

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6317

AN ORDINANCE amending the Bellevue City Code to adopt regulations imposing civil penalties and abatement actions for violations of certain provisions of Chapter 69.51A RCW concerning the growing, processing, or possession of marijuana plants or medical marijuana products; amending sections 1.18.020.K, 1.18.020.M, and 9.10.030; and establishing an effective date.

WHEREAS, in 1998 Washington voters approved Initiative Measure No. 692, and since then, it has been the state policy to allow the medical use of marijuana; and

WHEREAS, Washington voters approved Initiative 502 (I-502) on November 6, 2012. In relevant part, I-502 legalized the possession of small amounts of marijuana and marijuana-related products for persons age 21 and older, and directed the Washington State Liquor Control Board (LCB) to develop and implement rules to regulate and tax recreational marijuana producers, processors, and retailers by December 31, 2013; and

WHEREAS, in 2015, the legislature adopted the Cannabis Patient Protection Act, which regulates medical marijuana and in relevant part authorizes jurisdictions to create and enforce civil penalties, including abatement procedures, for growing, processing or keeping more than the allowed number of medical marijuana plants, or otherwise not in compliance with RCW 69.51A.260; and

WHEREAS, the Cannabis Patient Protection Act became effective on July 1, 2016; and

WHEREAS, the Bellevue City Code does not contain provisions for civil enforcement and abatement of violations for the growing, processing, or possession of marijuana plants or medical marijuana products regulated under RCW 69.51A.260; and

WHEREAS, marijuana is still classified as a Schedule I controlled substance under federal law and crimes related to marijuana remain subject to prosecution under federal law; and

WHEREAS, On August 29, 2013, the United States Department of Justice, Office of the Attorney General ("DOJ"), released updated guidance regarding marijuana enforcement. The guidance reiterates that the DOJ is committed to using its limited 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 on a case-by-case basis and weigh all information and evidence, including whether the operation is demonstrably in compliance with a strong and effective state regulatory system and if the conduct at issue implicates one or more of the eight stated federal enforcement priorities. The DOJ appears to not differentiate application of the guidance between medical cannabis and recreational marijuana; and

WHEREAS, despite providing the updated guidance in 2013, the DOJ continues to investigate and prosecute certain marijuana crimes under federal law, including prosecution of medical marijuana growers and dispensaries; and

WHEREAS, the Bellevue City Council adopted Ordinance No. 6296 on June 20, 2016, imposing interim controls, which in part impose civil penalties and abatement actions for violations RCW 69.51A.260, to be in effect while the City drafts, considers, holds hearings, and adopt permanent zoning regulations; and

WHEREAS, the City held the public hearing on the interim ordinance required under the Growth Management Act, drafted the text of permanent regulations imposing civil penalties and abatement actions for violations of RCW 69.51A.260 concerning the growing, processing, or possession of marijuana plants or medical marijuana products for City Council consideration; and

WHEREAS, the City Council held a study session on the proposed permanent regulations on October 3, 2016 and held a public hearing on the proposed permanent regulations on October 24, 2016 after providing legally required public notice; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City’s Environmental Procedures Code, BCC 22.02; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES  
ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code Section 1.18.020.K is hereby amended to read as follows:

K. “Regulation” means and includes the following, as now or hereafter amended:

1. Chapters 9.09 BCC (Junk Cars), 9.10 BCC (Nuisances), 9.11 BCC (Anti-Litter Code), 9.18 BCC (Noise Control), 9.19 BCC (Group Home for Children Community Involvement Process), 9.20 BCC (Fair Housing Practices), 14.30 BCC (Right-of-Way Use Code);

2. BCC Title 20 (Land Use Code); BCC Title 22 (Development Code); BCC Title 23 (Construction Codes) and BCC Title 24 (Utilities Codes);
3. City of Bellevue, Department of Public Works Department Standards, as adopted by Resolution No. 5084, as now or hereafter amended;
4. RCW 69.51A.060 (regulations for growing, processing, or possession of marijuana plants or medical marijuana products), as now or hereafter amended;
5. All standards, regulations and procedures adopted pursuant to the above; and
6. The terms and conditions of any permit or approval issued by the city, or any concomitant agreement with the city.

Section 2. Bellevue City Code Section 9.10.030 is amended to add a new section J, which read as follows:

J. Any violation of RCW 69.51A.260, as now or hereafter amended, which provides limitations on quantities, visibility, and odor concerning the growing, processing, or possession of marijuana plants or medical marijuana products, is declared to be a public nuisance.

Section 3. 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 4. Effective Date. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

Passed by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2016  
and signed in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_,  
2016.

(SEAL)

\_\_\_\_\_  
John Stokes, Mayor

Approved as to form:

Lori M Riordan, City Attorney

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Catherine A. Drews, Assistant City Attorney

Attest:

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Kyle Stannert, City Clerk

Published \_\_\_\_\_