



DATE: November 3, 2014

TO: Mayor Balducci and Members of the City Council

FROM: Chair Laing and Members of the Planning Commission

SUBJECT: Recreational Marijuana Land Use Code Amendment (File No. 13-130927-AD).

With this transmittal, the Planning Commission recommends by a 5-1 vote (member Hamlin opposed and Chair Laing abstaining) that the City Council APPROVE the Recreational Marijuana Land Use Code Amendment (LUCA). This LUCA is recommended in response to City Council direction to process permanent regulations for recreational marijuana retailers, producers, and processors (collectively “recreational marijuana uses”) based on the interim regulations (Ordinances Nos. 6133B-1 and 6156) for recreational marijuana uses that Council adopted on October 21, 2013 and March 17, 2014 respectively. A copy of the recommended ordinance is included with this transmittal as Attachment 1.

The Planning Commission held two study sessions (May 28 and June 25), and a public hearing on July 30 to consider options for permanent regulations for recreational marijuana uses. Information provided to the Planning Commission to assist with its deliberations included: the interim zoning regulations<sup>1</sup>, the Council-approved planning principles, state marijuana regulations and amendments, information on marijuana regulation in Colorado, and maps prepared by the City’s GIS department.

Throughout the Commission’s deliberations, the Planning Commission considered several regulatory options for regulating recreational marijuana uses. These options addressed appropriate land use districts, separation requirements, and operational issues, and included:

1. Limiting the hours of operation;
2. Increasing the required separation distance from 1,000 feet to 1,320 feet;
3. Including as sensitive uses requiring separation, additional facilities used by children, and private schools;
4. Expanding the definition of parks for which separation is required to include private parks;
5. Prohibiting recreational marijuana uses in the Downtown Perimeter Design District, Sub-district A; and
6. Requiring recreational uses be reviewed under the Administrative Conditional Use process.

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<sup>1</sup> Ordinances Nos. 6133 B-1 and 6156.

After the June 25 study session, the Planning Commission directed staff to prepare additional information on all the issues above, except for limiting hours of operation. To assist the Planning Commission in understanding the effects of the regulatory options under consideration, the Commission directed staff provide a series of maps demonstrating the impacts of the regulatory options. The maps demonstrated that increasing the separation distance by 320 feet resulted in clustering retail uses in Bel-Red and around Lake Bellevue and limited available Light Industrial parcels to two in the Richards Valley and two in Eastgate.

Although the Planning Commission did not direct staff to include religious institutions as a use requiring separation from recreational marijuana uses, the Commission did ask staff to provide a map showing the effect of imposing the contemplated 1,320 foot buffer on all religious institutions in the City. Adding religious institutions as a buffered use resulted in no available parcels in the Light Industrial Land Use district, three retail parcels in Bel-Red, two in Factoria, and the remainder clustered around Lake Bellevue. In reaching its recommendation, the Commission also considered both written and oral public comments.

As a result of the Planning Commission's deliberations, two changes are proposed to be made to the interim regulations. The first change would be to require all recreational marijuana uses be reviewed under the Administrative Conditional Use (ACU) process. This process requires notice of the proposed use to property owners within 500 feet of the proposed location and provides an opportunity to appeal the City's decision to the City of Bellevue Hearing Examiner. The ACU process also allows the City to impose additional mitigating conditions, in the event that unanticipated impacts are associated with the use at a particular location.

The second change would be to require separation from all parks mapped in the City's GIS system, and not just public parks as required under state law. These additional parks are typically located in single-family residential areas where recreational marijuana uses are not allowed.

## **Regulatory and Procedural Background**

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

In general I-502:

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

- Specifies that only state-licensed marijuana production, processing, and sale of marijuana are permitted;
- Requires licensed facilities to be at least 1,000 feet from schools, public playgrounds, recreation centers, state-licensed day cares, public parks, public transit centers, libraries, and arcades<sup>2</sup>; and
- Limits signage to a maximum of one that is no larger than 11 square feet in area.

I-502 prohibits retail outlets from:

- Selling marijuana or marijuana products to anyone under the age of 21;
- Allowing anyone under the age of 21 from entering the premise;
- Displaying marijuana or marijuana products so they are visible from the public right-of-way; and
- Selling anything other than marijuana, marijuana-infused products<sup>3</sup>, and paraphernalia; and

I-502 prohibits for all recreational uses from:

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

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

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

Under federal law, the production, processing, and dispensing of marijuana is illegal.<sup>4</sup> On August 29, 2013, however, the United States Department of Justice, Office of the Attorney General, (“DOJ”) released updated guidance regarding marijuana enforcement. According to DOJ, the guidance was updated in response to state ballot initiatives, such as I-502, which legalize the possession of small amounts of marijuana and regulate the production, processing, and sale of marijuana. The guidance

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<sup>2</sup> These facilities are defined at WAC 314-55-010. The separation distance is measured as the shortest line between the property lines of the proposed recreational marijuana use and the uses listed in the Washington State Liquor Control Board’s (LCB) rules. WAC 314-55-050(10).

<sup>3</sup> Marijuana extracts, such as hash, hash oil, shatter, and wax may be infused into products sold by a marijuana retailer, but the extracts alone may not be sold. WAC 314-55-079(1). On June 25, the LCB passed an emergency amendment (Emergency Rule #14-23) to its rules addressing infused products to require portion control, product consistency, and prohibiting products appealing to children. <http://liq.wa.gov/rules/recently-adopted-rules> (last visited August 25, 2014).

<sup>4</sup> 21 U.S.C. 801 et. seq.

reiterates that DOJ is committed to using its investigative and prosecutorial resources to address the most significant threats to public safety related to marijuana crimes in “the most effective, consistent, and rational way.” The guidance directs federal prosecutors to review potential marijuana-related charges in cases to determine whether the conduct at issue implicates one or more of the eight stated federal enforcement priorities set forth in the guidance. The DOJ guidance rests on expectations that state and local governments implement a strong and effective regulatory system.

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

On October 7, 2013, staff presented recommendations to Council in preparation for adoption of an emergency ordinance implementing an interim zoning control. In response to the draft rules and to ensure that the City had appropriate zoning established for recreational marijuana uses, on October 21, 2013, the City Council adopted Ordinance No. 6133 B-1, a copy of which is included as Attachment 2. This ordinance implemented an emergency interim zoning control regulating the location of recreational marijuana uses and providing performance standards intended to address impacts related to the operation of recreational marijuana uses. These standards went beyond the LCB’s rules for security and odor control.

The Council subsequently held a public hearing on the ordinance as required under the GMA on December 2, 2013, and extended the ordinance for a six-month period as allowed under the GMA. The Council also adopted planning principles to direct the work of the Planning Commission on December 2. A copy of the planning principles is included as Attachment 3 to this transmittal.

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

The City Council again extended the interim regulations on March 17, 2014. During the public hearing, Council adopted Ordinance No. 6156 not only extending Ordinance 6133 B-1, but also amending it to require that marijuana retail outlets be located no closer than 1,000 feet to another marijuana retail outlet. A copy of Ordinance No. 6156

is included as Attachment 4 to this transmittal. The notice, however, for the March 17 public hearing did not anticipate this action, so another public hearing was held on May 12, 2014, to provide the public with an opportunity to comment on the amendment. During the May 12 public hearing, two people commented in opposition to marijuana uses in Bellevue.

Also at the May 12 Study Session, the Council discussed imposing a moratorium on the acceptance and processing of permit and licensing applications for both recreational marijuana uses and medical cannabis collective gardens. A motion was made to impose a six-month moratorium, but the motion failed by a vote of 2 - 5. At the conclusion of the public hearing, Council directed staff to begin working with the Planning Commission to develop a recommendation for permanent regulations for recreational marijuana uses consistent with the planning principles adopted in December 2013.

Staff introduced the topic of permanent regulations for recreational marijuana uses to the Planning Commission on May 28. On June 25, staff presented additional information based on questions raised by the Planning Commission during study sessions on May 28 and June 11. Public comments were received during the study session both opposing and supporting recreational marijuana uses.

The Planning Commission held a public hearing on July 30 to consider and take public comment on a broad range of regulatory options for the permanent regulations. Several people provided comments at the public hearing. The majority of the comments concerned the two retail stores proposed for Bellevue. Commentators both opposed and supported the proposed retail stores. Many opponents voiced concern over the lack of notice of the applications for the two stores. Comments were also received regarding signage and requiring these uses to meet the same parking requirements as other uses in the same land use zones. At the conclusion of the public hearing and consideration of public comments, the Planning Commission directed staff to prepare a recommendation to the City Council for permanent regulations for recreational marijuana.

## **II. PROPOSAL**

The recommended ordinance responding to the Council's direction is included as Attachment A to this transmittal. The recommended ordinance is based on the interim zoning regulations (Ordinances Nos. 6133 B-1 and 6156). The recommendation also embodies the project principles that Council approved on December 2, 2013. The recommended ordinance would require all recreational marijuana uses apply for and obtain an Administrative Conditional Use permit and include all parks, not only public parks, the City maps on its GIS system.

The recommended ordinance includes new general requirements for recreational marijuana uses (LUC 20.20.710) and amends the Land Use Code as follows:

1. Land Use Charts.

The LUCA will amend the General and Bel-Red, resource and wholesale and retail use charts to allow recreational marijuana uses as allowed uses in certain land use districts in the city. The LUCA also includes a new footnote to each chart directing users to the new LUC 20.20.710, requirements for recreational marijuana uses.

2. General Requirements: LUC 20.20.720, Recreational Marijuana Uses. LUC 20.20.710 is a new section that describes code applicability, the purpose for the provisions, development requirements, and performance standards. A summary of the provisions of LUC 20.20.710 follows:

### **III. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

The Environmental Coordinator for the City of Bellevue has determined that this proposal is not likely to result in any probable, significant, adverse environmental impacts. A threshold Determination of Nonsignificance (DNS) was issued on July 10, 2014. The threshold determination is included in the project file, which will be available for review in the Council office.

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

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

The recreational marijuana uses LUCA was introduced at a study session with the Planning Commission on May 28, 2014. A subsequent study session on recreational marijuana uses was held on June 25. During that study session, the Planning Commission directed staff to proceed to a public hearing on the proposed amendment, scheduled for July 30. Notice of the Public Hearing before the Planning Commission was published in the City's Weekly Permit Bulletin on July 10.

The proposed LUCA is within the jurisdiction of the East Bellevue Community Council (EBCC). A courtesy hearing is scheduled with EBCC at their regular meeting on September 2. Notice of the courtesy hearing was published in the City's Weekly Permit Bulletin on August 14 and in the Seattle Times on August 26. Typically the courtesy hearing is held before the Planning Commission's public hearing but because of scheduling and noticing constraints, staff was unable to schedule the courtesy hearing until September. Following the courtesy hearing, staff will present any comments or feedback from the EBCC to the City Council at a future study session. Staff will return for a final public hearing on the LUCA following Council action. Final action by the EBCC is anticipated within 60 days of any Council action.

Under the Growth Management Act, state agencies must be given an opportunity to review and comment on the recommended amendment to the LUC. Copies of the draft ordinance were provided to the state agencies for review on July 3, 2014. The City received notification from the Washington State Department of Commerce on July 3, 2014, confirming that the City had met the notice requirements in RCW 36.70A.106. No comment letters from the state were received by DSD before release of this transmittal. Comments received after release of the transmittal will be available for review in the permit file.

To date, the City has received one written comment on the proposed amendment requesting that recreational marijuana retail stores be distributed throughout the city and not concentrated in East Bellevue. The City has received several comments regarding the location of the Novel Tree and Green Theory retail outlets. Copies of these comments and any other received to date are available for review in the permit file.

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

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

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

The recommended amendment is consistent with the Comprehensive Plan. The recommended ordinance provides appropriate land use districts allowing all three recreational marijuana uses, while providing performance standards intended to mitigate impacts from the operation of these uses. The recommendation balances neighborhood values and economic development by providing additional public notice through the ACU process, prohibiting recreational marijuana uses in residential neighborhoods and ensuring retail uses are not clustered in a particular land use district. Requiring separation between the retail uses ensures the retail outlets are required to locate in areas where allowed throughout the City, and not concentrate in one particular area, such as the Downtown. Enhanced security and odor requirements are intended to mitigate impacts arising from the operations of recreational marijuana uses; thereby, protecting neighborhood character. The ACU process will allow for additional mitigation to address unanticipated impacts, if necessary and appropriate. Several Comprehensive Plan policies support the recommendation.

## **Land Use Element**

**Policy LU-1:** Support a diverse and community in an open and natural setting comprised of strong residential communities composed of stable neighborhoods with a variety of housing types and densities; a vibrant, robust Downtown which serves as an urban center; other employment and commercial area; and distinctive community and neighborhood retail districts and distinctive community and neighborhood retail districts.

Implement land use strategies by balancing community and neighborhood values, the neighborhood's quality of life, the natural environment, and the economy.

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

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

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

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

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

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

### **Economic Development Element**

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

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

### **Housing Element**

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

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

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

process will allow for additional public notice and mitigation to address unanticipated impacts, if necessary and appropriate.

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

The recommended amendment is in the best interest of Bellevue citizens as it will create consistent, clear regulations and permitting requirements for recreational marijuana uses in Bellevue and provide performance standards intended to provide adequate public notice and mitigate operational impacts associated with recreational marijuana uses.

**VI. RECOMMENDATION**

The Planning Commission recommends by a 5-1 vote that the City Council APPROVE the Recreational Marijuana LUCA as drafted in Attachment A. This amendment is recommended in response to City Council direction to process permanent regulations for recreational marijuana uses based on the interim regulations and Council's approved planning policies.

The Planning Commission appreciates the opportunity to review the Recreational Marijuana LUCA, and the Chair will be available at the Council meeting to answer any questions regarding the recommendation that the City Council may have.

**ATTACHMENTS**

1. Recommended Ordinance: Recreational Marijuana Uses LUCA
2. Ordinance No. 6133 B-1
3. Planning Principles (Dec. 2, 2013)
4. Ordinance No. 6156

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Section 1. Ordinances Nos. 6133 B-1 and 6156 are hereby repealed.

**Comment [CoB CD1]:** Repeals interim zoning regulations when LUCA becomes effective.

Section 2. Section 20.10.440 – Resource Land Use Charts - of the Bellevue Land Use Code is hereby amended to add as separate entries “recreational marijuana production” and “recreational marijuana processing” as a permitted use in the following land use district: Light Industrial (LI), and to add the following new note 5:

**Comment [CoB CD2]:** Sections 1 and 2 amend the General Use Charts for Services.

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

**Comment [CoB CD3]:** Directs reader to new regulations for recreational marijuana uses.

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

Section 3. Section 20.10.440 – Wholesale and Retail Land Use Charts - of the Bellevue Land Use Code is hereby amended to add under standard land use code reference 59 “Recreational marijuana retail outlet” as a permitted use in the following land use districts: GC; CB; F1; DNTN O-1; DNTN O-2; DNTN-MU; DNTN-OB; and DNTN-OLB, and to add the following new note 41:

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

**Comment [CoB CD4]:** Directs reader to new regulations for recreational marijuana uses.

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

Section 4. Section 20.25D.070 -- Resources in Bel-Red Land Use Districts Chart of the Bellevue Land Use Code is hereby amended to add as separate entries “recreational marijuana production” and “marijuana processing” as prohibited uses in all Bel-Red land use districts.

**Comment [CoB CD5]:** Sections 3 and 4 amend the Bel-Red Use Charts for Services.

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

Section 5. Section 20.25D.070 -- Wholesale and Retail in Bel-Red Land Use Districts Chart of the Bellevue Land Use Code is hereby amended to add under standard land use code reference 59 “Recreational marijuana retail outlet” as a permitted use in the following land use districts: BR-OR/OR1/OR2; BR-RC-1; RC-2; RC-3; BR-GC; BR-CR; and BR-ORT, and to add the following new note 17:

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

**Comment [CoB CD6]:** Directs reader to new regulations for recreational marijuana uses.

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

Section 6. A new section 20.20.710 of the Bellevue Land Use Code is hereby adopted as follows:

**20.20.710 Recreational Marijuana Uses.**

**A. Purpose.**

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

**Comment [CoB CD7]:** Planning Commission recommendation

**B. Applicability.**

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

**Comment [CoB CD8]:** Planning Commission Recommendation for clarity.

**C. Review Required – Administrative Conditional Use.**

An administrative conditional use permit (Part 20.30E LUC) is required to operate any recreational marijuana use. The director shall review applications to operate a recreational marijuana use for compliance with this section and with all other applicable provisions of the Bellevue City Code.

**Comment [CoB CD9]:** Planning Commission Recommendation

**D. Definitions Specific to Recreational Marijuana Uses.**

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

1. "Director" means the Director of the City of Bellevue's Development Services Department or his or her designee.
2. "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the

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plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

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

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

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

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

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2. No marijuana retailer shall be located within 1,000 feet of any other marijuana retailer.
3. No marijuana producer, processor, or retailer shall be located within 1,000 feet of any park mapped in the City's Geographic Information System.
4. No marijuana producer, processor, or retailer shall be allowed in single family and multi-family land use districts (R-1 – R-30; DNTN-R; BR-R).
5. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.
6. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.

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**Comment [CoB CD10]:** Planning Commission recommendation

**Comment [CoB CD11]:** Planning Commission recommendation for clarity.

**G. Marijuana Retail Outlets.**

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

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

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

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

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refrigerator or freezer container in a manner approved by the Director, provided the container is affixed to the building structure.

**J. Release of Liability and Hold Harmless.**

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

**K. Conflicts**

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

Section 7. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 8. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.