

October 17, 2016

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Public Hearing for proposed amendments to the Land Use Code to adopt permanent regulations relating to the siting of marijuana retailers and prohibiting medical marijuana cooperatives and marijuana research uses, and amendments to the Bellevue City Code to impose civil penalties and abatement actions for violations of certain provisions of Chapter 69.51A RCW; repealing Interim Ordinance Nos. 6286 and 6296; and setting an effective date.

FISCAL IMPACT

The fiscal impact of the recommended regulations is generally anticipated to be minimal. There may be increased costs related to civil enforcement, which will require tracking to determine what impacts, if any, the civil penalty provisions may have on code compliance and enforcement resources.

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POLICY CONSIDERATION

1. Should the City amend the Land Use Code (LUC) by adopting regulations to either:
 - a. Make permanent the interim regulations as originally drafted by:
 - i. Prohibiting all marijuana retailers from locating within 100 feet of single family and multi-family residential land use districts (R-1 – R-30);
 - ii. Limiting marijuana retailers to no more than one in each of these subareas (total of six): BelRed, Crossroads, Downtown, Eastgate, Wilburton, and Factoria; and
 - iii. Prohibiting medical marijuana cooperatives as authorized under RCW 69.51A.260 and marijuana research uses as authorized under RCW 69.50.372?; or
 - b. Make permanent the interim regulations with modifications to increase flexibility by:
 - i. Limiting marijuana retailers to no more than one within Crossroads, Eastgate, Wilburton, and Factoria subareas, and no more than two within the BelRed and Downtown subareas, with up to one additional location in either the Medical Institution District (MI) or BelRed Medical Office (BR-MO-1) of the BelRed and Wilburton subareas, for a total of six in Bellevue?

2. Should the City amend the Bellevue City Code (BCC) to impose civil penalties and abatement actions under BCC 1.18 for violation of the maximum number of marijuana plants that may be grown pursuant to RCW 69.51A.260?

BACKGROUND

Summaries of the legislative and code development history, a chronology of Council decisions, public comments received prior to the study session, and answers to questions raised during the public hearing on the interim ordinance were included in the agenda packet for the October 3, 2016 Study Session (Attachments A, B and C of the agenda memorandum for the Study Session). For brevity and to focus on the issues, the information provided previously is not repeated herein.

On October 3rd, Council discussed concerns that marijuana retail stores would not realistically be able to locate in Downtown due to the City's current separation requirements, such that the provision for one marijuana retail store in Downtown would actually be an effective ban. Council also raised questions of whether to the MI district, straddled in between the BelRed and Wilburton subareas, could accommodate a marijuana retail store to provide convenient access for people with medical needs.

Interim Ordinance Nos. 6286 (Attachment A-1) and 6296 (Attachment A-2) provide for the following regulations:

1. Restrict marijuana retailers from locating within 100-feet of residential districts.
2. **Limit marijuana retailers to no more than one within each of these subareas—BelRed, Crossroads, Downtown, Eastgate, Wilburton, and Factoria—for a total of six in Bellevue.**
3. Prohibit medical marijuana cooperatives in Bellevue.
4. Prohibit marijuana research uses in Bellevue.
5. Impose civil penalties and abatement measures for certain violations of the state medical marijuana laws.

Council's concerns pertained only to item no. 2 (in bold) above, which was part of Interim Ordinance No. 6286. Proposed regulations that prohibited marijuana medical cooperatives and marijuana research uses and imposed civil penalties and abatement actions that were adopted under Interim Ordinance No. 6296 would be identical to those contained in this interim ordinance. In other words, Council was in consensus with item nos. 1, 3, 4, and 5.

Options before Council for Adoption of Permanent Regulations

Option 1—Interim Ordinance No. 6286

Limit marijuana retail stores to no more than one within each of these subareas—BelRed, Crossroads, Downtown, Eastgate, Wilburton, and Factoria—for a maximum total of six marijuana retail stores in Bellevue.

The limitation of one marijuana retailer per subarea for a total of six in Bellevue responds to the LCB's doubling of marijuana retail store allocation for Bellevue from four stores to eight stores. Council has previously determined that this limitation is consistent with previously approved policy related to appropriate land use zoning, regulations, performance standards, and protection of neighborhood character, while satisfying the will of its residents for availability and access to marijuana retail stores.

Option 2—Interim Ordinance No. 6286 with Modifications to Increase Flexibility

As noted above, Council discussed several possible alternatives in zoning and land use regulations to increase flexibility in response to the limitation on marijuana retailers to one per subarea. These alternatives do not consider economic factors or real estate market forces. Each of these alternatives is discussed below for Council's consideration and may be incorporated into the permanent regulations individually, in total, or combination thereof.

Each of the alternatives continues to limit marijuana retailers to one in the other subareas with the number of total marijuana retail stores city-wide to six. Thus, each is consistent with Council's intent to appropriately balance the will of the voters, the needs of medical patients, protection of neighborhoods, and the overall community and stakeholder interests

2.A. Eliminate Crossroads as a subarea that allows marijuana retail store.

Based on current land use regulations and the residential separation distances, there is no potential marijuana retail store in Crossroads at this time. Thus, Option 1, which is identical to Ordinance No. 6286, may result in only five stores in Bellevue, one short of Council's prior decision.

2.B. Limit marijuana retail stores to no more than two within BelRed. (Attachment B)

Marijuana retail stores are limited to commercial zones. As per the below table, BelRed is 100% commercial zoned and along with its current land use, has the greatest potential to accommodate marijuana retail stores.

<i>Subarea</i>	<i>Commercial Zone (acres)</i>	<i>Total Area (acres)</i>	<i>Commercial Percentage</i>
Bel-Red	930	930	100%
Crossroads	254	999	25%
Downtown	413	413	100%
Eastgate	499	1,351	37%
Wilburton	303	1,495	20%
Factoria	181	2,165	8%

2.C. Limit marijuana retail stores to no more than two within Downtown. (Attachment C)

As stated earlier, marijuana retail stores are limited to commercial zones. The above table also shows that Downtown is 100% commercial zoned. However, Attachment C illustrates that current locations of sensitive facilities such as child care centers, library, and transit center have constrained siting of additional marijuana retail stores. Note that the interim regulations and the proposed regulations do not affect the existing retail store in Downtown and this store may continue its operation indefinitely.

In order for a second marijuana retail store to be able to locate in Downtown, significant changes in land use must take place. Alternatively, there must be amendments to the existing land use code that reduce the required separation distances to sensitive facilities. Such amendments are not within the scope of the interim ordinances and must be initiated separately.

2.D. Allow for one additional marijuana retail store within either the Medical Institution District (MI) or BelRed Medical Office (BR-MO-1) in the BelRed and Wilburton subareas. (Attachment D)

This option provides for one marijuana retail store to be located within either the MI or BR-MO-1 district. This additional store is consistent with the medical-related uses in this area and with the state's interest in addressing the medical cannabis market. As Attachment D shows, there are additional parcels that would be able to accommodate marijuana retail use.

DECISION CRITERIA

LUC 20.30J.135 establishes the decision criteria for an application to amend the text of the Land Use Code. Those criteria, and the relationship of the proposal to them, are discussed below:

A. The amendment is consistent with the Comprehensive Plan; and

Finding: The proposed amendments, including either Option A or Option B, are consistent with the Comprehensive Plan's land use vision that Bellevue to grow in a manner that enhances the livability of the community, while maintaining the elements that residents cherish; land use goal to maintain and strengthen the vitality and character of Bellevue's neighborhoods and focus development activity in Downtown and other commercial and residential centers; economic development goal to support a strong local economy with opportunities for all to prosper consistent with a high quality of life and a sustainable natural environment; and neighborhoods goal to maintain and enhance the high quality of life in Bellevue's distinctive neighborhoods.

Further, the amendments are consistent with the Comprehensive Plan's land use policy to maintain stability and improve the vitality of residential neighborhoods through adherence to, and enforcement of, the city's codes (LU-11) and to support neighborhood efforts to maintain and enhance their character and appearance (LU-13); economic development policy to maintain a business climate that supports the retention and expansion of the city's economic base (ED-1), to promote local businesses and locally-produced goods and services (ED-2), develop and maintain regulations that allow for continued economic growth while respecting the environment and quality of life of city neighborhoods (ED-3), and work with the business community and residential interests to promote community interests and to address differences in a manner that minimizes conflict (ED-9); and housing policy to protect residential areas from illegal land use activities through enforcement of city codes (HO-8).

B. The amendment enhances the public health, safety or welfare; and

Finding: Consistency between the proposed regulation concerning marijuana uses will ensure that public health, safety, and welfare are protected by appropriately balancing the will of the residents, the needs of medical patients, protection of neighborhoods, and the overall community and stakeholder interests.

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

Finding: The amendments are not contrary to the interests of citizens and property owners as they will ensure that Bellevue's land use code is responsive to recent changes in state law while remaining consistent with the land use policy regarding marijuana use that was studied and recommended by the Planning Commission and approved by the City Council.

OPTIONS

1. Open the public hearing and at the close of the public hearing, direct staff to prepare ordinances consistent with Interim Ordinance Nos. 6286 and 6296 for final action on November 7, 2016. (Option 1)
2. Open the public hearing and at the close of the public hearing, direct staff to prepare ordinances with modifications as contained in Option Nos. 2.A, 2.B, 2.C, and 2.D to Interim Ordinance Nos. 6286 and 6296 for final action on November 7, 2016. (Option 2)
3. Provide staff with alternate direction.

RECOMMENDATION

Option #2.

MOTION

1. Move to open the public hearing.
2. Move to close the public hearing and the record.
3. Direct staff to prepare ordinances with modifications as contained in Option Nos. 2.A, 2.B, 2.C, and 2.D to Interim Ordinance Nos. 6286 and 6296 for final action on November 7, 2016.

ATTACHMENTS

- A. Interim Ordinances
 - A-1 City of Bellevue Interim Ordinance No. 6286
 - A-2 City of Bellevue Interim Ordinance No. 6296
- B. Potential Marijuana Retail Sites in BelRed
- C. Potential Marijuana Retail Sites in Downtown
- D. Potential Marijuana Retail Sites in MI/BR-MO-1 (BelRed and Wilburton)