each case.

We trust that the foregoing will be useful to you.

ROBERT W.
FERGUSON
*Attorney
General*

JESSICA FOGEL
*Assistant
Attorney
General*

WTOS

[1] Useable marijuana means “dried marijuana flowers” and does not include marijuana-infused products. RCW 69.50.101(1).

[2] The provision for objections based upon chronic illegal activity is identical to one of the provisions for local jurisdictions to object to the granting or renewal of liquor licenses. RCW 66.24.010(12).

[3] RCW 69.50.608 provides: “The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality.” The Washington Supreme Court has interpreted this provision as giving local jurisdictions concurrent authority to criminalize drug-related activity. *City of Tacoma v. Luvene*, 118 Wn.2d 826, 835, 827 P.2d 1374 (1992).



The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

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JZL/
9/17/13

ORDINANCE NO. 839

AN ORDINANCE OF THE CITY OF CARNATION, WASHINGTON, ADOPTING ZONING AND LAND USE REGULATIONS GOVERNING MARIJUANA-RELATED USES; ADOPTING A NEW CHAPTER 15.110 CMC MARIJUANA-RELATED USES; PROHIBITING MEDICAL CANNABIS COLLECTIVE GARDENS IN ALL ZONING DISTRICTS OF THE CITY; PERMITTING THE PRODUCTION, PROCESSING AND/OR RETAILING OF MARIJUANA AS REGULATED PURSUANT TO WASHINGTON STATE INITIATIVE NO. 502 IN THE HORTICULTURAL COMMERCIAL (HC) ZONING DISTRICT, AND ONLY AT FACILITIES THAT HAVE OBTAINED A VALID LICENSE ISSUED BY THE WASHINGTON STATE LIQUOR CONTROL BOARD; AMENDING CHAPTER 15.40 CMC PERMISSIBLE USES BY UPDATING THE TABLE OF PERMISSIBLE USES TO INCLUDE APPROPRIATE REFERENCES TO MARIJUANA-RELATED USES; AMENDING CHAPTER 15.44 CMC SUPPLEMENTARY USE PROVISIONS TO PROHIBIT MARIJUANA-RELATED USES AS HOME OCCUPATIONS; ENTERING LEGISLATIVE FINDINGS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in accordance with Initiative 502, the Washington State Liquor Control Board (WLCB) has developed a state licensing and regulatory framework for recreational marijuana producers, processors and retailers, and is expected to begin issuing state licenses for such businesses; and

WHEREAS, in recognition of Initiative 502, the Carnation City Council desires to establish local zoning regulations concerning marijuana-related land uses in order to ensure that only state-licensed marijuana businesses may locate within the City's jurisdiction, and only within designated zoning districts; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF CARNATION, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the above recitals, the content of Agenda Bill No. 13-40, and the content of Exhibit A, attached hereto and incorporated herein by his reference as if set forth in full, as findings in support of the regulations set forth in this ordinance, together with the following:

A. The City is authorized by State law, including but not limited Article XI, Section 11 of the Washington Constitution, Chapter 35A.11 RCW, Chapter 36.70A RCW and Chapter 35A.63 RCW, to enact local police power, zoning and land use regulations.

B. The Planning Board conducted a public hearing on the substance of this ordinance on September 24, 2013, and recommended adoption by the City Council. The City Council held a public hearing on this ordinance on December 3, 2013.

C. The regulations set forth in this ordinance have been processed and considered by the City in material compliance with all applicable procedural requirements, including but not limited to requirements related to public notice and comment.

D. All relevant requirements of SEPA have been satisfied with respect to this ordinance.

E. The City Council has carefully considered, and the regulations set forth in this ordinance satisfy, the review criteria codified at CMC 15.100.030(E).

F. The regulations set forth in this ordinance will advance the public health, safety and welfare.

Section 2. Amendment of Title 15 CMC. Title 15 of the Carnation Municipal Code is hereby amended by the addition of a new Chapter 15.110 Marijuana-Related Uses to

provide in its entirety as set forth in Exhibit B, attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. Amendment of Table of Permissible Uses—Chapter 15.40 CMC.
Table I. The Table of Permissible Uses referenced in Section 15.40.010 of the Carnation Municipal Code and codified as Table I of Chapter 15.40 CMC is hereby amended to provide in its entirety as set forth in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full.

Section 4. Amendment of CMC 15.44.120. Section 15.44.120 of the Carnation Municipal Code is hereby amended to provide in its entirety as set forth in Exhibit D, attached hereto and incorporated herein by this reference as if set forth in full.

Section 5. Copy to Commerce. Pursuant to RCW 36.70A.106, the Planning Director is hereby authorized and directed to provide a copy of this ordinance to the State Department of Commerce within 10 days of adoption.

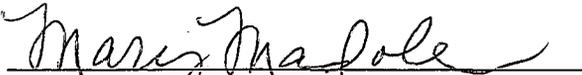
Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Carnation City Council this 3rd day of December, 2013.


MAYOR, JIM BERGER

ATTEST/AUTHENTICATED:


CITY CLERK, MARY MADOLE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
J. ZACHARY LELL

FILED WITH THE CITY CLERK: 09/26/2013
PASSED BY THE CITY COUNCIL: 12/03/2013
PUBLISHED: 12/11/2013
EFFECTIVE DATE:..... 12/16/2013
ORDINANCE NO. 839

Exhibit A

The Carnation City Council hereby enters the following legislative findings in support of the regulations established by this ordinance:

1. Recent amendments to Chapter 69.51A RCW, relating to the medical use of cannabis, have expanded the scope of certain activities involving the use of cannabis for medical purposes that are permitted under state law.

2. RCW 69.51A.085 allows “qualifying patients” to create and participate in “collective gardens” for the purpose of producing, processing, transporting, and delivering cannabis for medical use, subject to certain conditions.

3. RCW 69.51A.140 delegates authority to cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes as exercises of the City’s police power.

4. The Carnation City Council understands that approved medical uses of cannabis may provide relief to patients suffering from debilitating or terminal conditions, but potential secondary impacts from the establishment of facilities for the growth, production, and processing of medical cannabis are not appropriate for any zoning designation within the City.

5. The City Council further understands that while the medical benefits of cannabis have been recognized by the state legislature, cannabis, also known as marijuana, remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA), and possession and use of cannabis is still a violation of federal law. The City Council wishes to exercise the authority granted pursuant to state law in order to clarify that the establishment of a collective garden will be deemed to be a violation of city zoning ordinances, but the City Council expressly disclaims any intent to exercise authority over collective gardens in a manner that would directly conflict with the CSA.

6. In accordance with Initiative 502, the State Liquor Control Board has developed rules and regulations governing the licensing, commenting process, location and permissible number of marijuana producers, processer and retailers. The substantive provisions of this ordinance are intended to be consistent with, and to appropriately supplement, such rules and regulations.

7. While the production, processing, and retailing of marijuana remains in violation of the federal CSA, the City Council wishes to acknowledge the will of Washington voters and the authority exercised by the state of Washington and the State Liquor Control Board to license such facilities, leaving appropriate issues relating to the legality, licensing, siting and permitting of such facilities to be determined by the federal and state governments in the exercise of their lawful authority, as finally determined by a court of appropriate jurisdiction.

Exhibit B

**Chapter 15.110
MARIJUANA RELATED USES**

- 15.110.010 Collective gardens.**
- 15.110.020 Medical cannabis collective gardens.**
- 15.110.030 Recreational cannabis**
- 15.110.040 Marijuana related uses.**

15.110.010 Collective gardens.

“Collective garden” means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients for medical use, as set forth in Chapter 69.51A RCW, and subject to the following conditions:

A. A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

B. A collective garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis;

C. A copy of each qualifying patient’s valid documentation, including a copy of the patient’s proof of identity, must be available at all times on the premises of the collective garden;

D. No usable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden;

E. A collective garden may contain separate areas for growing, processing, and delivering to its qualified patients, provided that these separate areas must be physically part of the same premises, and located on the same parcel or lot. A location utilized solely for the purpose of distributing cannabis shall not be considered a collective garden; and

F. No more than one collective garden may be established on a single tax parcel.

15.110.020 Medical cannabis collective gardens.

“Collective gardens” as defined in CMC 15.110.010 are prohibited in the following zoning districts:

- A. All residential zones, including without limitation the R2.5, R3, R4, R6, R12, R24 and RMHP zoning districts;
- B. All commercial zones, including without limitation the CBD, MU, HC, AGI and SC zoning districts;
- C. All light industrial/manufacturing zones, including without limitation the LI/M zoning district;
- D. All public zones, including without limitation the PU zoning district;
- E. All parks and recreation zones, including without limitation the P/R zoning district; and
- F. Any new zoning district established after June 18, 2013.

In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the city attorney under applicable provisions of this code and/or state law, including without limitation the provisions of Chapter 8.26 CMC.

15.110.030 State-licensed facilities—definitions.

A. Unless the context clearly indicates otherwise, all terms used in Sections 15.110.030, et. seq. shall have the meanings established pursuant to RCW 69.50.101. In the event of an irreconcilable conflict between any definition set forth in this chapter and any definition set forth in RCW 69.50.101, the statutory definition shall control to the extent of such conflict.

B. “Marijuana” means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than zero point three percent (0.3%) 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 plants, 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 seeds of the plant which is incapable of germination.

C. “Marijuana processor” means a person licensed by the State Liquor Control Board to process marijuana into usable marijuana and marijuana infused products, package and label usable marijuana and marijuana infused products for sale in retail outlets, and sell usable marijuana and marijuana infused products at wholesale to marijuana retailers.

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

E. “Marijuana infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana infused products” does not include usable marijuana.

F. “Marijuana retailer” means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana infused products in a retail outlet.

G. “Usable marijuana” means dried marijuana flowers. The term “usable marijuana” does not include marijuana infused products.

15.110.040 Marijuana related uses.

A. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Carnation is an authorization to circumvent federal law or provide permission to any person or entity to violate federal law. Only state-licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Carnation and then only pursuant to a license issued by the State of Washington. The purposes of these provisions is solely to acknowledge the enactment by Washington voters of Initiative 502 and a state licensing procedure and to permit to, but only to, the extent required by state law marijuana producers, marijuana processors, and marijuana retailers to operate in designated zones of the City.

B. Marijuana producers may be located only in the Horticultural Commercial (HC) zone of the City. Such facilities and uses may be located only at designated sites licensed by the state of Washington and fully conforming to state law.

C. Marijuana processors may locate in the Horticultural Commercial (HC) zone of the City, but only at designated sites

licensed by the state of Washington and fully conforming to state law.

D. Marijuana retailers may locate only in the Horticultural Commercial (HC) zone at designated sites licensed by the state of Washington and fully conforming to state law.

E. In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the City Attorney under the applicable provisions of this code or state law, including but not limited to the provisions of CMC Chapter 8.26.

Exhibit C

NAIC	NON-RESIDENTIAL USES	R2.5	R3R4 R6	RMHP	R12	R24	CBD	HC	SC	MU	AGI	LI/M	PU	PR
...														
92216	Fire Protection												P	
	<u>cannabis and/or marijuana-related uses as defined by Chapter 15.110 CMC</u>													
	<u>Marijuana Producers, state licensed</u>							P31						
	<u>Marijuana Processors, state licensed</u>							P31						
	<u>Marijuana Retailers, state licensed</u>							P31						
	<u>Medical marijuana or cannabis collective gardens</u>													

Nonresidential Uses Notes:

- 1 No permanent foundations allowed.
- 2 Minimum lot size one acre.
- 3 Separate entrances on two different streets, e.g., on corner lots.
- 4 Not allowed on parcels that front on Tolt Avenue.
- 5 Cottage type of housing only; maximum of 2 stories.
- 6 Microbrewery that is part of a food and drink establishment.
- 7 Blown and/or art glass as part of a gallery, or retail or educational establishment.

- 8 Ornamental metal products as part of a gallery, or retail or educational setting.
- 9 Manufacturing on an artisanal scale as part of a gallery, or retail or educational setting.
- 10 No unenclosed storage on-site.
- 11 No on-site propagation in greenhouses or external storage.
- 12 No on-site propagation in greenhouses.
- 13 Subject to master plan design review.
- 14 Hours of operation subject to restriction.
- 15 4,000 GSF maximum.
- 16 Office operations only.
- 17 All antenna subject to CMC 15.98.
- 18 May not be located on the ground floor along Tolt Avenue.
- 19 May not exceed 2,000 gsf.
- 20 All activities enclosed within structure.
- 21 Located above a permitted retail or food service use.
- 22 In conjunction with retail sales of food.
- 23 Must meet all requirements of CMC 15.98.
- 24 Must meet all requirements of CMC 15.44.100.
- 25 Drive-thru access not allowed from Tolt Avenue.
- 26 Must provide parking per CMC 15.72; no exemption for CBD.
- 27 Must comply with Design Standards for frontage and screening on Tolt Avenue.
- 28 Must meet all requirements of CMC 15.44.130.
- 29 All bins and open piles of soils, mulch, wood chips, bark dust, sand and similar materials shall be effectively contained thorough the use of appropriate confinement and/or treatment facilities such as to prevent any on-site and/or off-site migration of sediment from the pile or bin area.
- 30 Off-site tracking of sediment is prohibited.
- 31 May not be located within 1,000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, library, or any other uses set forth in WAC 314-55-045

Exhibit D

15.44.120 Home occupations.

A. The conduct of business within a dwelling may be permitted in residential, mixed use and commercial zones under the provisions of this section and Chapter 5.12 of the Carnation Municipal Code as long as the home occupation is consistent with the existing character of the surrounding neighborhood. As specified in Chapter 5.12, a home occupation is a commercial activity that requires a city business license. Home occupation business licenses shall be administered in the same manner as other business licenses as provided in Chapter 5.12. Applications for home occupations shall be denied, and a home occupation license may be revoked, if it is found that the application or use fails to comply with the criteria listed in subsection B below.

B. In order for a home occupation to be permitted, the following criteria must be met and maintained:

1. No goods, stock in trade, or other commodities are displayed for sale;
2. There are no on-premises retail sales;
3. No more than one part-time person, not a resident on the premises, is employed in connection with the home occupation;
4. There are no objectionable noise, fumes, odor, dust or electrical interference created by the home occupation;
5. No more than twenty-five percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than one thousand square feet of gross floor area (whichever is less), is used for home occupation purposes;
6. No materials, supplies or equipment, except for a primary vehicle, connected with the home occupation is parked or stored outside the home or accessory buildings;
7. No more traffic is generated than is normal for a single-family residence in the neighborhood, generally defined as up to twenty vehicle trips per day associated with the home occupation;
8. The home occupation is conducted entirely within the principal residential building or other accessory building or structure;
9. The home occupation does not require the use of electrical or mechanical equipment which would change the fire rating of the structure.
10. No home occupations involving or related to the growing, producing, processing,

dispensing or sale of cannabis and/or marijuana-related uses as defined by Chapter 15.110 CMC or products containing cannabis and/or marijuana as defined by Chapter 15.110 CMC shall be allowed as a home occupation.

The following is a nonexhaustive list of examples of enterprises that may be home occupations if they meet the criteria described above: (i) the office or studio of an accountant, artist, consultant, lawyer, architect, engineer, contractor, painter, teacher, or similar professional; (ii) workshops, greenhouses, or kilns; (iii) dressmaking or hairdressing studios.

The following is a nonexhaustive list of examples of enterprises that are not appropriate for home occupations and shall not be permitted: outdoor kennels or animal breeding; vehicle repair, rebuilding or servicing; gift or antique shops; veterinary clinic; large appliance repair including stoves, refrigerators, washers and dryers; welding; upholstery; machine and sheet metal shops; assembly or production lines; small engine repair; and uses which include hazardous chemicals as defined in the International Fire Code or the dispensing of medical drugs.

ORDINANCE NO. 1587

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to state-licensed marijuana producers, processors and retailers as regulated pursuant to chapter 69.50 RCW, adding a new chapter to Title 18 DMMC entitled "State-Licensed Marijuana Producers, Processors, and Retailers," and codifying a new chapter in Title 18 DMMC.

WHEREAS, on November 6, 2012, Initiative Measure 502, relating to marijuana, was passed by the voters of the State of Washington, and

WHEREAS, Initiative Measure 502 calls for the establishment of a regulatory system licensing producers, processors, and retailers of recreational marijuana for adults twenty-one (21) years of age and older, legalizes the possession and private recreational use of marijuana, and requires the Washington State Liquor Control Board (WSLCB) to adopt procedures and criteria by December 1, 2013 for issuing licenses to produce, process, and sell marijuana, and

WHEREAS, the WSLC adopted rules pertaining to the licensing of marijuana producers, processors, and retailers, effective November 16, 2013, and

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's police powers and is specifically authorized by RCW 35A.63.100, and

WHEREAS, the SEPA responsible official issued a determination of non-significance (DNS) on October 16, 2013, with the public appeal period ending November 12, 2013, and the accompanying comment and appeal periods have lapsed, and

WHEREAS, in accordance with the law, the duly noticed public hearing before the City Council was held on November 14, 2013, and all persons wishing to be heard were heard, and

WHEREAS, proper and timely notice was given to the Washington State Department of Commerce of these amendments to Title 18 DMMC as required by chapter 36.70A RCW, and

WHEREAS, the City Council finds that the regulatory licensing requirements established by this Ordinance are

necessary for the immediate preservation of the public health and safety; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. Creation of new chapter. A new chapter is added to Title 18 DMMC.

Sec. 2. Title. This chapter shall be entitled "State-Licensed Marijuana Producers, Processors, and Retailers."

Sec. 3. Application. This chapter applies to state-licensed marijuana producers, processors, and retailers.

Sec. 4. Purpose. The purpose of this chapter is to provide regulations and zoning standards for producers, processors, and retailers of recreational marijuana licensed by the State of Washington, pursuant to chapter 69.50 RCW and rules adopted by the WSLCB.

Sec. 5. Authority. This Title is adopted pursuant to chapter 69.50 RCW and other applicable Washington laws.

Sec. 6. Definitions. The definitions provided in RCW 69.50.101 and WAC 314-55-010 are adopted by reference.

Sec. 7. Recreational marijuana regulations for producers and processors. State-licensed marijuana producers and marijuana processors may locate in the City of Des Moines pursuant to the following restrictions:

(1) Marijuana producers and marijuana processors must comply with all requirements of chapter 69.50 RCW, chapter 314-55 WAC, and other applicable Washington laws.

(2) Persons may conduct business within the City of Des Moines as a state-licensed marijuana producer and/or marijuana processor if located within the Business Park (B-P) Zone located north of South 216th Street and south of South 208th Street, and within the Highway Commercial (H-C) and Community Commercial (C-C) Zones generally located along Pacific Highway South south of Kent-Des Moines Road.

(3) Marijuana producers and processors shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any location or zone other than those referenced in subsection 2 above.

(4) Marijuana producers and processors shall not operate as an accessory to a primary use or as a home occupation.

Sec. 8. Recreational marijuana regulations for retailers.

State-licensed marijuana retailers may locate in the City of Des Moines pursuant to the following restrictions:

(1) Marijuana retailers must comply with all requirements of chapter 69.50 RCW, chapter 314-55 WAC, and other applicable Washington laws.

(2) Persons may conduct business within the City of Des Moines as a state-licensed marijuana retailer if located within the Highway Commercial (H-C) and Community Commercial (C-C) Zones generally located along Pacific Highway South south of Kent-Des Moines Road.

(3) Marijuana retailers shall not locate in a building in which non-conforming retail uses have been established in any location or Zone other than those referenced in subsection 2 above.

(4) Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation.

Sec. 9. Location of a state licensed marijuana producer, processor or retailer. The location of a state-licensed marijuana producer, processor, and retailer shall be as established in WAC 314-55-050 and as required under this chapter. The owner or operator of the state-licensed marijuana producer, processor, and retailer shall have the responsibility to demonstrate that the state-licensed marijuana producer, processor, and retailer meets the location requirements of WAC 314-55-050.

Sec. 10. Codification. Sections 1 through 9 of this Ordinance shall be codified as a new chapter in Title 18 DMMC

entitled "State-Licensed Marijuana Producers, Processors, and Retailers."

Sec. 11. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

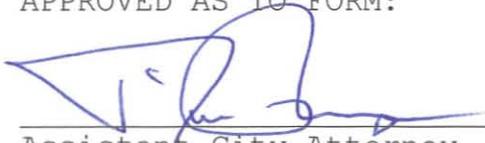
(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 12. Effective date. This Ordinance shall take effect and be in full force five (5) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this 14th day of November, 2013 and signed in authentication thereof this 14th day of November, 2013.


MAYOR

APPROVED AS TO FORM:


Assistant City Attorney

ATTEST:


City Clerk

Published: November 19, 2013

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1587, Adopted November 14, 2013.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This Ordinance relates to state-licensed marijuana producers, processors and retailers as regulated pursuant to chapter 69.50 RCW, adds a new chapter to Title 18 DMMC entitled "State-Licensed Marijuana Producers, Processors, and Retailers," and codifies a new chapter in Title 18 DMMC.

The full text of the Ordinance will be mailed without cost upon request.

Bonnie Wilkins
City Clerk

Published: November 19, 2013

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ORDINANCE NO. 4669

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO THE CITY OF ELLENSBURG ZONING CODE, ADDING NEW DEFINITIONS TO 15.130.130 FOR “MARIJUANA PROCESSOR”, “MARIJUANA PRODUCER” AND “MARIJUANA RETAILER”; AND AMENDING TABLE 15.310.040 (NON-RESIDENTIAL USES) TO ADD “MARIJUANA PROCESSOR” AND “MARIJUANA PRODUCER” AS PERMITTED USES IN THE LIGHT INDUSTRIAL AND HEAVY INDUSTRIAL ZONING DISTRICTS; AND AMENDING TABLE 15.310.040 (NON-RESIDENTIAL USES) TO ADD MARIJUANA RETAILER AS A PERMITTED USE IN THE NEIGHBORHOOD COMMERCIAL, COMMERCIAL TOURIST, COMMERCIAL HIGHWAY, CENTRAL COMMERCIAL AND CENTRAL COMMERCIAL II ZONING DISTRICTS.

WHEREAS, Initiative Measure No. 502 (“I-502”), approved by the voters of Washington State on November 6, 2012, provides for private recreational marijuana use by persons over 21 years of age, subject to state licensing and regulation of marijuana production, processing and retail sales facilities and required the Washington State Liquor Control Board (“WSLCB”) to adopt rules, procedures and criteria by December 1, 2013 for issuing licenses to produce, process and sell marijuana and marijuana-infused products; and

WHEREAS, pursuant to I-502, on September 4, 2013, the WSLCB issued revised proposed administrative rules under WAC Chapter 314-55, and established the maximum number of retail licenses that may be issued for Washington cities and counties, including a maximum total of two (2) retail licenses within the City of Ellensburg (“the City”); and

WHEREAS, the U.S. Department of Justice issued a guidance memorandum on August 29, 2013 identifying federal priorities under the Controlled Substances Act and expectations that states such as Washington and the municipalities within those states that have enacted laws authorizing the use of recreational marijuana will implement and enforce robust and effective regulatory systems that protect public health, safety and welfare particularly in regard to youth; and

WHEREAS, the WSLCB adopted Chapter 314-55 WAC on October 16, 2013 to establish rules regarding marijuana businesses and accepted applications for marijuana production, processing and retail facilities from November 18, 2013 through December 20, 2013; and

WHEREAS, under I-502 and Chapter 314-55 WAC, any marijuana producer, processor, or retailer must meet certain requirements, including that it be located at least 1,000 feet from the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center or library, or any game arcade where persons under twenty-one years old may enter; and

WHEREAS, the City has mapped the 1000-foot buffer areas that apply to marijuana businesses and determined those properties that are both outside a 1000-foot buffer and zoned for commercial or industrial use; and

WHEREAS, the City does not currently have any regulations addressing the type and location of facilities/premises used for the production, processing, and retail sales of marijuana products; and

WHEREAS, pursuant to Chapter 314-55 WAC, the WSLCB allocated up to two retail marijuana business stores that will be permitted to locate within the City but did not specifically limit the number of businesses that may produce or process marijuana within the city; and

WHEREAS, this Ordinance has been drafted to establish zoning regulations for marijuana businesses, consistent with state statutes and the Department of Justice Guidance Memo, and to protect the public health, welfare, and safety; and

WHEREAS, the Ellensburg City Council adopted Ordinance 4654 on November 4, 2013, which imposed a moratorium through January 31, 2014 on the acceptance, processing, approval or issuance of applications or permits pertaining to producing, processing, and retailing of marijuana and marijuana-infused products, and adopted Ordinance 4667 on January 21, 2014, which imposed an identical moratorium through February 28, 2014; and

WHEREAS, the Ellensburg Planning Commission met on December 5, 2013, to consider potential zoning regulations within the City for marijuana producers, processors and retailers consistent with I-502, applicable state law, the City's existing land use regulations and comprehensive plan, and voted to recommend such regulations to the Ellensburg City Council; and

WHEREAS, State Environmental Policy Act ("SEPA") review was performed on the proposed amendments and a Determination of Nonsignificance was issued on January 17, 2014, which has not been appealed; and

WHEREAS, an Expedited Review of an Intent to Amend Development Regulations was submitted to the Washington State Commerce Department and said review was concluded on January 20, 2014; and

WHEREAS, Ordinance 4667 requires formal action by the City Council to terminate the moratorium; and

WHEREAS, the City Council held a public hearing on this Ordinance during its regular meeting on February 3, 2014, and at the conclusion of that public hearing made a determination that the LDC be amended as provided in the Ordinance; and

WHEREAS, the City Council decided to adopt amendments to the LDC and to repeal the moratorium on recreational marijuana businesses (Ordinance 4667);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Formal Repeal of Moratorium. Ordinance No. 4667, a moratorium on the establishment of marijuana producers, processors and retailers asserted to be authorized under I-502 is hereby repealed.

Section 2. Chapter 15.130 of the Ellensburg City Code is hereby amended to add the following sections:

15.130.130 M definitions.

Marijuana Processor. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers. (As defined in RCW 69.50.101 and provided herein for reference).

Marijuana Producer. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers. (As defined in RCW 69.50.101 and provided herein for reference).

Marijuana Retailer. "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet. (As defined in RCW 69.50.101 and provided herein for reference).

Section 3. Section 15.310.040 of the Ellensburg City Code is hereby amended to read as follows:

Table 15.310.040 Non-residential uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
RETAIL													
Auto sales, new & used							P ¹	P	P ²	P			
Commercial use providing drive-through service							P	P		P			
Farmers markets*						P			P	P			
Fruit stands*	P	P	P	P	P	P	P	P	P	P	P		
Heavy retail (ECC 15.310.060)								P ¹⁰	P ²	P		P	
Nurseries & greenhouses that are ancillary to a retail use*	P							P	P ²	P	P	P	

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
Restaurants, bars, and brewpubs*			P ³	P ³	P ³	P	P	P	P	P	P ¹¹		A ⁹
Coffee house, espresso bar	P ⁸		P ³	P ³	P ³	P	P	P	P	P	P ¹¹		A ⁹
Retail, small scale (<2,000sf floor area)	P ⁸		P ³	P ³	P ³	P	P	P	P	P			A ⁹
Retail, medium scale (2,000-20,000sf floor area)	P ¹³					P	P ¹³	P	P	P			A ⁹
Retail, large scale (20,001-60,000sf floor area)	P ¹³					P ⁴	P ¹³	P	P	P			
Retail, super scale (>60,000sf floor area)	P ¹³						P ¹³	P ¹³	C	C			
Outlet center								P					
Regional retail commercial projects* (subject to the locational requirements in ECC 15.250.070)	P						P	P					
<u>Marijuana Retailer*</u>						P ^{14, 16}							
PERSONAL AND GENERAL SERVICE													
Day care I facilities*	P	P	P	P	P	P		P	P	P	P		A ⁹
Day care II facilities*	C	C	C	C	P	P		P	P	P			A ⁹
General service establishments (ECC 15.310.060)						P ⁵	P ⁶	P	P ²	P	P		
Heavy services (see Heavy retail and services definition in ECC 15.130.080)*								P ¹⁰	P ²	P		P	
Hospitals*	C	C	C		P				C	P			P ⁹
Offices, medical*	P ⁸				P	P		P	P	P			P/A ⁹
Kennels *								P		P	P		
Nursing homes*	C	C	C	P	P				P	P			P/A ⁹
Personal service establishments*	P ⁸		P ³	P ³	P ³	P	P	P	P	P			A ⁹
Places of assembly*	C	C	C	C	P	P			P	P	C		A ⁹

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
Radio station (commercial)		C						C			C	C	A ⁹
BUSINESS SERVICE													
Conference center*							P	P	P	P			A ⁹
Offices, business or professional*, small scale (<2,000sf floor area)	P ⁸					P	P	P	P	P	P ⁷		P/A ⁹
Offices, business or professional*, medium scale (2,000-20,000sf floor area)	P ⁸						P	P	P	P	P		P/A ⁹
Offices, business or professional*, large scale (20,001-60,000sf floor area)								P	P	P	P		P/A ⁹
Miniwarehouse facility*			C					C			P	P	
INDUSTRIAL													
Light industry (ECC 15.130.120)									P ^{2,11}	P ^{2,11}	P	P	
Hazardous waste treatment (off-site)(see definition of “off-site” in ECC 15.130.150)											C	C	
Hazardous waste treatment (on-site) (see definition of “on-site” in ECC 15.130.150)							C	C	C	C	C	C	A ⁹
Heavy industry (ECC 15.310.060)												C	
Marijuana processor*											<u>P¹⁶</u>	<u>P¹⁶</u>	
Marijuana producer*											<u>P^{15, 16}</u>	<u>P^{15, 16}</u>	

Development conditions:

1. Sales of used vehicles in this zone is limited to uses that include sales of new vehicles as the primary use.
2. Use must be enclosed entirely within a building.
3. Use is permitted if located adjacent to a street corner and within a mixed-use building or

within a live-work dwelling. Such uses shall be subject to Secondary Street frontage standards as set forth in EMC 15.510.060.

4. Grocery stores shall be the only retail uses permitted with more than 20,000 square feet of gross floor area.
5. Except for gas service stations, the use must be enclosed entirely within a building.
6. Includes gas service stations with truck stop facilities only. No other general service uses are permitted.
7. Except for office uses that are accessory to a permitted use, office uses may be permitted through the purchase of transferable development rights, subject to the adoption of a TDR program by the city.
8. Subject non-residential uses may be permitted in the RS zone subject to the following conditions:
 - a. The location for planned non-residential uses shall be designated on the plat.
 - b. Non-residential uses may be integrated into subdivisions provided the subdivision encompasses at least 5 acres in gross land area and the planned uses are at least 1,200 feet from an existing C-N zone or commercial use.
 - c. Non-residential uses shall not be located adjacent to existing single family dwellings, except where such uses were approved on an individual plat.
 - d. For the purpose of identifying appropriate site orientation standards for future non-residential development, the plat shall indicate the street frontage type designation for streets fronting planned non-residential uses as either Storefront, Secondary, or Landscaped Street (see ECC Chapter 15.510).
9. All uses permitted in the P-R zone must be either outright permitted and operated as a primary public use or must be an accessory use to that primary public use. See ECC 15.010.050.
10. Home retail uses are limited to 60,000 square feet of floor area.
11. Includes light industrial activities that result in the production of goods placed for on-site retail sale. Special restrictions:
 - a. No power tools or equipment are allowed which by their decibel, frequency, and/or other feature of their operation would negatively impact the surrounding area by reason of decibel levels, light (see Chapter 15.58 for standards), dust or other physical effect; and
 - b. Production or manufacturing activity shall not occur between the hours of 10:00 p.m. and 6:00 a.m.
12. Subject use is permitted in the district only when accessory to a permitted use (see accessory use definition in ECC 15.130.010).
13. Subject use is permitted in the district only as part of an approved regional retail commercial project (see ECC 15.250.070).
14. Marijuana retail facilities are limited to a maximum of 3000 square feet. No drive thru is allowed.

15. All marijuana production facilities must be located indoors.

16. All marijuana businesses: a) are subject to all applicable requirements of Title 69 RCW and Chapter 314-55 WAC and other state statutes, as they now exist or may be amended; b) must have signage conforming to Chapter 314-55 WAC and Ch. 3.12 ECC, whichever is more restricted with no off-site signage permitted; c) are subject to all applicable building code requirements of the Ellensburg City Code.

Section 3. No Non-Conforming Uses. No use that constitutes or purports to be a marijuana producer, marijuana processor, or marijuana retailer, as those terms are defined in this ordinance, that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use under the provisions of the Ellensburg City Code and that use shall not be entitled to claim legal non-conforming status.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance including the correction of clerical errors references to other local, state or federal laws; codes, rules or regulations; or ordinance numbering and section subsection numbering.

Section 5. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder or any parts thereof to any person or circumstances and to this end, the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 6. Effective Date. This ordinance shall take effect and be in full force on March 1, 2014.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 18th day of February, 2014.



Mayor


City Clerk

Attest:

Approved as to form:



City Attorney

Publish: 2-21-14

I, Coreen M. Reno, City Clerk of said City, do hereby certify that Ordinance No. 4669 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, that Ordinance No. 4669 was published as required by law.



COREEN M. RENO, CMC

ORDINANCE NO. 1271

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTING REGULATIONS AND OFFICIAL CONTROLS PURSUANT TO RCW 36.70A.390 RELATING TO LAND USE AND ZONING FOR STATE ALLOWED MARIJUANA RELATED USES; ADDING A NEW CHAPTER 17.63 GHMC MARIJUANA RELATED USES TO INCLUDE PERMITTING THE PRODUCTION, PROCESSING AND/OR RETAILING OF MARIJUANA AS REGULATED PURSUANT TO WASHINGTON STATE INITIATIVE NO. 502 IN DESIGNATED ZONING DISTRICTS, AND ONLY AT FACILITIES THAT HAVE OBTAINED A VALID LICENSE ISSUED BY THE WASHINGTON STATE LIQUOR CONTROL BOARD; PERMITTING MEDICAL CANNIBAS COLLECTIVE GARDENS IN DESIGNATED ZONING DISTRICTS OF THE CITY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998 and now codified as chapter 69.51A RCW, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana (cannabis); and

WHEREAS, in 2011 the Washington State Legislature considered a bill (E2SSB 5073) that would have authorized the licensing of medical cannabis dispensaries, production facilities, and processing facilities; and

WHEREAS, on April 29, 2011, Governor Gregoire vetoed the portions of E2SSB 5073 that would have provided the basis under state law for legalizing and licensing medical cannabis dispensaries, processing facilities and production facilities, thereby making these activities illegal; and

WHEREAS, in order to provide qualifying patients with access to an adequate, safe, consistent and secure source of medical quality cannabis, E2SSB 5073 also contained a provision, now codified as RCW 69.51A.085, authorizing “collective gardens” which would authorize qualifying patients the ability to produce, grow, process, transport and deliver cannabis for medical use, and that provision was approved by Governor Gregoire, effective on July 22, 2011; and

WHEREAS, E2SSB 5073, as approved and now codified at RCW 69.51A.140 authorized cities to adopt and enforce zoning requirements regarding production and processing of medical cannabis; and

WHEREAS, as authorized under RCW 35A.63.220 and RCW 36.70A.390, the Gig Harbor City Council approved Ordinance No. 1218 on July 11, 2011 adopting interim regulations for Medical Cannabis Collective Gardens that were effective and in full force immediately for a period of nine months, as amended by Ordinance No. 1222 approved after a public hearing on July 25, 2011; and

WHEREAS, the federal Controlled Substances Act and state laws regarding marijuana and cannabis are contradictory and those contradictions are unresolved so there are uncertainties in the area of local regulation of medical cannabis operations; and

WHEREAS, federal law enforcement actions against medical cannabis operations in the State of Washington and a 2011 decision from the California Court of Appeal (*Pack v. City of Long Beach*, 199 Cal.App.4th 1070 (October 4, 2011), petition for state supreme court review granted, 268 P.3d 1063, but dismissed in August of 2012 because the appeal was withdrawn) that a city's ordinance establishing a permit system for medical marijuana is preempted by the federal Controlled Substances Act further illustrate the uncertainty local governments must deal with; and

WHEREAS, as authorized under RCW 35A.63.220 and RCW 36.70A.390, after a public hearing, the Gig Harbor City Council approved Ordinance 1236 on March 26, 2012 extending the interim regulations for a period of six months and adopting findings justifying the same; and

WHEREAS, the Planning Commission considered the interim regulations in April and May of 2012 and held a public hearing on May 3rd, 2012; and

WHEREAS, the Planning Commission recommended that the interim regulations be extended until after the November 2012 general election when Washington voters will consider Initiative 502. The initiative would decriminalize the licensed production, processing and possession of marijuana by Washington adults; and

WHEREAS, Initiative 502 was passed by the voters of the State of Washington in November 2012, providing a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, City Council further extended interim regulations relating to collective gardens on March 25, 2013; and

WHEREAS, under Initiative 502, the Washington State Liquor Control Board is tasked with the responsibility to adopt the rules governing the licensing and operations of marijuana producers, processors, and retailers, and the Board is currently working on the regulations and is projecting that the rules will be adopted on October 16, 2013; and

WHEREAS, after adoption of the draft rules implementing Initiative 502, the Liquor Control Board anticipates beginning to accept applications for all license types on November 18, 2013 and anticipates issuance of licenses in March/April 2014; and

WHEREAS, Washington State law regarding the regulation of collective gardens is wholly separate from state regulations under Initiative 502; and

WHEREAS, the City has drafted the permanent regulations to regulate medical marijuana under similar requirements outlined in Initiative 502 for recreational marijuana use in order to reduce the potential of creating dueling markets; and

WHEREAS, the Planning Commission considered the permanent regulations in August of 2013, held a public hearing on August 15th, 2013 and recommended passage; and

WHEREAS, the City Council deems it to be in the public interest to codify permanent regulations to protect the health, safety and welfare of citizens of the City; and

WHEREAS, the Gig Harbor City Council held a public hearing on September 9th 2013, to take public testimony relating to this ordinance; and

WHEREAS, nothing in this Ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Purpose. Chapter 17.63 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

Chapter 17.63
MARIJUANA RELATED USES

- 17.63.010 Purpose and Intent
- 17.63.020 Definitions
- 17.63.030 Marijuana Related Uses

17.63.010 Purpose and Intent.

The purpose and intent of requiring standards for Marijuana related uses and facilities is to mitigate the adverse secondary effects caused by such facilities and to maintain compatibility with other land uses and services permitted within the City. In addition, these provisions are intended to acknowledge the authority for collective gardens set forth in RCW 69.51A.085 and enactment by Washington voters of Initiative 502 and state licensing procedure to permit, but only to the extent required by state law, collective gardens, marijuana producers,

marijuana processors, and marijuana retailers to operate in designated zones of the city.

17.63.020 Definitions.

All definitions used in this chapter apply to this chapter only and, except as otherwise revised below, shall have the meanings established pursuant to RCW 69.50.101 and WAC 314-55-010, as the same exist now or as they may later be amended. Select definitions have been included below for ease of reference.

“Child care center” means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC. WAC 314-55-010 (4)

“Collective Garden” means any place, area, or garden where qualifying patients engage in the production, processing, and delivery of cannabis for medical use as set forth in chapter 69.51A RCW and subject to the limitations therein.

“Elementary school” means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction. WAC 314-55-010 (5)

“Game arcade” means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted. WAC 314-55-010 (7). In addition a “game arcade” includes a secondary use within entertainment venues open to persons under the age of 21.

“Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation. WAC 314-55-010 (8)

“Marijuana” means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than zero point three percent (.3%) 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 plants, 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 seeds of the plant which is incapable of germination.

“Marijuana infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana infused products” does not include usable marijuana.

“Marijuana related use” means any use where a marijuana producer, marijuana processor, marijuana retailer, and collective garden are established or proposed.

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

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

“Marijuana retailer” means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana infused products in a retail outlet.

“Perimeter” means a property line that encloses an area. WAC 314-55-010 (14)

“Playground” means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government. WAC 314-55-010 (16).

“Public park” means an area of land for the enjoyment of the public, having facilities for rest and recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails. WAC 314-55-010 (17).

“Public transit center” means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers. WAC 314-55-010 (18)

“Recreational center or facility” means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government. WAC 314-55-010 (19)

“Secondary school” means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction. WAC 314-55-010 (21)

“Useable marijuana” means dried marijuana flowers. The term “usable marijuana” does not include marijuana infused products.

17.63.030 Marijuana Related Uses.

A. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Gig Harbor is an authorization to circumvent federal law or to provide permission to any person or entity to violate federal law. In addition to collective gardens, only Washington State licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Gig Harbor and then only pursuant to a license issued by the State of Washington.

B. Permits Required

1. Major site plan review as described in Chapter 17.96 GHMC.
2. Development regulations and performance standards shall conform to the requirements of the applicable land use zone.

3. Parking standards, as defined in GHMC 17.72.030 apply as followed:

a) Collective gardens, marijuana producers and marijuana processors shall calculate parking per the standards under Industrial Level 2.

b) Marijuana retailers shall calculate parking per the standards under Sales Level 1.

C. Collective gardens may locate only in the Employment District (ED) zoning district and are subject to the following conditions:

1. A collective garden must be in a permanent structure designed to comply with the City Building Code and constructed under a building permit from the City regardless of the size or configuration of the structure.

2. Outdoor collective gardens are prohibited.

3. No production, processing, or delivery of cannabis may be visible to the public.

4. A collective garden must meet all requirements under RCW 69.51A.085, including but not limited to limitations on the number of members, number of plants, amount of useable cannabis on site, maintenance of each member's valid documentation of qualifying patient status.

5. A location utilized solely for the purpose of distributing cannabis shall not be considered a collective garden.

6. A collective garden must meet the separation provisions set forth in GHMC 17.63.030G.

D. Marijuana producers may be located only in the Employment District (ED) zone of the city. Such facilities and uses may be located only at designated sites licensed by the state of Washington and fully conforming to state law and Chapter 17.63 GHMC.

E. Marijuana processors may locate only in the Employment District (ED) zone of the city, but only at designated sites licensed by the state of Washington and fully conforming to state law and Chapter 17.63 GHMC.

F. Marijuana retailers may locate only in the following zones but only at designated sites licensed by the state of Washington and fully conforming to state law and Chapter 17.63 GHMC:

1. Commercial District (C-1);

2. General Business District (B-2) and;

3. Employment District (ED) only if subordinate to the principal tenant use of Marijuana producer or marijuana processor, and occupy no more than 25 percent of the gross floor area of the principal tenant use.

G. No marijuana processor, marijuana producer, marijuana retailer or collective garden shall locate within 1000 feet, measured in the manner set forth in WAC 314-55-050(10), from any of the existing uses as defined in GHMC 17.63.020:

1. Elementary or secondary school;

2. Playground;

3. Recreation center or facility;

4. Childcare center;

5. Public park;

6. Public transit center;

7. Library; or

8. Game arcade.

H. In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the city attorney under the applicable provisions of this code or state law, including but not limited to the provisions of Chapter 1.16 GHMC, Chapter 8.10 GHMC, Chapter 17.07 GHMC, and Chapter 19.16.

Section 2. Findings in Support of Establishing New “Marijuana Related Uses” Regulations. The City Council adopts the recitals set forth above in support of establishing a new chapter in Title 17 of the GHMC. In addition, the Gig Harbor City Council makes the following findings:

A. City Council has considered the studies and data on file in the City Clerk’s office relating to the land use and other secondary impacts associated with marijuana related uses and further takes notice of and specifically relies upon the data and studies.

B. City Council finds that the definition proposed by the State Liquor Control Board regarding “Game Arcade” requires clarification consistent with the intent of Initiative 502.

C. City Council finds that the Employment District is the appropriate permanent location for medical cannabis collective gardens, marijuana production and marijuana processing uses within the city given the intent of the zone, additionally marijuana retail is proposed as an ancillary use.

D. City Council finds that the Commercial District (C-1) and General Business (B-2) zoning districts of the city are appropriate zones for state licensed marijuana retailers given the intent of the zones.

E. City Council finds that adopting permanent regulations is the best course of action in that the City will regulate all marijuana related uses; however the council recognizes that changes to the code may be required due to the State Liquor Control Boards potential changes to the state licensing process in the future.

Section 3. Transmittal to Department. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce.

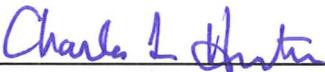
Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Effective Date. This Ordinance shall be published and shall take effect and be in full force five (5) days after the date of publication.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 23rd day of September, 2013.

CITY OF GIG HARBOR



Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:



Molly M. Towselee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



FILED WITH THE CITY CLERK: 09/04/13
PASSED BY THE CITY COUNCIL: 09/23/13
PUBLISHED: 09/25/13
EFFECTIVE DATE: 09/30/13
ORDINANCE NO: 1271

ORDINANCE NO. 2715

AN ORDINANCE OF THE CITY OF ISSAQUAH, WASHINGTON, REGULATING RECREATIONAL MARIJUANA FACILITIES; ADDING NEW DEFINITIONS TO CHAPTER 18.02; ADDING A NEW SECTION 18.07.512 PROVIDING FOR THE REGULATION OF RECREATIONAL MARIJUANA FACILITIES, REQUIRING SEPARATION AND SECURITY; AMENDING THE TABLE OF USES IN SECTION 18.06.130 TO RESTRICT THE LOCATION OF RECREATIONAL MARIJUANA FACILITIES; REVISING A FOOTNOTE TO THE TABLE IN SECTION 18.04.100-3 TO CONTAIN A REFERENCE TO RECREATIONAL MARIJUANA FACILITIES; ADDING A NEW SUBSECTION K TO SECTION 18.04.400 TO REQUIRE A LEVEL 2 REVIEW FOR RECREATIONAL MARIJUANA FACILITIES; AMENDING SECTION 18.07.470 TO PROHIBIT RECREATIONAL MARIJUANA FACILITIES AS HOME OCCUPATIONS; AMENDING CHAPTER 18.19A CENTRAL ISSAQUAH DEVELOPMENT AND DESIGN STANDARDS TO RESTRICT THE LOCATION OF RECREATIONAL MARIJUANA FACILITIES IN THE CENTRAL ISSAQUAH AREA; REPEALING THE MORATORIUM ESTABLISHED BY ORDINANCES 2686 AND 2708; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure 502 (“I-502”), approved by the voters of the State of Washington on November 6, 2012, legalized the possession of certain amounts of marijuana and provided for the establishment of a state-licensed system for marijuana similar to that for hard liquor, and

WHEREAS, the production, growth, processing, and delivery of marijuana as allowed by the Revised Code of Washington and the Washington Administrative Code present issues of public safety for surrounding properties as well as for the property on which recreational marijuana facilities are located. Furthermore, the location of such facilities near

schools, day care facilities and other lawful uses presents issues relating to the public welfare and the protection of minors, and

WHEREAS, the Washington State Liquor Control Board adopted rules governing the licensing and operation of marijuana producers, processors, and retailers on October 16, 2013, and

WHEREAS, under article XI, section 11 of the Washington Constitution, cities may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws, and

WHEREAS, the Washington State Attorney General issued an opinion, AGO 2014 No. 2, which opined that I-502 does not preempt counties, cities, and towns from banning marijuana producers, processors, and retailers within their jurisdiction. Furthermore, the opinion states that local ordinances that do not expressly ban state-licensed marijuana licensees from operating within the jurisdiction but make such operation impractical are valid if they properly exercise the local jurisdiction's police power, and

WHEREAS, the public review process for the proposed amendments included a Planning Policy Commission (PPC) Public Hearing on July 25, 2013, to: 1) review the proposed amendments, and 2) take public comments on the proposed amendments. Required notice to the State of Washington was sent on June 28, 2013. Legal notice of the PPC Public Hearing was published in the Issaquah Press on July 10, 2013. PPC made their recommendation to the City Council on all the amendments, after hearing comments from the public and closing the public hearing, and

WHEREAS, a Determination of Nonsignificance was issued for the proposed amendments on July 24, 2013, and

WHEREAS, the PPC has prepared written Findings of Fact, dated July 25, 2013, a copy of which is labeled Exhibit B to this Ordinance, and

WHEREAS, on September 3, 2014, the Issaquah City Council held a public hearing and all who wished to speak were accorded the opportunity to do so. Following the public hearing the City Council enacted a six month moratorium on the licensing, establishment, maintenance, or continuation of recreational marijuana facilities by Ordinance 2686 pending further review by the City Council of specific issues related to recreational marijuana facilities, and

WHEREAS, the City Administration continued to work on draft regulations governing the location and operation of marijuana producers, processors, and retailers but required additional time to respond to the Council's requests for additional information, and

WHEREAS, the Council also desired additional time to solicit public input on the proposed recreational marijuana regulations including more public outreach and televised meetings, and

WHEREAS, the Council held a public hearing on February 18, 2014, and all who wished to speak were afforded an opportunity to do so. Following the public hearing the City Council adopted a four month extension of the moratorium enacted by Ordinance 2686 by Ordinance 2708, and

WHEREAS, the City Council directed the Administration to provide information about additional topics related to recreational marijuana facilities including the ability of the City to enact regulations more strict than state law, a more complete overview of Initiative 502 and its broad implications for this state and its citizens, the relationship of medical marijuana laws and regulations to recreational marijuana laws and regulations, and separation of recreational

marijuana facilities from each other, and

WHEREAS, the City Council also desired additional time to solicit public input on the proposed recreational marijuana regulations including more public outreach and televised meetings, and

WHEREAS, the City Council has provided additional opportunity for public input, and

WHEREAS, the City Council has considered the proposed amendments to regulate recreational marijuana facilities, and

WHEREAS, the City Council desires to regulate recreational marijuana facilities as provided herein, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Amendments. For all the sections below, when a complete section is amended, that section shall read as set forth in the attached Exhibit A. When only a subsection is amended, the subsection shall read as amended in the attached Exhibit A, and subsections not listed or amended in the attached Exhibit A shall remain in effect in their current form.

Section 2. Definitions. Chapter 18.02 IMC containing definitions is amended as set forth in Exhibit A1, which is attached hereto and incorporated herein by reference as if set forth in full.

Section 3. Procedures. Chapter 18.04 IMC containing procedures is amended as set forth in Exhibit A2, which is attached hereto and incorporated herein by reference as if set forth in full.

Section 4. Permitted Uses. The table of permitted uses in IMC 18.06.130 is

hereby amended as set forth in Exhibit A3, which is attached hereto and incorporated herein by reference as if set forth in full.

Section 5. Home Occupations. IMC 18.07.470 is hereby amended as set forth in Exhibit A4, which is attached hereto and incorporated herein by reference as if set forth in full.

Section 6. Development Standards. A new section 18.07.512 is established as set forth in Exhibit A5, which is attached hereto and incorporated herein by reference as if set forth in full.

Section 7. Collective Gardens. IMC 18.07.515 is hereby amended as set forth in Exhibit A6, which is attached hereto and incorporated herein by reference as if set forth in full.

Section 8. Central Issaquah Development and Design Standards – Procedures. Chapter 3 of the Central Issaquah Development and Design Standards is hereby amended as set forth in Exhibit A7, which is attached hereto and incorporated herein by reference as if set forth in full.

Section 9. Central Issaquah Development and Design Standards – Zoning. Chapter 4 of the Central Issaquah Development and Design Standards is hereby amended as set forth in Exhibit A8, which is attached hereto and incorporated herein by reference as if set forth in full.

Section 10. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 11. Repeal of Ordinance 2686 and 2708. Ordinance 2686, passed by the City Council on September 3, 2013, and Ordinance 2708, passed by the City Council on

February 18, 2014, are hereby repealed.

Section 12. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

Passed by the City Council of the City of Issaquah, the 2nd day of June, 2014.

Approved by the Mayor of the City of Issaquah the 2nd day of June, 2014.

APPROVED:



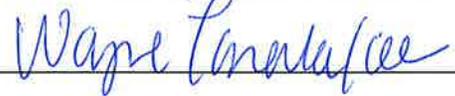
FRED BUTLER, MAYOR

ATTEST/AUTHENTICATED:



CHRISTINE EGGERS, CITY CLERK

APPROVED AS TO FORM
OFFICE OF THE CITY ATTORNEY:

BY 

PUBLISHED: 6/11/2014

EFFECTIVE DATE: 6/16/2014

ORDINANCE NO. 2715 / AB 6705

Exhibit A to Ordinance		
Exhibit A1	Chapter 18.02 IMC Definitions	Pg. 1-2
Exhibit A2	Chapter 18.04 IMC Procedures	Pg. 2-3
Exhibit A3	IMC 18.06.130 Table of Permitted Land Uses	Pg. 3-6
Exhibit A4	IMC 18.07.470 Home Occupations	Pg. 7
Exhibit A5	<i>New</i> IMC 18.07.512 Recreational Marijuana Facilities	Pg. 7-8
Exhibit A6	IMC 18.07.515 Collective Gardens	Pg. 8-9
Exhibit A7	Central Issaquah Development Standards, Chapter 3 - Procedures	Pg. 9-10
Exhibit A8	Central Issaquah Development Standards, Chapter 4 - Zoning	Pg. 11-12

Exhibit A1 – Chapter 18.02 IMC Definitions
<p>Summary: Add definitions to the Land Use Code to support regulations on recreational marijuana facilities. Several definitions were added to the Land Use Code in 2011 by Ordinance 2633 regarding Collective Gardens; some of these are being revised due to I-502.</p>

18.02.050 Definitions – C

Campground: *No change*

Cannabis: See Marijuana.

No further changes to section.

18.02.140 Definitions – L

Laboratory facility to Levels of review: *No changes.*

License, marijuana: A license issued by the Washington State Liquor Control Board to a person or entity to produce, process, or retail (sell) marijuana.

Licensee, marijuana: Any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

No further changes to section.

18.02.150 Definitions – M

Mailing service to Manufacturing light: *No changes.*

Marijuana: 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. 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 processor: A person or entity licensed by the Washington State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

Marijuana producer: A person or entity licensed by the Washington State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

Marijuana-infused products: Products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include useable marijuana.

Marijuana retailer: A person or entity licensed by the Washington State Liquor Control Board to sell useable marijuana and marijuana-infused products in a retail outlet.

Marijuana, usable: See Cannabis, usable.

No further changes to section.

18.02.200 Definitions – R

Rapid charging station to Recreational area/recreation facility: No changes.

Recreational marijuana facility: Any facility used by a marijuana processor, marijuana producer, or marijuana retailer and is operated under the provisions of Chapter 314-55 WAC. Medical marijuana collective gardens or any other facility established under the provisions of Chapter 69.51A RCW Medical Cannabis are not recreational marijuana facilities.

No further changes to section.

18.02.220 Definitions – T

Tandem parking to Transmission line: No changes.

Transit center, public: Sheltered waiting areas located where several bus routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers. This definition includes, but is not limited to, Issaquah Transit Center, located at 1050 17th Avenue NW, and Issaquah Highlands Park and Ride, located at 1755 Highlands Drive NE.

No further changes to section.

Exhibit A2 – Chapter 18.04 IMC Procedures

Summary: Specify that Level 2 Review applies in all cases for recreational marijuana facilities.

Exhibit A2a – IMC Table 18.04.100-3 Change of Use – Levels of Review

Summary: State that recreational marijuana facilities are specified uses that are exempt from the Change of Use – Levels of Review table.

Table 18.04.100-3: Change of Use – Levels of Review^{1,2}

Previous Use – Level of Review	Proposed Use – Level of Review from Table of Permitted Land Uses			
	Level 0	Level 1	Level 2	Level 3
Level 0	0	0	1	2
Level 1	0	0	0	2
Level 2	0	0	0	2
Level 3	0	0	0	2

Change of Use: The intent of the review process for a Change of Use is to: 1) recognize that there is typically a lesser impact in a Change of Use than in new construction; and 2) require a higher Level of Review, as permitted in IMC 18.04.220(F), Option for Review Level Changes, in the individual cases where this is not the case.

- 1 Community Facilities Zone: Changes of Use in the Community Facilities zones are reviewed as listed in IMC 18.06.130, Table of Permitted Land Uses, regardless of the previous use.
 - b) Changes of Use shall be processed through the Level of Review listed in this table, regardless of the parcel size or street frontage.
- 2 Specified Uses: This table does not apply to Changes of Use for a recreational marijuana facility (marijuana producer, processor, and/or retailer), collective garden, adult entertainment facility, or secure community transition facility. These uses reviewed as listed in IMC 18.06.130, Table of Permitted Land Uses, regardless of the previous use.

Exhibit A2b – IMC 18.04.400 Thresholds – Level 2

Summary: Specify that Level 2 Review is required for recreational marijuana facilities regardless of location or project size.

18.04.400 Thresholds – Level 2

Level 2 Review is required of the following development proposals or uses:

No changes to subsections A through J.

- K. Recreational Marijuana Facilities: Level 2 Review is required for recreational marijuana facilities including marijuana producers, processors, and/or retailers regardless of their street location or parcel size including parcels greater than fifteen (15) acres.
- L. Collective Gardens: Level 2 Review is required for collective gardens regardless of their street location or parcel size including parcels greater than fifteen (15) acres.
- M. Changes in Use: See Table 18.04.100-3.
- N. Community Facilities Zone: Level 2 Review is required for those development proposals or uses located within a Community Facilities zone which have been designated as Level 2 on the Table of Permitted Land Uses (Chapter 18.06 IMC). All projects within the Community Facilities zone require a project review meeting with notification to all City departments.
- O. Other Activities: Other activities as determined by this chapter or the Planning Director/Manager.

Exhibit A3 – IMC 18.06.130 Table of Permitted Land Uses

Summary:

Add Marijuana Producer and Marijuana Processor as permitted uses in the Intensive Commercial (IC) zoning district, subject to Level 2 Review. These would be shown under the "Industrial/Intensive Commercial" heading, and a reference would be provided from the "Agriculture/Resource" heading for Marijuana Producer (i.e. a grower). Note that while outdoor marijuana production is allowed under Liquor Control Board rules, the proposed amendments here would restrict growing to indoors only (*see Exhibit BA*).

Add Marijuana Retailer as a permitted use in the Professional Office (PO), Retail (R), and Intensive Commercial (IC) zoning districts, subject to Level 2 Review. This use would be shown under the "Retail/Service" heading.

Note that the Retail zoning district remains an established zoning district but is not presently in use on the Zoning Map. Also note that Marijuana Retailer uses would also be allowed in the Urban Core (UC), Mixed Use (MU), Destination Retail (DR), and Intensive Commercial (IC) zoning districts in the Central Issaquah Area.

Recreational Marijuana Facilities would not be allowed in the CBD zone because the entire zone is within 1,000 feet of various uses requiring a buffer, and because such uses would be incompatible in Olde Town.
See following pages.

Permitted Land Uses

18.06.130 Table of Permitted Land Uses

Land Uses	ZONING DISTRICTS																
	CONSERVANCY/ RECREATION	RESIDENTIAL							COMMERCIAL				FACILITIES			MIN	
		C-Rec	C-Res	SF-E	SF-S	SF-SL	SF-D	MUR	MF-M	MF-H	PO	CBD	R	IC	CF-F	CF-R	CF-OS
AGRICULTURE/RESOURCE																	
Botanical Gardens, Arboretum		2	2								1	1	1	1	2	3	
Collective Garden		<i>See Medical</i>															
Commercial or Public Greenhouses		2	2							1	2	1	1	2			
Christmas Tree or Produce Stands, Vendors, Seasonal: Temporary		<i>See "Temporary Use"</i>															
Crop Production, Livestock, Orchards		2	2														
Natural Resources Research	2	2	2											2	2	2	
Hatchery, Fish/Fish Preserve		<i>Governed by Shoreline Master Program; see IMC 18.10.940</i>															
Hobby Farm		2	2														
Horse Stables/Boarding/Riding Schools		2	2											2			
Horticulture: Tree Farm		2	2											2			
Kennel, Commercial/Boarding		2	2									2 ⁵	2 ⁵				
Marijuana Producer (recreational)		<i>See Industrial/Intensive Commercial</i>															
Trailhead		<i>See Recreation</i>															
Veterinary Hospital/Clinic		<i>See Commercial: Medical</i>															
Unclassified Ag or Resource Use		<i>See Procedure for Unclassified Uses at IMC 18.06.050(B)(3)</i>															
MINERAL RESOURCE⁴	SIC #																
Mineral Extracting ^{1,2}	10,12,14																2
Asphalt/Concrete Mixing ^{2,3}	2951/3271 3273																2

DISTRICT KEY:

C-Rec = Conservancy Recreation	SF-D = Single Family Duplex (7.26 or 14.52 du/acre)	PO = Professional Office
C-Res = Conservancy Residential	SF-SL = Single Family Small Lot (7.26 du/acre)	CBD = Cultural and Business District
SF-E = Single Family Suburban Estates (1.24 du/acre)	MUR = Mixed Use Residential	R = Retail Commercial
SF-S = Single Family Suburban (4.5 du/acre)	MF-M = Multifamily Medium Density (14.52 du/acre)	IC = Intensive Commercial
	MF-H = Multifamily High Density (29 du/acre)	M = Mineral Resource
		CF = Community Facilities
		CF-OS = Open Space
		CF-R = Recreation
		CF-F = Facilities

FOOTNOTES KEY:

- 1 The mineral resource potential of any property within the City should be realized through predevelopment activities (clearing, grading and site preparation). In this regard, the City's Comprehensive Plan Map "Mineral Resources Lands" designates properties with mineral resource potential to be realized through predevelopment activities.
- 2 In accordance with IMC 18.04.400(J), permissible mineral resource activities in existence prior to August 2, 1999, are not subject to Level 2 Review.
- 3 Only as an accessory use to a primary mineral extraction use, or as a continuation of a mineral processing use established prior to August 2, 1999.
- 4 Mining, processing and reclamation of any type below the water table is prohibited in Class 1 and 2 CARA. In Class 3 CARA, these activities will be reviewed under development permit.
- 5 Outdoor accessory services and/or uses, see IMC 18.07.180, Animals – Veterinary clinics/boarding kennels/pet daycares.

PERMITTED USE & LEVEL OF REVIEW KEY:

0 = Level 0 Review; 1 = Level 1 Review*; 2 = Level 2 Review*; 3 = Level 3 Review, regardless of size/location of parcel; 4 = Level 4 Review; 5 = Level 5 Review; NO NUMBER = NOT PERMITTED

*Level 3 Review required if Level 1 or 2 proposal is ≥ three (3) acres and < fifteen (15) acres. Level 3 Review is also required for Level 1 or Level 2 proposals located on Front St., Sunset Way, NW Maple St., Newport Way, Gilman Blvd. (east of SR 900), SR 900, NW Sammamish Rd., East Lake Sammamish Parkway (ELSP), SE 56th Street west to one thousand two hundred (1,200) feet east of ELSP, Issaquah-Fall City Road, Issaquah-Pine Lake Road SE, 228th Avenue SE, SE 43rd Way, West Lake Sammamish Parkway (WLSP) or any street or street segment that abuts and is generally parallel to Interstate 90 (I-90), or the site abuts I-90; see Chapter 18.04 IMC for details on levels of review; provided, that this provision shall not apply to property subject to the IMC 18.19.030 Olde Town Design Standards. The level of review designated on the Table of Permitted Land Uses is required for property subject to the Olde Town Design Standards.

*Level 5 Review required if project is > fifteen (15) acres.

Critical Aquifer Recharge Areas/Well Head Protection. Any proposed uses within critical aquifer recharge areas that have the potential to degrade water quality in the CARA may be prohibited, or conditioned as established in IMC 18.10.796, Critical aquifer recharge areas (CARAs), and Chapter 13.29 IMC, Groundwater Quality Protection Standards.

Land Uses	ZONING DISTRICTS																
	CONSERVANCY/ RECREATION	RESIDENTIAL								COMMERCIAL				FACILITIES			MIN
		C-Rec	C-Res	SF-E	SF-S	SF-SL	SF-D	MUR	MF-M	MF-H	PO	CBD	R	IC	CF-F	CF-R	CF-OS
INDUSTRIAL/INTENSIVE COMMERCIAL (Continued)																	
Manufacturing, Light (indoor and 30,000 sq. ft. or less)											3		3	1			
Manufacturing, General														1			
Machine Shop														1			
Marijuana Producer or Processor (recreational) ⁸														2			
Printing and Publishing							2			2	2	1	1				
Raw Materials Processing (wood, metal, etc.) ¹														2			
Recycling Center ¹														2	3 ²		
Research and Development Lab										3				2			
Sand Blasting														3			
Storage, Outdoor														2			
Storage, Self (completely enclosed) ^{1,3}										3		2	1				
Welding Shop														1			
Unclassified Industrial/Intensive Use	<i>See Procedure for Unclassified Uses at IMC 18.06.050(B)(3)</i>																
MEDICAL																	
- Ambulance/Emergency Facility (private)											2	2	2	1			
- Collective Garden ⁷											2	2	2	2			
- Drugstore/Pharmacy	<i>See Retail/Service</i>																
- Hospital											3		3	2			
- Medical and Dental Offices/Massage Therapists	<i>See Office/Professional</i>																
- Veterinary Clinic (animal)											3 ^{4,5}	2 ⁵	2 ⁵	2 ⁶	2 ⁶		
DISTRICT KEY:																	
C-Rec = Conservancy Recreation	SF-D = Single Family Duplex (7.26 or 14.52 du/acre)								PO = Professional Office				CF = Community Facilities				
C-Res = Conservancy Residential	SF-SL= Single Family Small Lot (7.26 du/acre)								CBD = Cultural and Business District				CF-OS = Open Space				
SF-E = Single Family Suburban Estates (1.24 du/acre)	MUR = Mixed Use Residential								R = Retail Commercial				CF-R = Recreation				
SF-S = Single Family Suburban (4.5 du/acre)	MF-M = Multifamily Medium Density (14.52 du/acre)								IC = Intensive Commercial				CF-F = Facilities				
	MF-H = Multifamily High Density (29 du/acre)								M = Mineral Resource								
FOOTNOTES KEY:																	
1 See Design Criteria Checklist for screening requirements.																	
2 Permitted as an accessory use only in the Community Facilities zone.																	
3 See IMC 18.07.527, Self-storage facility standards.																	
4 Only permitted on the ground floor within a mixed use building if over one thousand five hundred (1,500) sq. ft. Total nonresidential uses in a mixed use building shall not exceed fifty percent (50%) of gross floor area with no individual use over four thousand (4,000) sq. ft. Buildings in existence prior to November 1, 2006, are not subject to mixed use or scale restrictions, but may not be expanded where scale/size limits are exceeded.																	
5 Outdoor accessory services and/or uses prohibited, see IMC 18.07.180, Animals – Veterinary clinics/boarding kennels/pet daycares.																	
6 Outdoor accessory services and/or uses, see IMC 18.07.180, Animals – Veterinary clinics/boarding kennels/pet daycares.																	
7 See IMC 18.07.515, Collective gardens, for additional requirements. Level 2 Review applies regardless of parcel size or street location: see IMC 18.04.400, Thresholds – Level 2.																	
8 See IMC 18.07.512 Recreational Marijuana for additional requirements. Level 2 Review applies regardless of parcel size or street location; see IMC 18.04.400, Thresholds – Level 2.																	
PERMITTED USE & LEVEL OF REVIEW KEY:																	
0 = Level 0 Review; 1 = Level 1 Review*; 2 = Level 2 Review*; 3 = Level 3 Review, regardless of size/location of parcel; 4 = Level 4 Review; 5 = Level 5 Review; NO NUMBER = NOT PERMITTED																	
*Level 3 Review required if Level 1 or 2 proposal is ≥ three (3) acres and < fifteen (15) acres. Level 3 Review is also required for Level 1 or Level 2 proposals located on Front St., Sunset Way, NW Maple St., Newport Way, Gilman Blvd. (east of SR 900), SR 900, NW Sammamish Rd., East Lake Sammamish Parkway (ELSP), SE 56th Street west to one thousand two hundred (1,200) feet east of ELSP, Issaquah-Fall City Road, Issaquah-Pine Lake Road SE, 228th Avenue SE, SE 43rd Way, West Lake Sammamish Parkway (WLSP) or any street or street segment that abuts and is generally parallel to Interstate 90 (I-90), or the site abuts I-90; see Chapter 18.04 IMC for details on levels of review; provided, that this provision shall not apply to property subject to the IMC 18.19.030 Olde Town Design Standards. The level of review designated on the Table of Permitted Land Uses is required for property subject to the Olde Town Design Standards.																	
*Level 5 Review required if project is > fifteen (15) acres.																	
Critical Aquifer Recharge Areas/Well Head Protection. Any proposed uses within critical aquifer recharge areas that have the potential to degrade water quality in the CARA may be prohibited, or conditioned as established in IMC 18.10.796, Critical aquifer recharge areas (CARAs), and Chapter 13.29 IMC, Groundwater Quality Protection Standards.																	

Land Uses	ZONING DISTRICTS																
	CONSERVANCY/ RECREATION	RESIDENTIAL								COMMERCIAL				FACILITIES			MIN
	C-Rec	C-Res	SF-E	SF-S	SF-SL	SF-D	MUR	MF-M	MF-H	PO	CBD	R	IC	CF-F	CF-R	CF-OS	M
RETAIL/SERVICE (Continued)																	
Laundromat						2		3 ³	2	2	1	1					
Locksmith						2				1	1	1					
Mailing Service						2		3 ³	1	1	1	1	1	2 ²			
Marijuana Retailer (recreational) ⁸									2		2	2					
Personal Grooming Services: including Barber Shop, BeautyShop, Hair Salon, Nail Salon and Tanning Salon						2	2 ⁷	2 ⁷	1	1	1	1					
Pet Day Care/Pet Shop						2 ⁵				2 ⁵	2 ⁶	2 ⁶					
Plant Nursery: w/ or w/o Outdoor Storage ¹		2	2			2			2	2	1	1	2 ²				
Rental Equipment Shop (w/o Outdoor Storage)									2	2	2	1					
Studio/Gallery: (includes art, photos, pottery, and videoproduction studios and associated retail)						2		3 ³	1	1	1	1					
Unclassified Retail/Service Use	<i>See Procedure for Unclassified Uses at IMC 18.06.050(B)(3)</i>																
DISTRICT KEY:																	
C-Rec = Conservancy Recreation				SF-D = Single Family Duplex (7.26 or 14.52 du/acre)				PO = Professional Office				CF = Community Facilities					
C-Res = Conservancy Residential				SF-SL= Single Family Small Lot (7.26 du/acre)				CBD = Cultural and Business District				CF-OS = Open Space					
SF-E = Single Family Suburban Estates (1.24 du/acre)				MUR = Mixed Use Residential				R = Retail Commercial				CF-R = Recreation					
SF-S = Single Family Suburban (4.5 du/acre)				MF-M = Multifamily Medium Density (14.52 du/acre)				IC = Intensive Commercial				CF-F = Facilities					
				MF-H = Multifamily High Density (29 du/acre)				M = Mineral Resource									
FOOTNOTES KEY:																	
1 See Design Criteria Checklist for screening requirements.																	
2 Permitted as an accessory use only in the Community Facilities zone.																	
3 Only permitted on the ground floor within a mixed use building. Prohibited as a stand-alone use. Total nonresidential uses in a mixed use building shall not exceed fifty percent (50%) of gross floor area with no individual use over four thousand (4,000) sq. ft.																	
4 Dry cleaning using chlorinated solvents is prohibited in Class 1, 2 and 3 CARA.																	
5 Outdoor accessory services and/or uses prohibited, see IMC 18.07.180, Animals – Veterinary clinics/boarding kennels/pet daycares.																	
6 Outdoor accessory services and/or uses, see IMC 18.07.180, Animals – Veterinary clinics/boarding kennels/pet daycares.																	
7 As a stand-alone use, size may not exceed one-thousand five-hundred (1,500) sq.ft. In a mixed use building, total nonresidential uses in a mixed use building shall not exceed fifty percent (50%) of gross floor area with no individual use over four thousand (4,000) sq.ft.																	
8 See IMC 18.07.512 Recreational Marijuana for additional requirements. Level 2 Review applies regardless of parcel size or street location; see IMC 18.04.400, Thresholds – Level 2.																	
PERMITTED USE & LEVEL OF REVIEW KEY:																	
0 = Level 0 Review; 1 = Level 1 Review*; 2 = Level 2 Review*; 3 = Level 3 Review, regardless of size/location of parcel; 4 = Level 4 Review; 5 = Level 5 Review; NO NUMBER = NOT PERMITTED																	
*Level 3 Review required if Level 1 or 2 proposal is ≥ three (3) acres and < fifteen (15) acres. Level 3 Review is also required for Level 1 or Level 2 proposals located on Front St., Sunset Way, NW Maple St., Newport Way, Gilman Blvd. (east of SR 900), SR 900, NW Sammamish Rd., East Lake Sammamish Parkway (ELSP), SE 56th Street west to one thousand two hundred (1,200) feet east of ELSP, Issaquah-Fall City Road, Issaquah-Pine Lake Road SE, 228th Avenue SE, SE 43rd Way, West Lake Sammamish Parkway (WLSP) or any street or street segment that abuts and is generally parallel to Interstate 90 (I-90), or the site abuts I-90; see Chapter 18.04 IMC for details on levels of review; provided, that this provision shall not apply to property subject to the IMC 18.19.030 Olde Town Design Standards. The level of review designated on the Table of Permitted Land Uses is required for property subject to the Olde Town Design Standards.																	
*Level 5 Review required if project is > fifteen (15) acres.																	
Critical Aquifer Recharge Areas/Well Head Protection. Any proposed uses within critical aquifer recharge areas that have the potential to degrade water quality in the CARA may be prohibited, or conditioned as established in IMC 18.10.796, Critical aquifer recharge areas (CARAs), and Chapter 13.29 IMC, Groundwater Quality Protection Standards.																	

Exhibit A4 – IMC 18.07.470 Home Occupations

Summary: State that Recreational Marijuana Facilities are specifically prohibited as home occupations. Note that the LCB will not issue a license to an applicant seeking to operate out of a private residence due to access/inspection requirements of I-502 and state rules.

No changes to subsections A through D.

- E. **Home Occupations Not Permitted:** The following uses, by the nature of their operation or investment, have a pronounced tendency, once started, to increase beyond the limits permitted for home occupations; are otherwise incompatible with residential areas; and impair the use and value of a residentially zoned area for residential purposes. Therefore, the uses listed below shall not be permitted as home occupations:
1. Repair, building, or servicing of vehicles or boats;
 2. Antique shop or gift shop;
 3. Veterinary clinic or hospital;
 4. Painting of vehicles, trailers or boats;
 5. Large appliance repair including stoves, refrigerators, washers and dryers;
 6. Machine and sheet metal shops;
 7. Martial arts school; dance or aerobics studio;
 8. Small engine repair;
 9. Recreational marijuana facilities;
 10. Uses which may include hazardous chemicals or other items which may potentially be hazardous to the surrounding area.

No further changes to section.

Exhibit A5 – IMC 18.07.512 Recreational Marijuana Facilities

Summary: Add a new section with standards and requirements for Recreational Marijuana Facilities. The requirements would be similar to those for medical marijuana collective gardens except where state law differs.

18.07.512 Recreational Marijuana Facilities

- A. **Purpose:** The purpose of this section is to minimize the impacts of recreational marijuana facilities on surrounding properties and ensure public safety while providing for appropriate siting of recreational marijuana facilities licensed in accordance with state law.
- B. **General Requirements:** Recreational marijuana facilities shall:
1. Be entirely within a permanent enclosed structure with a roof. The structure shall comply with the City of Issaquah building codes and any other applicable codes;
 2. Be the primary use at a location. Recreational marijuana facilities are not allowed as an accessory use or as a home occupation (see IMC 18.06.130 Table of Permitted Land Uses, and IMC 18.07.470 Home occupations);
 3. Be operated by persons or entities holding a valid marijuana license from the Washington State Liquor Control Board issued under Chapter 314-55 WAC and any other applicable state laws and regulations;
 4. Obtain a City Business License;
 5. Ensure that no horticulture production, processing or delivery of marijuana shall be visible to the public;
 6. Comply with any and all requirements of the Washington State Liquor Control Board; and
 7. Allow inspection of the site and facilities by City personnel including law enforcement for compliance with all applicable permits and licenses at any time during regular business hours.
- C. **Separation Requirements:**
1. Only one (1) recreational marijuana facility is allowed in a single tenant space, except a marijuana licensee holding both marijuana producer and marijuana processor licenses may locate their combined operation in a single tenant space;
 2. No recreational marijuana facility shall be permitted within one thousand (1,000) feet of any other recreational marijuana facility.

3. A recreational marijuana facility shall not locate in the same tenant space as a medical marijuana collective garden;
 4. No recreational marijuana facility shall be permitted within one thousand (1,000) feet of any use specified in RCW 69.50.331 and WAC 314-55-050, including the following:
 - a. Elementary or secondary school;
 - b. Playground;
 - c. Recreation center or facility;
 - d. Child care center
 - e. Public park;
 - f. Public transit center;
 - g. Library;
 - h. Game arcade where admission is not restricted to persons age twenty-one (21) and over.
 The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of a use listed above, or as otherwise provided in Chapter 314-55 WAC; and
 5. If a use listed in subsection 4, above, locates within 1,000 (one-thousand) feet of a recreational marijuana facility after the recreational marijuana facility is lawfully established, such use shall not benefit from the separation requirements of this subsection. A recreational marijuana facility is lawfully located under the Issaquah Municipal Code if it has located within the City in accordance with the requirements of this section.
- D. Application Requirements: An application for a recreational marijuana facility shall include the following information in addition to the application requirements for a Level 2 Administrative Site Development Permit (ASDP):
1. The application shall be made by:
 - a. A marijuana licensee; or
 - b. An applicant for a marijuana license.
 The application shall include a copy of the license or a copy of the license application. A permit shall not be issued for a recreational marijuana facility unless the applicant is a marijuana licensee;
 2. A map drawn to scale showing that the proposed recreational marijuana facility is at least one-thousand (1,000) feet from all uses specified in RCW 69.50.331 and WAC 314-55-050. A survey prepared by a surveyor licensed in the state of Washington may be required by the Director; and
 3. The applicant shall submit a copy of the operating plan required by the Washington State Liquor Control Board as part of the license application.
- E. Signage: All signage shall comply with the requirements specified in WAC 314-55-155 Advertising, Chapter 18.12 IMC Signs, and Chapter 18.19A IMC Central Issaquah Development and Design Standards, as applicable.
- F. Security Requirements: A recreational marijuana facility shall:
1. Have installed, prior to issuance of a business license, an operational security system that is monitored twenty-four (24) hours a day;
 2. Have installed, prior to issuance of a business license, an operational security camera system which retains recordings from all installed cameras for a period of not less than sixty (60) days;
 3. Have installed, prior to issuance of a business license, any other security system as required by WAC 314-55-083;
 4. Comply with the crime prevention through environmental design (CPTED) regulations in Appendix 2 of Chapter 18.07 IMC, Required Development and Design Standards, to the extent possible as determined by the Director; and
 5. Comply with all other provisions in WAC 314-55-083.

Exhibit A6 – IMC 18.07.515 Collective Gardens

Summary: Clarify that a medical marijuana collective garden may not co-locate with a recreational marijuana facility, per Washington Liquor Control Board rules.

18.07.515 Collective gardens

No changes to subsections A through C.

D. Separation Requirements:

1. No collective garden shall be permitted within one thousand (1,000) feet of any other collective garden.
2. Only one (1) collective garden is permitted on any one site.
3. A collective garden shall not occupy the same tenant space as a recreational marijuana facility (see IMC 18.07.512, Recreational marijuana facilities).
4. The growing functions of a collective garden shall be separated from where the cannabis or cannabis products are processed and delivered to the qualified patients of a collective garden by at least one thousand (1,000) feet.
5. No collective garden shall be permitted within one thousand (1,000) feet of any community center or school.
6. No collective garden shall be permitted within five hundred (500) feet of any park, preschool, or day care.
7. Measurement: The measurement shall be taken in a straight line from the point on the property line of the uses specified in this section closest to the collective garden to the nearest physical point of the tenant space or structure housing a collective garden.
8. A use specified in this subsection shall not benefit from the separation requirements of this subsection if the use chooses to locate within the required separation distance from a lawfully located collective garden. A collective garden is lawfully located if it has located within the City in accordance with the requirements of this section.

No changes to rest of section.

Exhibit A7 – Central Issaquah Development Standards, Chapter 3 - Procedures

Summary: Refers to 18.04.100-3: Change of Use – Levels of Review that specifies that recreational marijuana facilities are specified uses that are exempt from the Change of Use – Levels of Review table.

Table 3.2-1: Levels of Review*

* The Levels of Review may change based on the Criteria in Section 3.3, Options for Changes to Levels of Review.

Level of Review	Decision-Maker	Permit Examples
Level 0	DSD Director or Designee	<ul style="list-style-type: none"> • Level 0 Permits as listed on Table of Permitted Land Uses, Table 4.3B • Building Permits, Mechanical Permits • Changes of Use to Existing Development: ¹ <ul style="list-style-type: none"> - Change of Land Use Category - Change of Building Occupancy Category, - Change of Tenant and/or Tenant Improvements, • Home Occupations (see IMC 18.07.470) • Amendments and Revisions to Approved Permits (See IMC 18.04.320) • Fences, decks, patios (See IMC 18.04.110 and 120) • Public Works Permit, Utility Permit, Clearing & Grading Permit & TESC reviews including Minor Clearing, Grading, Filling Actions with and without critical areas, Minor Paving, Landscape Permits, etc. • Unclassified Use Interpretation by Director • Nonconforming Situations (see IMC 18.08) • Signs (including new, remodel, or expansion of business, refacing, approved sign packages, other minor signs) • Business Licenses, Special Events Permits, Garden Safety Licenses

		<ul style="list-style-type: none"> • Reasonable Accommodation • Conversion of Property from Forestry Practice • Shoreline Exemptions and Shoreline Revision Permits • Accessory and Temporary Uses, Non-habitable or Accessory Structures, Accessory Dwelling Units • Administrative Adjustment of Standards (AAS) – (see Chapter 1.0) • Tree Removal Notifications and Permits • Minor Utility Facilities • Accessory and Temporary Uses • Zoning Verification Letter • Others as determined by Director
Level 1	DSD Director or Designee	<ul style="list-style-type: none"> • Level 1 Permits as listed on Table of Permitted Land Uses, including Administrative Site Development Permits (ASDP) • Lot Line Adjustments and/or Lot Line Consolidations • Others as determined by Director
Level 2	DSD Director or Designee	<ul style="list-style-type: none"> • Level 2 Permits as listed on Table of Permitted Land Uses, including Administrative Site Development Permits (ASDP) • Administrative Adjustment of Standards (AAS) – (see Chapter 1.0) • Nonconforming Situations (see IMC 18.08) • Shoreline Substantial Development Permits, Shoreline Variances, Shoreline Conditional Use Permits • Short Subdivisions (Short Plats) • Minor Amendments to Master Site Plans and Project Rezones • Others as determined by Director
Level 3	Commission	<ul style="list-style-type: none"> • Level 3 Permits as listed on Table of Permitted Land Uses, including Site Development Permits (SDP) • Others as determined by Director
Level 4,5,6	See Land Use Code, IMC 18.04	
1 See IMC 18.04.100-3 Changes of Use – Levels of Review footnote #2 for additional requirements.		

Exhibit A8 – Central Issaquah Development Standards, Chapter 4 - Zoning

Summary: Add that Marijuana Retailer uses would also be allowed in the Urban Core (UC), Mixed Use (MU), and Destination Retail (DR) zoning districts in the Central Issaquah Area.

Table 4.3B Permitted Land Uses

LAND USES ¹	ZONING DISTRICTS					
	Mixed Use Residential (MUR)	Village Residential (VR)	Urban Core (UC)	Mixed Use (MU)	Destination Retail (DR)	Intensive Commercial (IC)
AGRICULTURE/RESOURCE						
Botanical Gardens, Arboretum		P	P	P	P	P
Collective Garden, Veterinary Hospital/Clinic	<i>See Medical</i>					
Commercial or Public Greenhouses				P	P	P
Christmas Tree or Produce Stands, Vendors, Seasonal: Temporary	<i>See Commercial: Accessory & Temporary Uses</i>					
Kennel, Commercial/Boarding ²			P	P	P	P
Marijuana Producer (recreational)	<i>See Industrial/Intensive Commercial</i>					
Trailhead	<i>See Public/Quasi-Public: Recreation</i>					
Note: NO PROPOSED CHANGES from RESIDENTIAL³ through HOTEL/LODGING						
INDUSTRIAL/INTENSIVE COMMERCIAL						
Adult Entertainment Facilities ¹⁸						P2
Agricultural Food Processing and Storage; Boat Building, Sales and Repair; Clothing Fabrication						P
Building Material: Storage and Sales			p ¹⁵	p ¹⁵	p ¹⁵	P
Canning, Bottling, Preserving and Packaging of Foods and/or Beverages			P	P		P
Contractor/Trade Office (with accessory shop and no outdoor storage)		p ¹⁵	p ¹⁵	p ¹⁵	p ¹⁵	P
Creamery, Dairy or Bottling Plant					P	P
Distribution Center/Warehouse/Shipping			p ¹⁵	p ¹⁵	p ¹⁵	P
Feed Store and Agricultural Supply ²	<i>See Retail/Service: Specific Land Uses</i>					
Hazardous Waste Storage w/o Treatment Facilities; Heliport/Helipad/Helistop	<i>See Accessory & Temporary</i>					
Manufacturing, Light (indoor and 30,000 sq. ft. or less); Coffee Roaster; Metal Fabricator/ Metal Work (indoor)			P	P	P	P

Table 4.3B Permitted Land Uses

LAND USES ¹	ZONING DISTRICTS					
	Mixed Use Residential (MUR)	Village Residential (VR)	Urban Core (UC)	Mixed Use (MU)	Destination Retail (DR)	Intensive Commercial (IC)
Flex Commercial Space/ Flex Space	P	P	P	P	P	P
Manufacturing, General; Machine Shop; Storage, Outdoor ¹⁹ ; Raw Materials Processing (wood, metal, etc.); Recycling Center; Sand Blasting; Welding Shop; Light Industrial						P
Marijuana Producer or Processor (recreational) ¹⁰						P2
Printing and Publishing; Research and Development Lab	P	P	P	P	P	P
Rental Equipment Shop			P	P	P	P
Storage, Self (completely enclosed) ²⁰	P* (only as accessory to a permitted use)	P	P	P	P	P
Note: NO PROPOSED CHANGES from MEDICAL through RETAIL/SERVICE						
RETAIL/SERVICE – Specific Land Uses						
Day Care Operation	<i>See Residential – Single Family</i>					
Day Care Center; Dry Cleaning and Pressing Shop ²² ; Laundromat	P	P	P	P	P	P
Feed Store and Agricultural Supply; Plant Nursery w/ or w/o Outdoor Storage			P	P	P	P
Flower Stand	<i>See Accessory & Temporary</i>					
Marijuana Retailer (recreational) ¹⁰			P2	P2	P2	P2
Pet Day Care/Pet Shop ²	P		P	P	P	P
Unclassified Use - See Procedure for Unclassified Uses, Chapter 4.2.A.3						

Footnotes.

No changes to footnotes 1-9.

10. See IMC 18.07.512 Recreational Marijuana for additional requirements.

No changes to rest of footnotes.

Land Use Code Amendments Findings of Fact
CITY OF ISSAQUAH
PLANNING POLICY COMMISSION

IN THE MATTER OF CONSIDERING AMENDMENTS TO THE
LAND USE CODE INCLUDING:

) FINDINGS OF FACT,
) PROPOSED
) AMENDMENTS,
REVIEW RATIONALE
AND
RECOMMENDATION

1. **Recreational Marijuana Facilities**
 - a) Chapter 18.02 IMC Definitions
 - b) Chapter 18.04 IMC Procedures
 - c) IMC 18.06.130 Table of Permitted Land Uses
 - d) IMC 18.07.470 Home Occupations
 - e) IMC 18.07.512 Recreational Marijuana Facilities
 - f) IMC 18.07.515 Collective Gardens
 - g) Chapter 18.19A IMC Central Issaquah Development and Design Standards Chapter 3.0 Procedures
 - h) Chapter 18.19A IMC Central Issaquah Development and Design Standards Chapter 4.0 Zoning

WHEREAS, Initiative Measure 502 (I-502), approved by the voters of the State of Washington on November 6, 2012, legalized the possession of certain amounts of marijuana and provided for the establishment of a state-licensed system for marijuana similar to that for hard alcohol; and

WHEREAS, I-502 allows for the licensing of marijuana producers, marijuana processors, and marijuana retailers (“marijuana facilities”) by the Washington Liquor Control Board; and

WHEREAS, I-502 specifies that marijuana facilities must be at least 1,000 (one-thousand) feet away from elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, or game arcades; and

WHEREAS, I-502 charged the Washington Liquor Control Board with adopting rules to implement and enforce I-502; and

WHEREAS, the Washington Liquor Control Board proposed initial draft rules on May 16, 2013, and sought public comment from stakeholders including local governments; and

WHEREAS, the Washington Liquor Control Board proposed official draft rules on July 3, 2013, after receiving feedback on the initial draft rules; and

WHEREAS, the Washington Liquor Control Board anticipates adopting rules on August 14, 2013, with an effective date of September 14, 2013; and

WHEREAS, the production, growth, processing, and delivery of marijuana as allowed by the Revised Code of Washington and the Washington Administrative Code present issues of public safety for surrounding properties as well as for the property on which marijuana facilities are located; and

WHEREAS, the definition of marijuana producers in I-502 indicate that a marijuana producer is an agricultural use; and

WHEREAS, the definition of marijuana processors in I-502 indicate that a marijuana processor is an intensive commercial use; and

WHEREAS, the definition of marijuana retailers in I-502 indicate that a marijuana retailer is a retail use; and

WHEREAS, the City of Issaquah Comprehensive Plan specifies that lands within the Issaquah Creek and Tibbetts Creek basins be considered for small-scale agricultural use provided that conflicts are minimized among uses; and

WHEREAS, the City of Issaquah has established two zoning districts, Conservancy/Residential (C-Res) and Single Family – Suburban Estates (SF-E), which allow agricultural uses; and

WHEREAS, the C-Res and SF-E zoning districts are residential zones whose primary purpose is to provide housing near urban services and these two zones are established in areas both within the Issaquah and Tibbetts Creek basins and other than the Issaquah Creek and Tibbetts Creek basins; and

WHEREAS, agricultural uses are not compatible in all areas where the C-Res and SF-E zoning districts; and

WHEREAS, the Washington Liquor Control Board's proposed rules would also allow production of marijuana indoors in addition to outdoors; and

WHEREAS, the City of Issaquah has established several zoning districts which are suitable for intensive commercial uses, commercial uses, and retail uses; and

WHEREAS, the Washington Liquor Control Board does not enforce local rules, regulations, and codes including zoning ordinances; and

WHEREAS, pursuant to requirements of the Growth Management Act {RCW 36.70A.130 Comprehensive Plans—Review--Amendments}; and the Issaquah Land Use Code IMC 18.04.100-2 Levels of Review; IMC 18.04.670 Land Use Code Amendments; and IMC 18.04 Appendix: Level 6 Review Land Use Code Amendments, the Planning Policy Commission (PPC) reviewed the proposed amendments to the Issaquah Land Use Code and related parts of the Issaquah Municipal Code; and

WHEREAS, this amendment process is consistent with the Comprehensive Plan Objective EV-5 Regulatory Reform and Policy EV-5.1.1 regarding updates to development regulations. Specifically, Objective EV-5 states that the City should ensure that the development review and permit process is clear, predictable and certain. In addition, Policy EV-5.1.1 states that the Land Use Code should be updated to be consistent with the City's land use goals and policies; and

WHEREAS, environmental review was done on the proposed amendments and a Determination of Nonsignificance for a non-project action was advertised on July 24, 2013, for these amendments. The comment period for this decision ends on August 7, 2013, and the appeal period ends on August 21, 2013; and

WHEREAS, the public review process for the proposed amendments included a PPC Public Hearing on July 25, 2013, to: 1) review the proposed amendments, and 2) take public comments on the proposed amendments. Required notice to the State of Washington was sent on June 28, 2013. Legal notice of the PPC public hearing was published in the Issaquah Press on July 10, 2013. The public hearing

was held on July 25, 2013. PPC made their recommendation to City Council on all the amendments, after hearing comments from the public and closing the public hearing; and

WHEREAS, all persons desiring to comment on the proposed amendments were given a full and complete opportunity to be heard and no letters commenting on the proposed amendments were received prior to the Public Hearing; and

THEREFORE, the PPC is now satisfied that these proposed amendments are sufficiently considered, and hereby makes and enters the following:

I. FINDINGS OF FACT PROPOSED AMENDMENT, REVIEW, RATIONALE, AND RECOMMENDATION

-Amendment 1-

Recreational Marijuana Facilities

- a) Chapter 18.02 IMC Definitions
- b) Chapter 18.04 IMC Procedures
- c) IMC 18.06.130 Table of Permitted Land Uses
- d) IMC 18.07.470 Home Occupations
- e) IMC 18.07.512 Recreational Marijuana Facilities
- f) IMC 18.07.515 Collective Gardens
- g) Chapter 18.19A IMC Central Issaquah Development and Design Standards Chapter 3.0 Procedures
- h) Chapter 18.19A IMC Central Issaquah Development and Design Standards Chapter 4.0 Zoning

PROPOSED AMENDMENT: Establish regulations for Recreational Marijuana Facilities consistent with the regulations established by the Washington State Liquor Control Board in the Washington Administrative Code and consistent with state law including Initiative Measure 502.

RATIONALE: The voters of the state of Washington approved Initiative Measure 502 in November 2012. I-502 legalized the possession of certain amounts of marijuana and provided for the establishment of a state-licensed system for marijuana similar to that for hard alcohol. Furthermore, I-502 allows for the licensing of marijuana producers, marijuana processors, and marijuana retailers (“marijuana facilities”) by the Washington Liquor Control Board. I-502 specifies that marijuana facilities must be at least 1,000 (one-thousand) feet away from elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, or game arcades. Because the production, growth, processing, and retailing of marijuana presents issues of public safety for surrounding properties as well as for the property on which the marijuana facility is located, enacting local regulations to regulate recreational marijuana facilities is appropriate. The proposed amendments will minimize the impacts of recreational marijuana facilities upon surrounding properties, ensure public safety, and maintain compatibility with other land uses and services within the City by providing for reasonable restrictions on the locations of recreational marijuana facilities and ensure appropriate review of proposed recreational marijuana facilities is done by the City prior to approval of any permit.

RECOMMENDATION: On July 25, 2013, PPC recommended that Amendment 1, for the establishment of regulations for Recreational Marijuana Facilities consistent with the regulations established by the Washington State Liquor Control Board, be approved as an amendment to the Land Use Code.

II. REASONS FOR ACTION

Having made the Findings set forth above, the PPC makes the following conclusions:

-1-

Recreational Marijuana Facilities are inconsistent with residential uses and therefore should be prohibited in such zones and not allowed as an accessory use or home occupation.

-2-

The state enabling legislation for medical marijuana and for recreational marijuana is substantially different. Co-locating Recreational Marijuana Facilities with medical marijuana facilities will make enforcement more difficult and may lead to confusion by the public.

-3-

Although the Liquor Control Board allows outdoor grow and production facilities, in an urban setting such as Issaquah, such outdoor operations will be seen from adjoining property and screening is not practical in most situations. In addition while production of marijuana is an agricultural use, the only zoning districts within the City which are appropriate for agricultural use are residential zones that are established in areas which are both appropriate and not appropriate for agriculture. Therefore, grow and production facilities should be indoors only.

-4-

Environmental review was done on the proposed amendments and a Determination of Nonsignificance for a non-project action was advertised on July 24, 2013, for these amendments. The comment period for this decision ends on August 7, 2013, and the appeal period ends on August 21, 2013.

-5-

The proposed Recreational Marijuana Amendments were reviewed through a Level 6 Review process as required by IMC 18.04.100-2 Levels of Review. The PPC is responsible for reviewing and making a recommendation to City Council on Land Use Code Amendments and related Municipal Code Amendments.

-6-

PPC determined that the proposed Land Use Code Amendment is consistent with:

1. Requirements of the Growth Management Act {RCW 36.70A.130 Comprehensive Plans — Review – Amendments}
2. Issaquah Comprehensive Plan
3. Issaquah Land Use Code {Chapter 4, 18.04.100-2 Levels of Review}

III. ACTION TAKEN

It is for these reasons that the Issaquah Planning Policy Commission decided to recommend approval of the Land Use Code Amendment regarding establishing regulations for Recreational Marijuana Facilities consistent with the regulations established by the Washington State Liquor Control Board as submitted to the City Council.


Chair, Issaquah Planning Policy Commission

7/25/13
Date Signed

**DISTRIBUTION SCHEDULE
City of Issaquah**

FINAL STEP
Original Filed in
Clerk's Records Room

Ordinance No. 2715

DATE:

AB 6705

Subject: I-502 Recreational Marijuana Regulations

<u>6/2/2014</u>	Date passed by City Council
<u>6/2/2014</u>	Signed by Mayor
<u>6/2/2014</u>	Signed by City Clerk
<u>6/9/2014</u>	Date posted (Lobby)*
<u>6/11/2014</u>	Date(s) published (normally by title only)
<u>6/16/2014</u>	Date effective

Electronic copies of executed document distributed as follows: Date Completed:

MRSC (per RCW 35A.39.010) – email notification	<u>6/9/2014</u>
Code Publishing Website	<u>6/9/2014</u>
Originating Department: Jason Rogers, DSD	<u>6/9/2014</u>
Other: Department of Commerce w/ NOA	<u>6/9/2014</u>
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Legal Notice Submitted to the Press	<u>6/4/2014</u>

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Reviewed by City Clerk ML Date 6/2/14



Megan Gregor

5/28/14
Date

** If ordinance includes exhibits –label the last page of the ordinance, stating exhibits are on file with the City Clerk.*

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CITY OF RENTON, WASHINGTON

ORDINANCE NO. 5707

AN ORDINANCE OF THE CITY OF RENTON, WASHINGTON, AMENDING CHAPTER 1, ADMINISTRATION AND ENFORCEMENT, SECTIONS 4-2-060 AND 4-2-080 OF CHAPTER 2, ZONING DISTRICTS – USES AND STANDARDS, AND SECTIONS 4-11-090 AND 4-11-130 OF CHAPTER 11, DEFINITIONS, OF TITLE IV (DEVELOPMENT REGULATIONS) OF THE RENTON MUNICIPAL CODE, BY ADDING REGULATIONS AND DEFINITIONS RELATED TO THE USE, PRODUCTION, PROCESSING, AND SALES OF RECREATIONAL MARIJUANA.

WHEREAS, the City of Renton adopted a moratorium on accepting application for business licenses or permits for medical and/or recreational marijuana November 4, 2013; and

WHEREAS, the moratorium was adopted to allow the City of Renton time to study existing and potential impacts from land uses associated with marijuana and to allow for a public hearing and/or input process; and

WHEREAS, the Planning Commission duly studied and considered state regulations for recreational marijuana; and

WHEREAS, on February 19, 2014, the Planning Commission held a public hearing on the matter of the proposed regulations for recreational marijuana; and

WHEREAS, on March 5, 2014, the Planning Commission deliberated and made a recommendation regarding recreational marijuana; and

WHEREAS, the State Legislature has legislation regarding medical marijuana pending and City action regarding medical marijuana shall comply with the action taken by the Legislature, making an extension of the moratorium on accepting applications for business licenses or permits necessary; and

WHEREAS, no businesses that were engaged in the production, processing, or sales of marijuana prior to the enactment of this ordinance shall be deemed to have been a legally established use or entitled to claim legal non-conforming status;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RENTON, WASHINGTON, DOES ORDAIN AS FOLLOWS:

SECTION I. Chapter 1, Administration and Enforcement, of Title IV (Development Regulations) of the Renton Municipal Code, is amended to add a new section 4-1-250, entitled “Marijuana Regulations”, to read as follows:

4-1-250 MARIJUANA REGULATIONS:

A. PURPOSE:

The City of Renton, in an effort to comply with state law has adopted marijuana laws that are intended to be consistent with RCW 69.50, entitled Uniform Controlled Substances Act, and RCW 69.51A, entitled Medical Cannabis, as they exist or may be amended.

B. AUTHORITY:

The City of Renton derives its authority to act on marijuana use, production, processing, and sales within its jurisdiction from Washington State Constitution Article XI, Section 11, entitled Police and Sanitary Regulations, RCW Chapters 69.50 and 69.51A, as they exist or may be amended, its authority to regulate zoning within its jurisdiction, and any and all other authority granted to Renton by the state legislature and the Washington State Liquor Control Board.

C. REGULATION:

By accepting a license issued pursuant to this chapter and/or RMC 5-5, entitled Business Licenses, as they exist or may be amended, a licensee, jointly and severally, if more than one, agrees 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. The Administrative Services Administrator may require a licensee to execute a written instrument confirming the provisions of this chapter.

D. LICENSE REQUIREMENT:

All business licenses related to marijuana shall contain language that substantially conforms to the following:

1. Renton shall not be responsible or liable for any claim, defense, or anything related to the operation of a marijuana-related business activity.

2. By signing the business license application, the licensee accepts, agrees and acknowledges that it shall not have any claim against Renton related to any claim, defense, or loss related to the operation of a marijuana-related business activity, and that the applicant shall hold Renton absolutely harmless for any such claim, defense or loss. RMC 4-1-250 shall govern the licensee's responsibilities in the event of a claim, defense, or loss related to the operation of a marijuana-related business activity.

3. By signing the business license application, the licensee accepts, agrees and acknowledges that under Federal law, and more specifically the Supremacy Clause of the United States Constitution, Article VI, Paragraph 2, federal law generally takes precedence over Washington State laws, and even the Washington State Constitution.

4. 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 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.

E. ZONING:

Marijuana zoning can be found in RMC 4-2-060.

SECTION II: Subsection 4-2-060.I, Retail, of Chapter 2, Zoning Districts – Uses and Standards, of Title IV (Development Regulations) of the Renton Municipal Code, is amended to

add a new line, in alphabetical order, to be entitled “Marijuana Retail”, as shown below. The rest of the subsection shall remain as currently codified.

I. RETAIL																			
ZONING USE TABLE	RESIDENTIAL ZONING DESIGNATIONS								INDUSTRIAL			COMMERCIAL ZONING DESIGNATIONS							
USES:	RC	R-1	R-4	R-8	RM H	R-10	R-14	R M	IL	IM	IH	CN	CV	CA	CD	CO	COR	UC- N1	UC-N2
<u>Marijuana Retail</u> (RMC 4-1-250)													<u>AD</u>	<u>P</u>	<u>AD</u>		<u>P21</u>	<u>P82</u>	<u>P92</u>

SECTION II: Subsection 4-2-060.N, Industrial, of Chapter 2, Zoning Districts – Uses and Standards, of Title IV (Development Regulations) of the Renton Municipal Code, is amended to add a new line, in alphabetical order, to be entitled “Industrial, Heavy”, as shown below. The rest of the subsection shall remain as currently codified.

N. INDUSTRIAL																			
ZONING USE TABLE	RESIDENTIAL ZONING DESIGNATIONS								INDUSTRIAL			COMMERCIAL ZONING DESIGNATIONS							
USES:	RC	R-1	R-4	R-8	RM H	R-10	R-14	R M	IL	IM	IH	CN	CV	CA	CD	CO	COR	UC- N1	UC-N2
<u>Industrial, Heavy</u>											<u>P14</u>								

SECTION III: Subsection 4-2-080.A.14 of Chapter 2, Zoning Districts – Uses and Standards, of Title IV (Development Regulations) of the Renton Municipal Code, is amended as follows:

14. ~~Reserved.~~ Marijuana Producers and Processors must be located entirely within a permanent enclosed structure with a roof.

SECTION IV: Section 4-11-090, Definitions I, of Chapter 11, Definitions, of Title IV (Development Regulations) of the Renton Municipal Code, is amended so the definition of “Industrial Use, Heavy”, is revised as follows:

INDUSTRIAL USE, HEAVY: A type of land use including manufacturing processes using raw materials, extractive land uses or any industrial uses which typically are incompatible with other uses due to noise, odor, toxic chemicals, or other activities posing a hazard to public health and safety. Examples include marijuana producers and marijuana processors.

SECTION V: Section 4-11-130, Definitions M, of Chapter 11, Definitions, of Title IV (Development Regulations) of the Renton Municipal Code, is amended to add definitions of “Marijuana Retail”, “Marijuana Producer”, and “Marijuana Processor”, to read as follows:

MARIJUANA RETAIL: A person or business entity that is licensed by the Washington State Liquor Control Board, under RCW 69.50.354 (Retail outlets licenses), RCW 69.50.357 (Retail outlets – Rules), and related sections of the RCW, as they exist or may be amended, to sell useable marijuana and/or marijuana infused products and restrict entry to the premises to persons twenty one (21) years of age and older.

MARIJUANA PRODUCER: A person or business entity that is licensed by the Washington State Liquor Control Board, under RCW 69.50.325 (Marijuana producer’s license), and related sections of the RCW, as they exist or may be amended, to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

MARIJUANA PROCESSOR: A person or business entity that is licensed by the Washington State Liquor Control Board, under RCW 69.50.325 (Marijuana producer's license) and/or RCW 69.50.328 (Marijuana producers, processors -- No direct or indirect financial interest in licensed marijuana retailers), and related sections of the RCW, as they exist or may be amended, to process, package, and label useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers.

SECTION VI. This ordinance shall be effective upon its passage, approval, and five (5) calendar days after publication

PASSED BY THE CITY COUNCIL this 24th day of March, 2014.

Bonnie I. Walton

Bonnie I. Walton, City Clerk

APPROVED BY THE MAYOR this 24th day of March, 2014.

Denis Law

Denis Law, Mayor

Approved as to form:

Lawrence J. Warren

Lawrence J. Warren, City Attorney

Date of Publication: 03/28/2014 (Summary)

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Bonney Lake Planning Commission

Future Agendas

2014 – Q3

August 20, 2014

- Recreational Marijuana

September 3, 2014

- Open Public Meeting Act Training
- *Continued Public Hearing:* Community Development Element.
- Bonney Lake 2035 – DRAFT Cultural and Heritage Element
- Recreational Marijuana – Review of Options

September 17, 2014

- Bonney Lake 2035 – DRAFT Community Health Element
- Bonney Lake 2035 – DRAFT Environment Conservation Element

September 24, 2014

- Bonney Lake 2035 – Public Open House #2 (Cultural and Heritage Element, Environmental Conservation, and Community Health)

2014 – Q4

October 1, 2014

- Public Hearing: Adding Single Family Residence as a Permitted Use in the R-2 zoning classification
- City Council Recommendation on Bonney Lake 2035 – Updated Cultural and Heritage Element, Environmental Conservation, and Community Health Elements

October 15, 2014

- Bonney Lake 2035 – DRAFT Public Service and Facilities Element

November 5, 2014

- Bonney Lake 2035 – DRAFT Economic Vitality Element

November 19, 2014

- Bonney Lake 2035 – DRAFT Transportation Element

December 3, 2014

- Bonney Lake 2035 – Public Open House #3 (Public Services/Facilities, Economic Development, and Transportation)

December 17, 2014

- 2015 – 2016 Work Plan
- Joint Planning Commission and City Council Meeting
- **Public Hearing:** Adding the Proposed Bonney Lake Urban Growth Area (BLUGA) and the approved BLUGA to the Zoning Map and the Future Land Use Map.