

August 3, 2015

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Ordinance No. 6253 adopting Planning Commission Recommendation on Marijuana Uses Land Use Code Amendment. Amending sections 20.10.440 (Resources use chart and notes), 20.25D.070 (Bel-Red Resources use chart and notes) of the Bellevue Land Use Code (LUC), and adding a new section 20.20.535 to the LUC; providing for severability and establishing an effective date.

FISCAL IMPACT

There is no direct fiscal impact with associated with amending the Bellevue Land Use Code to allow and regulate marijuana producers, processors, and retailers. Currently, the only revenue the City of Bellevue collects on marijuana sales is the 0.85% sales tax applied to all taxable goods sold within City limits. Under House Bill 2163, the City may collect additional revenue from the state beginning in 2018.

STAFF CONTACT

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POLICY CONSIDERATION

Should the City amend the Bellevue Land Use Code, based on the information and analysis in the Planning Commission's recommendation and Council direction received at the November 10, 2014, and July 6, 2015 Study Sessions, to repeal medical marijuana collective gardens and to allow marijuana uses in appropriate land use districts and to impose additional separation and operational requirements and performance standards to mitigate impacts related to the operation of marijuana uses?

BACKGROUND/ANALYSIS

City staff has completed work on the marijuana uses LUC amendments and the Planning Commission has recommended that the City Council approve the LUC amendment. At the July 6, 2015 Study Session, Council directed staff to prepare a final ordinance for adoption. Staff has provided two versions of the final ordinance, each with a different repeal date for collective gardens. This will allow Council the opportunity to consider and decide when to repeal the medical marijuana collective garden provisions. The first ordinance repeals the collective garden provisions contemporaneously with the effective date of the new permanent regulations (Option A). Option A will leave collective gardens as a line in the use chart and will show the use as prohibited. The corresponding footnote will direct the reader to the general marijuana requirements. The second ordinance includes a repeal date of July 1, 2016, which is the date the state collective garden provisions sunset (Option B). Option B will remove collective gardens from the Land Use Code in its entirety on July 1, 2016. Copies of the two ordinances are included as Attachments 1 (Option A) and 2 (Option B). Council also directed staff to prepare a moratorium addressing marijuana research facilities. A copy of the proposed moratorium is included as Attachment 3.

At the July 6 Study Session, staff presented Council with information on three new marijuana bills, the Cannabis Patient Protection Act (2SSB 5052), HB 2136 (Revenue Sharing); and HB 5121 (establishing a marijuana research license). Three new marijuana issues arose from these bills:

- (1) Marijuana research licenses (effective July 24, 2015).
- (2) Marijuana cooperatives, which will replace collective gardens on July 1, 2016; and
- (3) Home growing of medical marijuana (effective July 1, 2016).

The two bills addressing marijuana research provide only limited information on the intended program. The bills amend the state recreational marijuana provisions to allow a marijuana research license, list the purposes for the research, impose application requirements and limitations on the licenses, and establish permissible contract relationships between the licensees and the University of Washington and Washington State University. There also is a provision allowing the UW to contract with the state two universities to conduct marijuana research with an entity licensed to conduct marijuana research by a federally recognized Indian tribe located in Washington. The state provisions are effective on **July 24, 2015**. However, recent conversations with LCB staff indicate they are in early internal development of the program and must coordinate with Life Sciences Discovery Fund (LSDF) staff. The LSDF must review research proposals as part of the license application to determine if the proposed research meets the listed criteria. LCB staff confirmed the agency will not issue research licenses in the immediate future.

Staff will receive information from the LCB on its rule-making for this new program. Once this information is available, the City Council will be better positioned to make an informed decision about whether to allow the use, and if so, determine appropriate land use districts and if necessary additional performance standards. Consistent with Council direction staff has provided a moratorium ordinance on marijuana research uses for Council's consideration. Although such a moratorium could be adopted at the present time (provided the statutory public hearing is conducted) staff does not recommend adopting a moratorium now because of the six-month limitation on moratoriums. Rather, staff recommends waiting until the LCB issues its draft rules so that the Council may make an informed decision regarding marijuana research licenses.

Staff will return on August 3 and present additional information to Council on medical marijuana cooperatives, homes grows of medical marijuana, further restrictions on the sale of marijuana, and additional actions the City may consider to regulate marijuana production, processing, and sales, including civil penalties for violations of regulations. At the conclusion of the August 3 Regular Session, staff will seek Council direction to address the new marijuana issues.

OPTIONS

1. Adopt Option A, Ordinance No. 6253-A amending sections 20.10.440 (Resources use chart and notes), and 20.25D.070 (Bel-Red Resources use chart and notes); adding section 20.20.535 to the Bellevue Land Use Code; repealing Ordinances Nos. 6133 B-1, 6156, 6180, and 6222; and providing for severability and establishing an effective date.
2. Adopt Option B, Ordinance No. 6253-B amending sections 20.10.440 (Resources use chart and notes), and 20.25D.070 (Bel-Red Resources use chart and notes); adding section 20.20.535 to the Bellevue Land Use Code; repealing Ordinances Nos. 6133 B-1, 6156, 6180, and 6222; and providing for severability and establishing an effective date.

3. Adopt Option C, Ordinance No. 6253-C imposing a moratorium on marijuana research uses.
4. Do not adopt the Ordinances and provide alternative direction to staff.

RECOMMENDATION

Option 2.

MOTION

Move to adopt proposed Option B, Ordinance No. 6253-B, amending sections 20.10.440 (Resources use chart and notes), and 20.25D.070 (Bel-Red Resources use chart and notes) and adding section 20.20.535 to the Bellevue Land Use Code; providing for severability and establishing an effective date.

EFFECTIVE DATE

If approved, this Ordinance becomes effective on August 11, 2015.

ATTACHMENTS

Attachment 1: Recommended Ordinance, Option A: Marijuana Uses LUCA (Repeal effective with Permanent Regulations).

Attachment 2: Recommended Ordinance, Option B: Marijuana Uses LUCA (Repeal effective July 1, 2016)

Attachment 3: Ordinance, Option C: Moratorium on marijuana research uses.

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

N/A