



# Bellevue Planning Commission

**Wednesday, May 28, 2014**

6:30 to 10:00 p.m. ■ 1E-113

City Hall ■ 450 110<sup>th</sup> Ave. NE, Bellevue

## Agenda

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|-----------|---|--------|
| 6:30 p.m. | <ol style="list-style-type: none"><li>1. <b>Call to Order</b><br/><i>Diane Tebelius, Chairperson</i></li><li>2. <b>Roll Call</b></li><li>3. <b>Public Comment*</b><br/><i>Limited to 5 minutes per person or 3 minutes if a public hearing has been held on your topic</i></li><li>4. <b>Approval of Agenda</b></li><li>5. <b>Communications from City Council, Community Council, Boards and Commissions</b></li><li>6. <b>Staff Reports</b><br/><i>Paul Inghram, Comprehensive Planning Manager</i></li><li>7. <b>Study Session</b></li></ol>   |        |
| 7:00 p.m. | <ol style="list-style-type: none"><li>A. Land Use Code Amendment Regarding Recreational Marijuana<br/><i>Catherine Drews, Legal Planner, Development Services</i></li></ol>   | Pg. 1  |
| 7:15 p.m. | <ol style="list-style-type: none"><li>B. Single Family Rental Housing Code Amendments<br/><i>Mike Bergstrom, Senior Planner, Development Services</i></li></ol>   | Pg. 73 |
| 8:00 p.m. | <ol style="list-style-type: none"><li>C. Comprehensive Plan Update – Housing Element Policy Review<br/><i>Janet Lewine, Associate Planner, Planning and Community Services; Arthur Sullivan, ARCH</i></li></ol>   | Pg. 91 |
|           | <ol style="list-style-type: none"><li>8. <b>Committee Reports</b><br/><i>Downtown Livability</i></li><li>9. <b>Other Business</b><br/><i>Recognition of Commissioner Ferris' service on the Planning Commission</i></li><li>10. <b>Public Comment*</b> - <i>Limited to 3 minutes per person</i></li><li>11. <b>Draft Minutes Review</b><ul style="list-style-type: none"><li>• April 23, 2014</li></ul></li><li>12. <b>Next Planning Commission Meeting – June 11</b><ul style="list-style-type: none"><li>• Camp and Conference Center and clean up code amendments</li><li>• Eastgate</li><li>• Comprehensive Plan Update</li></ul></li></ol> |        |
| 8:30 p.m. | <ol style="list-style-type: none"><li>13. <b>Adjourn</b></li></ol>  |        |

*Agenda times are approximate*

**Planning Commission members**

Diane Tebelius, Chair  
Aaron Laing, Vice Chair  
Hal Ferris  
John Carlson

Jay Hamlin  
Michelle Hilhorst  
John deVadoss

John Stokes, Council Liaison

**Staff contact:**

Paul Inghram 452-4070  
Michelle Luce 452-6931

*\* Unless there is a Public Hearing scheduled, "Public Comment" is the only opportunity for public participation.*

*Wheelchair accessible. American Sign Language (ASL) interpretation available upon request. Please call at least 48 hours in advance. Assistance for the hearing impaired: dial 711 (TR).*



# MEMORANDUM

DATE: May 14, 2014

TO: Chair Tebelius, Members of the Planning Commission

FROM: Catherine A. Drews, Legal Planner, Development Services Department  
425-452-6134

SUBJECT: Land Use Code Amendment  
Recreational Marijuana Uses Permanent Regulations

On May 28, staff will initiate work with the Planning Commission to develop permanent land use regulations for recreational marijuana producers, processors, and retailers (collectively “recreational marijuana uses.”) This memorandum provides background information on recreational marijuana regulation, the City’s interim regulations for recreational marijuana uses, City Council direction about development of permanent regulations for recreational marijuana uses, and a proposed work schedule. At the study session, staff will provide a brief overview of the background materials. Staff will address the Planning Commission’s questions at the June 25 study session.

As the Commission is aware, Council hopes to have permanent regulations in place before the interim regulations expire on October 21. Therefore, it is hoped that at the conclusion of the May 28 study session the Commission will be prepared to confirm the proposed schedule and provide staff with direction to return on June 25 with a proposed draft ordinance. A public hearing on the draft ordinance may occur in September, at the direction of the Commission.

## **I. Regulatory 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>1</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:

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<sup>1</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 LCB rules. WAC 314-55-050(10).

- Selling marijuana or marijuana products to anyone under the age of 21;
- Permitting 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>2</sup>, and paraphernalia; and

Prohibits for all recreational uses:

- 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
- Consumption of marijuana and marijuana products on premises.

I-502 also establishes 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. A copy of the draft rules and recent amendments are included as Attachment 1.

Under federal law, the production, processing, and dispensing of marijuana is illegal.<sup>3</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 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. A copy of the DOJ’s August 29 guidance is included with this memorandum as Attachment 2.

### Interim Regulations -- Procedural Background

During the July 15, 2013, Study Session, staff sought and received direction 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 of this 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

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<sup>2</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)

<sup>3</sup> 21 U.S.C. 801 et. seq.

City Council adopted Ordinance No. 6133 B-1, a copy of which is included as Attachment 3. 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. 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. The Council also adopted planning principles, which are included as Attachment 4.

Shortly after Council adopted planning principles on December 2, 2013, 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 extending and amending Ordinance No. 6133 B-1 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 5 to this memorandum. 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. Two people commented in opposition to marijuana uses in Bellevue. At the close 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.

#### Status of State Licensing

The LCB has begun issuing licenses for recreational marijuana producers and processors. As of May 5, 2014, the LCB has not issued any recreational marijuana licenses for operations in Bellevue. LCB issued a Conditional Approval Letter to a recreational marijuana producer in Bellevue on May 2, 2104. The letter is the precursor to issuance of a state license and provides a list of steps the licensee must accomplish to receive its state license.’

The lottery for retail licenses is complete. Nineteen applications were ranked for Bellevue, which was allocated four licenses. Three of the top four lottery positions are located in areas allowed under the interim zoning regulation. The fourth is located in the Bel-Red Residential land use district and no recreational marijuana uses are allowed in this land use district. Staff notified all 19 lottery participants regarding the recently-adopted 1,000 foot separation requirements for retail marijuana outlets. Also, staff notified the first four lottery participants regarding the issues currently known for their proposed location. These notices were mailed on May 5, 2014.

Lottery participants must still go through the LCB’s application process before receiving their licenses. Under LCB’s rules, the agency must notify the City allowing it an opportunity to recommend to approve or disapprove of the applicants, the location, or both, based on the criteria in the rules. LCB will not, however, deny a license on the basis of violations of local zoning or other local regulations as LCB views this as the responsibility of the local jurisdiction. This means that the City will be responsible for enforcing local zoning regulations. LCB has stated it is emphasizing to license applicants that receipt of a state license is not a guarantee to operate in a given location.

## **II. Developing Permanent Regulations**

### Planning Principles

To assist the Planning Commission and staff as they work to develop recommendations for the permanent regulation of recreational marijuana uses in Bellevue, the Council adopted project principles on December 2. See Attachment 4. The principles represent Council's desire for Bellevue-appropriate regulations for recreational marijuana uses that protect neighborhood character, bolster security requirements, are understandable and enforceable, and consistent with state law.

### Interim Regulations

Ordinance No. 6133 B-1 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. The interim regulation:

1. Defines key terms and incorporates definitions from WAC 314-55-010;
2. Incorporates the state separation requirements and imposes separation requirements between recreational marijuana uses and medical cannabis collective gardens and between recreational marijuana outlets;
3. Provides zoning for recreational marijuana uses;
4. Prohibits recreational marijuana in residential land use districts;
5. Requires conformance with design review standards where applicable
6. Imposes additional security requirements; and
7. Requires odor control.

Council amended the interim regulations to require that recreational marijuana retail outlets be separated by at least 1,000 feet with adoption of Ordinance No. 6156.

### Brief Description of Proposed Land Use Code Amendments

Like the process for developing permanent regulations for medical cannabis collective gardens, staff anticipates using the interim regulation (Ordinances Nos. 6133 B-1 and 6156) as the starting point for developing permanent regulations. Amendments to the use charts will be required. A new section will be added to the General Requirements section for recreational marijuana uses. Staff also will review the General Requirement section to ensure that Bellevue appropriate performance standards are included for recreational marijuana uses. Business licensing requirements and police enforcement are not part of the Land Use Code Amendment.

### Next Steps:

The proposed work schedule below captures the work necessary for the Planning Commission to develop and transmit its recommendation for permanent regulations to the Council. The schedule includes a courtesy public hearing before the East Bellevue Community Council. The EBCC's courtesy public hearing is typically held before the Planning Commission holds its public hearing to allow staff to provide the EBCC's comments or concerns to the Planning Commission at its public hearing. The proposed schedule is as follows:

- May 28 – Introductory Study Session, including presentation of the Planning Principles
- June 25 – Study Session
- September 2 – Courtesy Public Hearing before the East Bellevue Community Council
- September 10 – Proposed public hearing on draft Recreational Marijuana Uses Code Amendment

Following the September 10 public hearing, staff anticipates the Planning Commission would present its recommendation to the Council in late September, with final action to follow shortly thereafter. The

intent of the schedule is to allow the City Council to consider and adopt permanent regulations for recreational marijuana uses before the interim regulations are set to expire on October 21, 2014.

#### **IV. Conclusion**

Staff requests Planning Commission to direct staff to proceed according to the above described schedule. Staff will return on June 25 with the draft ordinance and to respond to any Commission questions.

#### **Attachments**

1. Washington State Liquor Control Board Implementing Rules and Amendments (Chapter 314-55 Washington Administrative Code) and Draft Rule Summary
2. Memorandum for all United States Attorneys, from James M. Cole, Deputy Attorney General, Subject: Guidance Regarding Marijuana Enforcement, August 29, 2013.
3. Ordinance No. 6133 B-1
4. Council-adopted Planning Principles (Dec. 2014)
5. Ordinance No. 6156





# Washington State Liquor Control Board

## Adopted Rules Highlights

### LCB Rulemaking Objective

- Creating a tightly controlled and regulated marijuana market;
- Including strict controls to prevent diversion, illegal sales, and sales to minors; and
- Providing reasonable access to products to mitigate the illicit market.

### LCB Role and Responsibility

- Ensuring public safety is the top priority;
- Creating a three-tier regulatory system for marijuana;
- Creating licenses for producers, processors, and retailers;
- Enforcing laws and rules pertaining to licensees; and
- Collecting and distributing taxes.

### Timeline

December 6, 2012	Effective date of new law
September 4, 2013	File Supplemental CR 102 with revised proposed rules
October 9, 2013	Public hearing(s) on proposed rules (time and location TBD)
October 16, 2013	Board adopts or rejects proposed rules
November 18, 2013	BLS begins accepting applications for all three licenses
November 20, 2013	WSLCB begins processing applications (30-day window)
December 1, 2013	Deadline for rules to be complete (as mandated by law)
December 20, 2013	30-day window closes for producer, processor and retailer license applications

## Proposed Rules Highlights

### License Requirements

- **30-day Window**
  - The LCB will open registration for all license types for a 30-calendar-day window (November 20, 2013)
  - LCB may extend the time or reopen application window at its discretion
- **State Residency Requirement**
  - I-502 requires a three month state residency requirement (all license structure types)
- **Background Checks**
  - Personal criminal history completed by applicant. Risk of license forfeiture if incomplete or incorrect.
  - Fingerprinting of all potential licensees
  - Background checks of license applicants and financiers
- **Point System**
  - The LCB will apply a disqualifying point system similar to liquor
  - All applicants must disclose all arrests and/or convictions
  - Non-disclosure of arrests regardless of conviction will result in point accumulation

- **License Limits**

- Licensed entity or principals limited to ~~three~~ one producer licenses
- Licensed entity or principals limited to three processor licenses
- Licensed entity or principals limited to three retail licenses. Multiple-location licensees not allowed to hold more than 33 percent of the allowed licenses in any county or city.

- **Producer License Reduction**

- The WSLCB received 2,858 marijuana producer applications. The plant canopy of these applications far exceeds a manageable plant canopy set by the Board in its rules.
- To make a manageable plant canopy for marijuana production, the Board filed an interim policy that limits any qualified entity or principals within any entity to one marijuana producer license.
- Applicants will have the option of withdrawing their additional applications for a refund or having their additional applications held up to one year or until the Board determines more marijuana producer licenses are needed.

- **Production Limits**

- The maximum amount of space for marijuana production is limited to two million square feet.
- Applicants must designate on their operating plan the size category of the production premises and the actual square footage in their premises that will be designated as plant canopy. There are three categories:
  - Tier 1: Less than 2,000 square feet;
  - Tier 2: 2,000 square feet to 10,000 square feet;
  - Tier 3: 10,000 square feet to 30,000 square feet.
- The LCB may reduce a licensee's or applicants' square footage designated to plant canopy for the following reasons:
  - If the total amount of square feet for production of all licensees exceeds the two million square feet maximum, the LCB will reduce the allowed square footage by the same percentage.
  - If 50 percent production space used for plant canopy in the licensee's operating plan is not met in the first year of operation, the board may reduce the tier of licensure.
  - If the total amount of square feet of marijuana production exceeds two million square feet, the LCB may reduce all licensees' production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

*Note: The Board reduced the production capacity of all tiers by 30 percent to establish the market on February 19, 2014.*

- **Maximum Allowable Amount on Licensed Location**

- Producer license
  - Outdoor or greenhouse: 125 percent of its year's harvest
  - Indoor: six months of its annual harvest
- Processor license
  - Six months of their average useable marijuana (plant material); and
  - Six months average of their total production (finished product).
- Retailer license
  - Four months of their average inventory

- **Licensed Location: 1'000 foot Measurement**

- Important Note Regarding the 1,000 foot Measurement: The LCB will file an emergency rule on November 6, 2013, that will revise the current language regarding the 1,000' buffer. The language in the emergency rule will state: "The distance shall be measured as the shortest straight line distance

from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older.”

- **Costs and Fees**
  - \$250 application fee
  - \$1,000 annual renewal fee
  - Additional fees for background check and filing for local business license
- **Taxes**
  - License applicants must submit a signed attestation that they are current on taxes owed to the Washington State Department of Revenue
- **Insurance**
  - Licensees are required to carry commercial liability insurance.

## **Public Safety**

- **Producer Structures**
  - Rules allow producer operations in secure: indoor and outdoor grows as well as greenhouses
- **Traceability**
  - LCB will employ a robust and comprehensive traceability system (software) that will trace product from seed/clone to sale.
  - LCB enforcement can match records to actual product on hand
- **Background Checks**
  - Personal criminal history form
  - Fingerprinting of all potential licensees
  - Background checks of licensees and financiers
- **Point System**
  - LCB will apply a disqualifying point system similar to liquor (exceptions for possession)
- **Violation Guidelines / Standard Administrative Procedures Act Guidelines**
  - \$1,000 criminal penalty for sales to a minor
  - Sets strict tiered system of violation record over a three year period
    - Group 1 public safety:
      - First violation: 10 day suspension or \$2,500
      - Second violation: 30 day suspension
      - Third violation: license cancellation
- **Local Authority Objections**
  - Substantial weight will be given to a local authority during the renewal process based upon chronic illegal activity associated with the licensee’s operation of the premises.
- **Child Resistant Packaging**
  - Specific requirements for marijuana and marijuana-infused products in solid and liquid forms

- **Security and Safeguards**
  - Alarm and surveillance video camera requirements (including minimum pixels and lockbox encasement)
  - Strict transportation and record keeping requirements (no third party transport of product)
  - Hours of operation limited to 8:00 a.m. to 12:00 a.m.
  
- **Advertising Restrictions**
  - Law restricts advertising within 1,000 feet of schools, public parks, transit centers, arcades, and other areas where children are present.
  - May not contain statements or illustrations that are false or misleading, promotes overconsumption, represents that it has curative or therapeutic effects, depicts a child or may be appealing to children
  - All advertising must contain two statements: a: “This product has intoxicating effects and may be habit forming.” And, b) “Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.”
  
- **Limits on Retail Stores**
  - Total number of retail outlets limited to 334 statewide
  - LCB to provide advance notice to local authority
  - Per I-502, LCB to determine number of retail outlets per county
    - BOTEK Analysis Corporation provided initial county consumption levels
    - Retail stores allocation proportionate to population and consumption

## **Consumer Safety**

- **Behind the Counter Storage**
  - No open containers or handling of product
  - Sniff jars with sealed, screened-top lids allowed
  
- **Strict Packaging and Label Requirements**
  - Limited servings and concentration per package
  - Lot number
  - Warning label
  - Net weight
  - Concentration of THC
  - Usage warnings (specific warning for ingestible foods/liquids about effect delays)
  - Upon request
    - Third party lab that tested lot and results
    - All pesticides, herbicides, fungicides found in product
  
- **Defined Serving Size**
  - Defined serving sizes on marijuana-infused product label
    - 10 mg of THC per serving
    - 100 mg of THC per product
    - A single unit of marijuana-infused extract for inhalation cannot exceed one gram
  
- **Transaction Limits on Concentrates (extracts)**
  - A single transaction is limited to seven grams of marijuana-infused extract for inhalation

- **Lab Tested and Approved (monograph)**
  - All lots will be tested by independent accredited labs
  - Established and uniform testing standards
  - Quality assurance testing
  
- **Store Signage and Product Warnings**
  - No minors allowed in stores
  - Required product and usage signs within stores

For more information regarding Initiative 502, please visit the Liquor Control Board website at [www.liq.wa.gov](http://www.liq.wa.gov).

###



**Chapter 314-55 WAC**  
**MARIJUANA LICENSES, APPLICATION PROCESS, REQUIREMENTS, AND REPORTING**

NEW SECTION

**WAC 314-55-005 What is the purpose of this chapter?** The purpose of this chapter is to outline the application process, qualifications and requirements to obtain and maintain a marijuana license and the reporting requirements for a marijuana licensee.

NEW SECTION

**WAC 314-55-010 Definitions.** Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "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.

(5) "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.

(6) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

(7) "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.

(8) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(9) "Licensee" or "marijuana licensee" means 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.

(10) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

(11) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(12) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

(13) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

(14) "Perimeter" means a property line that encloses an area.

(15) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

(16) "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.

(17) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or 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.

(18) "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.

(19) "Recreation 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.

(20) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

(21) "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.

(22) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

#### NEW SECTION

**WAC 314-55-015 General information about marijuana licenses.** (1) A person or entity must meet certain qualifications to receive a marijuana license, which are continuing qualifications in order to maintain the license.

(2) All applicants and employees working in each licensed establishment must be at least twenty-one years of age.

(3) Minors restricted signs must be posted at all marijuana licensed premises.

(4) A marijuana license applicant may not exercise any of the privileges of a marijuana license until the board approves the license application.

(5) The board will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

(6) The board will not approve any marijuana license for a location on federal lands.

(7) The board will not approve any marijuana retailer license for a location within another business. More than one license could be located in the same building if each licensee has their own area separated by full walls with their own entrance. Product may not be commingled.

(8) Every marijuana licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the board in a conspicuous place on the premises.

(9) In approving a marijuana license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a marijuana license.

(10) A marijuana processor or retailer licensed by the board shall conduct the processing, storage, and sale of marijuana-infused products using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(11) Marijuana licensees may not allow the consumption of marijuana or marijuana-infused products on the licensed premises.

#### NEW SECTION

**WAC 314-55-020 Marijuana license qualifications and application process.** Each marijuana license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the marijuana license application. The

application requirements for a marijuana license include, but are not necessarily limited to, the following:

(1) Per RCW 69.50.331, the board shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the marijuana license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(2) The board will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

(3) The board will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the board and submission of fingerprints to a vendor approved by the board. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check. Financiers must meet the three month residency requirement.

(4) The board will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

(5) The board may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

(6) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license requested.

(7) Per RCW 69.50.331 (1)(b), all applicants applying for a marijuana license must have resided in the state of Washington for at least three months prior to application for a marijuana license. All partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a marijuana license must be formed in Washington. All members must also meet the three month residency requirement. Managers or agents who manage a licensee's place of business must also meet the three month residency requirement.

(8) Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the board. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).

(9) As part of the application process, each applicant must submit in a format supplied by the board an operating plan detailing the following as it pertains to the license type being sought. This operating plan must also include a floor plan or site plan drawn to scale which illustrates the entire operation being proposed. The operating plan must include the following information:

<b>Producer</b>	<b>Processor</b>	<b>Retailer</b>
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process, and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	Description of the types of products to be processed at this location together with a complete description of all equipment and solvents, gases, chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers

After obtaining a license, the license holder must notify the board in advance of any substantial change in their operating plan. Depending on the degree of change, prior approval may be required before the change is implemented.

(10) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

(11) 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.

(12) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application may be administratively closed or denial of the application will be sought.

#### NEW SECTION

**WAC 314-55-035 What persons or entities have to qualify for a marijuana license?** A marijuana license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

<b>True party of interest</b>	<b>Persons to be qualified</b>
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> <li>• All general partners and their spouses.</li> <li>• All limited partners and spouses.</li> </ul>
Limited liability company	<ul style="list-style-type: none"> <li>• All members and their spouses.</li> <li>• All managers and their spouses.</li> </ul>
Privately held corporation	<ul style="list-style-type: none"> <li>• All corporate officers (or persons with equivalent title) and their spouses.</li> <li>• All stockholders and their spouses.</li> </ul>
Publicly held corporation	<p>All corporate officers (or persons with equivalent title) and their spouses.</p> <p>All stockholders and their spouses.</p>
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).
Any entity or person (inclusive of <b>financiers</b> ) that are expecting a percentage of the profits in exchange for a monetary loan or expertise.	<p>Any entity or person who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year.</p> <p>Any entity or person who exercises control over the licensed business in exchange for money or expertise.</p> <p>For the purposes of this chapter:</p> <ul style="list-style-type: none"> <li>• "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business.</li> <li>• "Net profit" means gross sales minus cost of goods sold.</li> </ul>
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the

lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(3) **Financiers** - The board will conduct a financial investigation as well as a criminal background of financiers.

(4) **Persons who exercise control of business** - The board will conduct an investigation of any person or entity who exercises any control over the applicant's business operations. This may include both a financial investigation and/or a criminal history background.

#### NEW SECTION

**WAC 314-55-040 What criminal history might prevent a marijuana license applicant from receiving or keeping a marijuana license?** (1) When the board processes a criminal history check on an applicant, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a marijuana license or renew a license to an applicant who has accumulated eight or more points as indicated below:

<b>Description</b>	<b>Time period during which points will be assigned</b>	<b>Points assigned</b>
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board will administratively close the application.

(3) The board may not issue a marijuana license to anyone who has accumulated eight or more points as referenced above. This is a discretionary threshold and it is further recommended that the following exceptions to this standard be applied:

**Exception to criminal history point assignment.** This exception to the criminal history point assignment will expire on July 1, 2014:

(a) Prior to initial license application, two federal or state misdemeanor convictions for the possession only of marijuana within the previous three years may not be applicable to the criminal history points accumulated. All criminal history must be reported on the personal/criminal history form.

(i) Regardless of applicability, failure to disclose full criminal history will result in point accumulation;

(ii) State misdemeanor possession convictions accrued after December 6, 2013, exceeding the allowable amounts of marijuana, usable marijuana, and marijuana-infused products described in chapter 69.50 RCW shall count toward criminal history point accumulation.

(b) Prior to initial license application, any single state or federal conviction for the growing, possession, or sale of marijuana will be considered for mitigation on an individual basis. Mitigation will be considered based on the quantity of product involved and other circumstances surrounding the conviction.

(4) Once licensed, marijuana licensees must report any criminal convictions to the board within fourteen days.

NEW SECTION

**WAC 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?** The board will conduct an investigation of all applicants' marijuana law or rule administrative violation history. The board will not normally issue a marijuana license to a person, or to an entity with a true party of interest, who has the following violation history; or to any person who has demonstrated a pattern of disregard for laws or rules.

<b>Violation Type</b> (see WAC 314-55-515)	<b>Period of Consideration</b>
<ul style="list-style-type: none"> <li>• Three or more public safety violations;</li> </ul>	<ul style="list-style-type: none"> <li>• Violations issued within three years of the date the application is received by the board's licensing and regulation division.</li> </ul>
<ul style="list-style-type: none"> <li>• Four or more regulatory violations; or</li> </ul>	
<ul style="list-style-type: none"> <li>• One to four, or more license violations.</li> </ul>	<ul style="list-style-type: none"> <li>• Violations issued within the last three years the true party(ies) of interest were licensed.</li> </ul>

NEW SECTION

**WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license.** Following

is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

(1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.

(2) Failure or refusal to submit information or documentation requested by the board during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the board during the application process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the board to be gained in a manner which is in violation by law.

(7) Denies the board or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or board rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of the entities listed below:

(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; or

(h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

(12) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

(13) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

(14) The operating plan does not demonstrate, to the satisfaction of the board, the applicant is qualified for a license.

(15) Failure to operate in accordance with the board approved operating plan.

(16) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

NEW SECTION

**WAC 314-55-070 Process if the board denies a marijuana license application.** If the board denies a marijuana license application, the applicants may:

(1) Request an administrative hearing per chapter 34.05 RCW, the Administrative Procedure Act.

(2) Reapply for the license no sooner than one year from the date on the final order of denial.

NEW SECTION

**WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license?** (1)

A marijuana producer license allows the licensee to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) The board will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana producer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

(5) Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production is limited to two million square feet. Applicants must designate on their operating plan the size category of the production premises and the

amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 - Less than two thousand square feet;
- (b) Tier 2 - Two thousand square feet to ten thousand square feet; and
- (c) Tier 3 - Ten thousand square feet to thirty thousand square feet.

(7) The board may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum of two million square feet the board will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the board may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds two million square feet, the board reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.

#### NEW SECTION

**WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license?**

(1) A marijuana processor license allows the licensee to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers.

(2) A marijuana processor is allowed to blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(4) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(5) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are re-

ceived and processed, and at subsequent times when the board deems necessary.

(6) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

(7) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

#### NEW SECTION

**WAC 314-55-079 What is a marijuana retailer license and what are the requirements and fees related to a marijuana retailer license?** (1) A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older.

(2) Marijuana extracts, such as hash, hash oil, shatter, and wax can be infused in products sold in a marijuana retail store, but RCW 69.50.354 does not allow the sale of extracts that are not infused in products. A marijuana extract does not meet the definition of a marijuana-infused product per RCW 69.50.101.

(3) Internet sales and delivery of product is prohibited.

(4) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(5) The annual fee for issuance and renewal of a marijuana retailer's license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(6) Marijuana retailers may not sell marijuana products below their acquisition cost.

(7) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

#### NEW SECTION

**WAC 314-55-081 Who can apply for a marijuana retailer license?**

(1) Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the liquor control board will determine the maximum number of marijuana retail locations per county.

The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated. Once the number of locations per city and at large have been identified, the eligible applicants will be selected by lottery in the event the number of applications exceeds

the allotted amount for the cities and county. Any lottery conducted by the board will be witnessed by an independent third party.

(2) The number of marijuana retail licenses determined by the board can be found on the liquor control board web site at [www.liq.wa.gov](http://www.liq.wa.gov).

(3) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses with no multiple location licensee allowed more than thirty-three percent of the allowed licenses in any county or city.

(4) The board will initially limit the opportunity to apply for a marijuana retailer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana retailer license application to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana retailer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

#### NEW SECTION

**WAC 314-55-082 Insurance requirements.** Marijuana licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the marijuana licensees. Marijuana licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the board that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(1) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(2) Insurance carrier rating: The insurance required in subsection (1) of this section shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) Additional insured. The board shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

NEW SECTION

**WAC 314-55-083 What are the security requirements for a marijuana licensee?** The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a complete video surveillance with minimum camera resolution of 640x470 pixel and must be internet protocol (IP) compatible and recording system for controlled areas within the licensed premises and entire perimeter fencing and gates enclosing an outdoor grow operation, to ensure control of the area. The requirements include image acquisition, video recording, management and monitoring hardware and support systems. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) All controlled access areas, security rooms/areas and all points of ingress/egress to limited access areas, all points of ingress/egress to the exterior of the licensed premises, and all point-of-sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of all entry and exit points.

(b) Camera placement shall allow for the clear and certain identification of any individual on the licensed premises.

(c) All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions. The surveillance system storage device must be secured on-site in a lock box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(d) All perimeter fencing and gates enclosing an outdoor grow operation must have full video surveillance capable of clearly identifying any activities occurring within twenty feet of the exterior of the perimeter. Any gate or other entry point that is part of the enclosure for an outdoor growing operation must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of the exterior, twenty-four hours a day. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.

(e) Areas where marijuana is grown, cured or manufactured including destroying waste, shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities at all times.

(f) All marijuana or marijuana-infused products that are intended to be removed or transported from marijuana producer to marijuana pro-

cessor and/or marijuana processor to marijuana retailer shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the liquor control board or designees.

(g) All camera recordings must be continuously recorded twenty-four hours a day. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the board or law enforcement officer upon request.

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the board. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts and marijuana-infused products must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the board:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana-infused product is to be destroyed;

(d) When usable marijuana or marijuana-infused products are transported;

(e) Any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, or other item containing marijuana;

(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed or a lot or batch of marijuana or marijuana-infused product may be destroyed;

(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before a lot of marijuana is transported from a producer to a processor;

(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before useable marijuana, or marijuana-infused products are transported from a processor to a retailer.

(i) Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happen when a plant is moved from the seed germination or clone area to the vegetation production area;

(j) A complete inventory of all marijuana seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract and marijuana-infused products;

(k) All point of sale records;

- (l) Marijuana excise tax records;
- (m) All samples sent to an independent testing lab and the quality assurance test results;
- (n) All free samples provided to another licensee for purposes of negotiating a sale;
- (o) All samples used for testing for quality by the producer or processor;
- (p) Samples containing usable marijuana provided to retailers;
- (q) Samples provided to the board or their designee for quality assurance compliance checks; and
- (r) Other information specified by the board.

(5) **Start-up inventory for marijuana producers.** Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises. The producer must immediately record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

(6) **Samples.** Free samples of usable marijuana may be provided by producers or processors, or used for product quality testing, as set forth in this section.

(a) Samples are limited to two grams and a producer may not provide any one licensed processor more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The producer must record the amount of each sample and the processor receiving the sample in the traceability system.

(b) Samples are limited to two grams and a processor may not provide any one licensed retailer more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(c) Samples are limited to two units and a processor may not provide any one licensed retailer more than six ounces of marijuana infused in solid form per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(d) Samples are limited to two units and a processor may not provide any one licensed retailer more than twenty-four ounces of marijuana-infused liquid per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(e) Samples are limited to one-half gram and a processor may not provide any one licensed retailer more than one gram of marijuana-infused extract meant for inhalation per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(f) Producers may sample one gram of useable marijuana per strain, per month for quality sampling. Sampling for quality may not take place at a licensed premises. Only the producer or employees of the licensee may sample the useable marijuana for quality. The producer must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(g) Processors may sample one unit, per batch of a new edible marijuana-infused product to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employees of the licensee may sample the edible marijuana-infused product. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(h) Processors may sample up to one quarter gram, per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employee(s) of the licensee may sample the marijuana-infused extract for inhalation. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(i) The limits described in subsection (3) of this section do not apply to the usable marijuana in sample jars that may be provided to retailers described in WAC 314-55-105(8).

(j) Retailers may not provide free samples to customers.

#### NEW SECTION

**WAC 314-55-084 Production of marijuana.** Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of marijuana:

(1) Materials listed or registered by the Washington state department of agriculture (WSDA) or Organic Materials Review Institute (OMRI) as allowable for use in organic production, processing, and handling under the U.S. Department of Agriculture's national organics standards, also called the National Organic Program (NOP), consistent with requirements at 7 C.F.R. Part 205.

(2) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana. Pesticides must be used consistent with the label requirements.

(3) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

(4) Potting soil and other growing media available commercially in the state of Washington may be used in marijuana production. Producers growing outdoors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

#### NEW SECTION

**WAC 314-55-085 What are the transportation requirements for a marijuana licensee?** (1) **Notification of shipment.** Upon transporting any marijuana or marijuana product, a producer, processor or retailer shall notify the board of the type and amount and/or weight of marijuana and/or marijuana products being transported, the name of transporter, times of departure and expected delivery. This information must be reported in the traceability system described in WAC 314-55-083(4).

(2) **Receipt of shipment.** Upon receiving the shipment, the licensee receiving the product shall report the amount and/or weight of marijuana and/or marijuana products received in the traceability system.

(3) **Transportation manifest.** A complete transport manifest containing all information required by the board must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the marijuana licensee or an employee of the licensee may transport product;

(b) Marijuana or marijuana products must be in a sealed package or container approved by the board pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products;

(e) Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other facilities receiving product.

NEW SECTION

**WAC 314-55-086 What are the mandatory signs a marijuana licensee must post on a licensed premises? (1) Notices regarding persons under twenty-one years of age** must be conspicuously posted on the premises as follows:

Type of licensee	Sign must contain the following language:	Required location of sign
Marijuana producer, marijuana processor, and marijuana retailer	"Persons under twenty-one years of age not permitted on these premises."	Conspicuous location at each entry to premises.

The board will provide the required notices, or licensees may design their own notices as long as they are legible and contain the required language.

(2) **Signs provided by the board prohibiting opening a package of marijuana or marijuana-infused product in public or consumption of marijuana or marijuana-infused products in public,** must be posted as follows:

Type of premises	Required location of sign
Marijuana retail	Posted in plain view at the main entrance to the establishment.

(3) **The premises' current and valid master license with appropriate endorsements** must be conspicuously posted on the premises and available for inspection by liquor enforcement officers.

NEW SECTION

**WAC 314-55-087 What are the recordkeeping requirements for marijuana licensees?** (1) Marijuana licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a three-year period and must be made available for inspection if requested by an employee of the liquor control board:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) All employee records, to include training;

(f) Records of each daily application of pesticides applied to the marijuana plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:

(i) Full name of each employee who applied the pesticide;

(ii) The date the pesticide was applied;

(iii) The name of the pesticide or product name listed on the registration label which was applied;

(iv) The concentration and total amount of pesticide per plant; and

(v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.

(g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing marijuana;

(h) Production and processing records, including harvest and curing, weighing, destruction of marijuana, creating batches of marijuana-infused products and packaging into lots and units;

(i) Records of each batch of extracts or infused marijuana products made, including at a minimum, the lots of usable marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

(j) Transportation records as described in WAC 314-55-085;

(k) Inventory records;

(l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing usable marijuana provided to retailers; and

(p) Records of any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, marijuana-infused product, or other item containing marijuana.

(2) If the marijuana licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

#### NEW SECTION

**WAC 314-55-089 What are the tax and reporting requirements for marijuana licensees?** (1) Marijuana licensees must submit monthly report(s) and payments to the board. The required monthly reports must be:

(a) On a form or electronic system designated by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day;

(d) Filed separately for each marijuana license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the board.

A marijuana producer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale to a licensed marijuana processor.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana processor licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale of usable marijuana and marijuana-infused product to a licensed marijuana retailer.

(4) **Marijuana retailer's licensees:** On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana retailer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each retail sale of usable marijuana or marijuana-infused products.

#### NEW SECTION

**WAC 314-55-092 What if a marijuana licensee fails to report or pay, or reports or pays late?** (1) If a marijuana licensee does not submit its monthly reports and payment(s) to the board as required in WAC 314-55-089: The licensee is subject to penalties.

**Penalties:** A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the board to suspend or revoke a marijuana license.

#### NEW SECTION

**WAC 314-55-095 Marijuana servings and transaction limitations.** Marijuana dosage and transaction limitations are as follows:

(1) **Single serving.** A single serving of a marijuana-infused product amounts to ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(2) **Maximum number of servings.** The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana-infused extract for inhalation cannot exceed one gram.

(3) **Transaction limitation.** A single transaction is limited to one ounce of usable marijuana, sixteen ounces of marijuana-infused product in solid form, seven grams of marijuana-infused extract for inhalation, and seventy-two ounces of marijuana-infused product in liquid form for persons twenty-one years of age and older.

NEW SECTION

**WAC 314-55-097 Marijuana waste disposal-Liquids and solids.** (1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it designates as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from marijuana flowers, trim and solid plant material used to create an extract (per WAC 315-55-104).

(ii) Waste solvents used in the marijuana process (per WAC 315-55-104).

(iii) Discarded plant waste, spent solvents and laboratory wastes from any marijuana processing or quality assurance testing.

(iv) Marijuana extract that fails to meet quality testing.

(b) Marijuana wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A marijuana plant, usable marijuana, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) Marijuana waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered unusable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, retail facility, or laboratory. Disposal of the marijuana waste rendered unusable must follow the methods under subsection (6) of this section.

(a) Wastes that must be rendered unusable prior to disposal include, but are not limited to, the following:

(i) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."

(ii) Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

(iii) Solid marijuana sample plant waste possessed by third-party laboratories accredited by the board to test for quality assurance that must be disposed of.

(iv) Other wastes as determined by the LCB.

(b) A producer or processor must provide the board a minimum of seventy-two hours notice in the traceability system described in WAC 314-55-083(4) prior to rendering the product unusable and disposing of it.

(5) The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent

nonmarijuana waste by volume. Other methods to render marijuana waste unusable must be approved by LCB before implementation.

Material used to grind with the marijuana falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

- (i) Food waste;
- (ii) Yard waste;
- (iii) Vegetable based grease or oils; or
- (iv) Other wastes as approved by the LCB.

(b) Noncompostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

- (i) Paper waste;
- (ii) Cardboard waste;
- (iii) Plastic waste;
- (iv) Soil; or
- (v) Other wastes as approved by the LCB.

(6) Marijuana wastes rendered unusable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the marijuana waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

- (i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.
- (ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the marijuana waste rendered unusable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of marijuana waste rendered unusable.

#### NEW SECTION

**WAC 314-55-099 Standardized scales.** (1) Marijuana producer and processor licensees must have at least one scale on the licensed premises for the traceability and inventory of products.

(2) The scales and other measuring devices are subject to chapter 19.94 RCW, and must meet the requirements of the most current version of chapters 16-662 and 16-664 WAC.

(3) Licensees must register scales on a business license application with business license services through the department of revenue as required under chapter 19.94 RCW.

#### NEW SECTION

**WAC 314-55-102 Quality assurance testing.** (1) A person with financial interest in an accredited third-party testing lab may not have

direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests.

(2) As a condition of accreditation, each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director shall meet the following minimum qualifications:

(a) Has earned, from a college or university accredited by a national or regional certifying authority a doctorate in the chemical or biological sciences and a minimum of two years' post-degree laboratory experience; or

(b) Has earned a master's degree in the chemical or biological sciences and has a minimum of four years' of post-degree laboratory experience; or

(c) Has earned a bachelor's degree in the chemical or biological sciences and has a minimum of six years of post-education laboratory experience.

(3) As a condition of accreditation, labs must follow the most current version of the Cannabis Inflorescence and Leaf monograph published by the *American Herbal Pharmacopoeia* or notify the board what alternative scientifically valid testing methodology the lab is following for each quality assurance test. The board may require third-party validation of any monograph or analytical method followed by the lab to ensure the methodology produces scientifically accurate results prior to them using those standards when conducting required quality assurance tests.

(4) As a condition of accreditation, the board may require third-party validation and ongoing monitoring of a lab's basic proficiency to correctly execute the analytical methodologies employed by the lab.

(5) Labs must adopt and follow minimum good lab practices (GLPs), and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the board. The board or authorized third-party organization can conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(6) The general body of required quality assurance tests for marijuana flowers, infused products, and extracts may include moisture content, potency analysis, foreign matter inspection, microbiological screening, pesticide and other chemical residue and metals screening, and residual solvents levels.

(7) Table of required quality assurance tests.

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Flowers to be sold as usable marijuana (see note below)	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening	Up to 7 grams
Flowers to be used to make an extract (nonsolvent) like kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources	None	None
Extract (nonsolvent) like kief, hashish, bubble hash or infused dairy butter, or oils or fats derived from natural sources	1. Potency analysis 2. Foreign matter inspection 3. Microbiological screening	Up to 7 grams
Flowers to be used to make an extract (solvent based), made with a CO <sub>2</sub> extractor, or with a food grade ethanol or glycerin	1. Foreign matter inspection 2. Microbiological screening	Up to 7 grams

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Extract (solvent based) made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity	1. Potency analysis 2. Residual solvent test 3. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with a CO <sub>2</sub> extractor like hash oil	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with food grade ethanol	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with food grade glycerin or propylene glycol	1. Potency analysis	Up to 1 gram
Infused edible	1. Potency analysis 2. Microbiological screening	1 unit
Infused liquid like a soda or tonic	1. Potency analysis 2. Microbiological screening	1 unit
Infused topical	1. Potency analysis	1 unit

(8) Independent testing labs may request additional sample material in excess of amounts listed in the table in subsection (7) of this section for the purposes of completing required quality assurance tests. Labs meeting the board's accreditation requirements may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab.

(9) Labs meeting the board's accreditation requirements are not limited in the amount of useable marijuana and marijuana products they may have on their premises at any given time, but they must have records to prove all marijuana and marijuana-infused products only for the testing purposes described in WAC 314-55-102.

(10) At the discretion of the board, a producer or processor must provide an employee of the board or their designee samples in the amount listed in subsection (7) of this section for random compliance checks. Samples may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other quality assurance tests deemed necessary by the board. All costs of this testing will be borne by the producer or processor.

(11) No lot of usable flower or batch of marijuana-infused product may be sold or transported until the completion of all required quality assurance testing.

(12) Any useable marijuana or marijuana-infused product that passed the required quality assurance tests may be labeled as "Class A." Only "Class A" useable marijuana or marijuana-infused product will be allowed to be sold.

(13) If a lot of marijuana flowers fail a quality assurance test, any marijuana plant trim, leaf and other usable material from the same plants automatically fails quality assurance testing also. Upon approval of the board, a lot that fails a quality assurance test may be used to make a CO<sub>2</sub> or solvent based extract. After processing, the CO<sub>2</sub> or solvent based extract must still pass all required quality assurance tests in WAC 314-55-102.

(14) At the request of the producer or processor, the board may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor.

NEW SECTION

**WAC 314-55-104 Marijuana processor license extraction requirements.** (1) Processors are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the board. These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in a spark free environment with proper ventilation, and follow all applicable local fire, safety and building codes in processing and the storage of the solvents.

(3) Processors may use a professional grade closed loop CO<sub>2</sub> gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch and follow all applicable local fire, safety and building codes in processing and the storage of the solvents. The CO<sub>2</sub> must be of at least ninety-nine percent purity.

(4) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(5) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts.

(6) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(7) Parts per million for one gram of finished extract cannot exceed 500 parts per million or residual solvent or gas when quality assurance tested per RCW 69.50.348.

NEW SECTION

**WAC 314-55-105 Packaging and labeling requirements.** (1) All usable marijuana and marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(2) Any container or packaging containing usable marijuana or marijuana products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana or marijuana product.

(3) Upon the request of a retail customer, a retailer must disclose the name of the accredited third-party testing lab and results of the required quality assurance test for any usable marijuana or other marijuana product the customer is considering purchasing.

(4) usable marijuana and marijuana products may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(5) The accredited third-party testing lab and required results of the quality assurance test must be included with each lot and disclosed to the customer buying the lot.

(6) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:

- (a) Lot number;
- (b) UBI number of the producer; and
- (c) Weight of the product.

(7) Marijuana-infused products meant to be eaten, swallowed, or inhaled, must be packaged in child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act or use standards specified in this subsection. Marijuana-infused product in solid or liquid form may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamper-proof measure. Marijuana-infused product in liquid form may also be sealed using a metal crown cork style bottle cap.

(8) A processor may provide a retailer free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of usable marijuana. The sample jar and the usable marijuana within may not be sold to a customer and must be either returned to the licensed processor who provide the usable marijuana and sample jar or destroyed by the retailer after use in the manner described in WAC 314-55-097 and noted in the traceability system.

(9) A producer or processor may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the usable marijuana.

(10) Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.

**(11) All usable marijuana when sold at retail must include accompanying material that contains the following warnings that state:**

- (a) "Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health";
- (b) "There may be health risks associated with consumption of this product";
- (c) "Should not be used by women that are pregnant or breast feeding";
- (d) "For use only by adults twenty-one and older. Keep out of reach of children";
- (e) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";
- (f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.

**(12) All marijuana-infused products sold at retail must include accompanying material that contains the following warnings that state:**

- (a) "There may be health risks associated with consumption of this product";
- (b) "This product is infused with marijuana or active compounds of marijuana";
- (c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours";

(g) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to the infused product; and

(h) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.

**(13) Labels affixed to the container or package containing usable marijuana sold at retail must include:**

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot number;

(c) Concentration of THC, THCA, CBD, including a total of active cannabinoids (potency profile);

(d) Net weight in ounces and grams or volume as appropriate;

(e) Warnings that state: "This product has intoxicating effects and may be habit forming";

(f) Statement that "This product may be unlawful outside of Washington state";

(g) Date of harvest.

(h) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.

**(14) Sample label mock up for a container or package containing usable marijuana sold at retail with required information:**

UBI: 1234567890010001	Lot#: 1423
Date of Harvest: 4-14	
<i>The Best Resins</i>	
<i>Blueberry haze</i>	
16.7 % THC 1.5% CBD	
Warning – This product has intoxicating effect and may be habit forming	
<b><u>THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE</u></b>	
Net weight: 7 grams	

**(15) Labels affixed to the container or package containing marijuana-infused products sold at retail must include:**

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

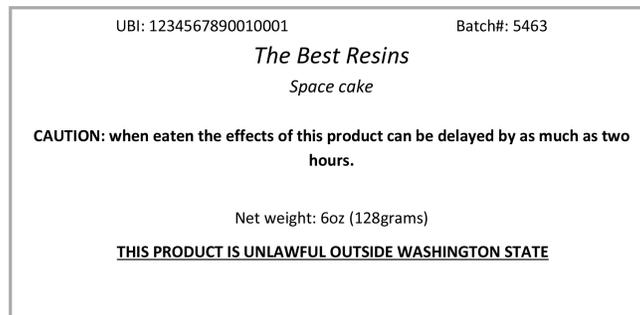
(b) Lot numbers of all base marijuana used to create the extract;

(c) Batch number;

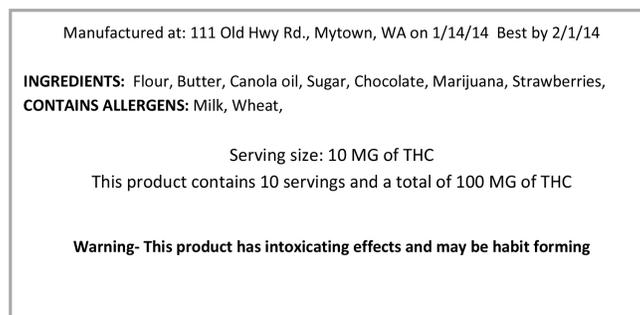
(d) Date manufactured;

- (e) Best by date;
  - (f) Recommended serving size and the number of servings contained within the unit, including total milligrams of active tetrahydrocannabinol (THC), or Delta 9;
  - (g) Net weight in ounces and grams, or volume as appropriate;
  - (h) List of all ingredients and any allergens;
  - (i) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours."
  - (j) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;
  - (k) Warnings that state: "This product has intoxicating effects and may be habit forming";
  - (l) Statement that "This product may be unlawful outside of Washington state";
  - (m) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.
- (16) Sample label mock up (front and back) for a container or package containing marijuana-infused products sold at retail with required information:**

(Front of label)



(Back of label)



NEW SECTION

**WAC 314-55-120 Ownership changes.** (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the qualifying persons in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the qualifying persons for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the qualifying persons in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75

(2) The board may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

NEW SECTION

**WAC 314-55-125 Change of location.** (1) Changing your marijuana license to a new location requires an application, per the process outlined in WAC 314-55-020.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

NEW SECTION

**WAC 314-55-130 Change of business name.** (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of revenue, business license service.

(2) If you wish to change your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See chapter 434-12 WAC for guidelines for trade names.

NEW SECTION

**WAC 314-55-135 Discontinue marijuana sales.** You must notify the board's enforcement and education division in writing if you plan to stop doing business for more than thirty days, or if you plan to permanently discontinue marijuana sales.

NEW SECTION

**WAC 314-55-140 Death or incapacity of a marijuana licensee.** (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

NEW SECTION

**WAC 314-55-145 Are marijuana license fees refundable?** When a license is suspended or canceled, or the licensed business is discontinued, the unused portion of the marijuana license fee will not be refunded.

NEW SECTION

**WAC 314-55-147 What hours may a marijuana retailer licensee conduct sales?** A marijuana retailer licensee may sell usable marijuana, marijuana-infused products, and marijuana paraphernalia between the hours of 8 a.m. and 12 a.m.

NEW SECTION

**WAC 314-55-150 What are the forms of acceptable identification?**

(1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of purchasing marijuana:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the Dis-

trict of Columbia, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) The identification document is not acceptable to verify age if expired.

#### NEW SECTION

##### **WAC 314-55-155 Advertising. (1) Advertising by retail licensees.**

The board limits each retail licensed premises to one sign identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to sixteen hundred square inches.

(2) **General.** All marijuana advertising and labels of useable marijuana and marijuana-infused products sold in the state of Washington may not contain any statement, or illustration that:

(a) Is false or misleading;

(b) Promotes over consumption;

(c) Represents the use of marijuana has curative or therapeutic effects;

(d) Depicts a child or other person under legal age to consume marijuana, or includes:

(i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or

(ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(3) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, usable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(4) Giveaways, coupons, and distribution of branded merchandise are banned.

(5) All advertising must contain the following warnings:

- (a) "This product has intoxicating effects and may be habit forming.";
- (b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";
- (c) "There may be health risks associated with consumption of this product."; and
- (d) "For use only by adults twenty-one and older. Keep out of the reach of children."

NEW SECTION

**WAC 314-55-160 Objections to marijuana license applications. (1) How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a marijuana license?** Per RCW 69.50.331, the board will notify cities, counties, tribal governments, and port authorities of the following types of marijuana applications. In addition to these entities, any person or group may comment in writing to the board regarding an application.

<b>Type of application</b>	<b>Entities the board will/may notify</b>
<ul style="list-style-type: none"> <li>• Applications for an annual marijuana license at a new location.</li> </ul>	<ul style="list-style-type: none"> <li>• Cities and counties in which the premises is located will be notified.  Tribal governments and port authorities in which the premises is located may be notified.</li> </ul>
<ul style="list-style-type: none"> <li>• Applications to change the class of an existing annual marijuana license.</li> </ul>	
<ul style="list-style-type: none"> <li>• Changes of ownership at existing licensed premises.</li> </ul>	<ul style="list-style-type: none"> <li>• Cities and counties in which the premises is located will be notified.  Tribal governments and port authorities in which the premises is located may be notified.</li> </ul>

(2) **What will happen if a person or entity objects to a marijuana license application?** When deciding whether to issue or deny a marijuana license application, the board will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the board shall not issue a new marijuana license if any of the following are within one thousand feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public

parks, public transit centers, libraries, game arcade where admission is not restricted to persons twenty-one years of age or older.

(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a marijuana license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the board for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within twenty days of the date the intent to deny notification was mailed.

#### NEW SECTION

**WAC 314-55-165 Objections to marijuana license renewals. (1) How can local cities, counties, tribal governments, or port authorities object to the renewal of a marijuana license?**

(a) The board will give governmental jurisdictions approximately ninety days written notice of premises that hold annual marijuana licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a marijuana license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the board for an extension for good cause shown.

(d) This letter must be received by the board at least thirty days before the marijuana license expires. The objection must state specific reasons and facts that show issuance of the marijuana license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

**(2) What will happen if a city, county, tribal government, or port authority objects to the renewal of a marijuana license?** The board will give substantial weight to a city, county, tribal govern-

ment, or port authority objection to a marijuana license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the board will decide to either renew the marijuana license, or to pursue nonrenewal.

<b>(a) Board decides to renew the marijuana license:</b>	<b>(b) Board decides to pursue nonrenewal of the marijuana license:</b>
<p>(i) The board will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p> <p>(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to renew notification was mailed. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p> <p>(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to deny notification was mailed.</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.</p> <p>(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the marijuana license until a final decision is made.</p>

NEW SECTION

**WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a liquor control board statute or regulation?**

(1) When an enforcement officer believes that a licensee has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent, or employee.

(2) The AVN notice will include:

- (a) A complete narrative description of the violation(s) the officer is charging;
- (b) The date(s) of the violation(s);
- (c) A copy of the law(s) and/or regulation(s) allegedly violated;
- (d) An outline of the licensee's options as outlined in WAC 314-55-510; and
- (e) The recommended penalty.

(i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.

(ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty.

#### NEW SECTION

**WAC 314-55-506 What is the process once the board summarily suspends a marijuana license?** (1) The board may summarily suspend any license after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.

(3) When a license has been summarily suspended by the board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the board.

#### NEW SECTION

**WAC 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license?** (1) Upon summary suspension of a license by the board pursuant to WAC 314-55-506, an affected licensee may petition the board for a stay of suspension pursuant to RCW 34.05.467 and 34.05.550(1). A petition for a stay of suspension must be received by the board within fifteen days of service of the summary suspension order. The petition for stay shall state the basis on which the stay is sought.

(2) A hearing shall be held before an administrative law judge within fourteen days of receipt of a timely petition for stay. The hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified to allow the conduct of limited activities under current licenses or permits.

(3) Any hearing conducted pursuant to subsection (2) of this section shall be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing shall consist of the documentary information upon which the summary suspension was based. The licensee or permit holder shall have the burden of demonstrating by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay shall be effective immediately upon service unless another date is specified in the order.

#### NEW SECTION

**WAC 314-55-508 Review of orders on stay.** (1) The licensee, or agency, may petition the board for review of an initial order on stay. Any petition for review must be in writing and received by the board within ten days of service of the initial order. If neither party has requested review within ten days of service, the initial order shall be deemed the final order of the board for purposes of RCW 34.05.467.

(2) If the board receives a timely petition for review, the board shall consider the petition within fifteen days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the board on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

#### NEW SECTION

**WAC 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation?** (1) **A licensee has twenty days from receipt of the notice to:**

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

**(2) What happens if a licensee does not respond to the administrative violation notice within twenty days?**

(a) If a licensee does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect.

(b) If the penalty does not include a suspension, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

**(3) What are the procedures when a licensee requests a settlement conference?**

(a) If the licensee requests a settlement conference, the hearing examiner or designee will contact the licensee to discuss the violation.

(b) Both the licensee and the hearing examiner or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or designee will prepare a compromise settlement agreement. The hearing examiner or designee will forward the compromise settlement agreement, authorized by both parties, to the board, or designee, for approval.

(i) If the board, or designee, approves the compromise, a copy of the signed settlement agreement will be sent to the licensee and will become part of the licensing history.

(ii) If the board, or designee, does not approve the compromise, the licensee will be notified of the decision. The licensee will be given the option to renegotiate with the hearing examiner or designee, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee and the hearing examiner or designee cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or designee will forward a request for an administrative hearing to the board's hearings coordinator.

#### NEW SECTION

**WAC 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule?** (1) The purpose of WAC 314-55-515 through 314-55-540 is to outline what penalty a marijuana licensee can expect if a licensee or employee violates a liquor control board law or rule. (WAC rules listed in the categories provide reference areas, and may not be all inclusive.)

(2) Penalties for violations by marijuana licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-55-520.

(b) Group Two—Regulatory violations, WAC 314-55-525.

(c) Group Three—License violations, WAC 314-55-530.

(d) Group Four—Producer violations involving the manufacture, supply, and/or distribution of marijuana by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-55-535.

(3) For the purposes of chapter 314-55 WAC, a three-year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the board may offer a monetary option in lieu of suspension, or alternate penalty, during a settlement conference as outlined in WAC 314-55-510(3).

(a) Mitigating circumstances	(b) Aggravating circumstances
<p>Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Having a signed acknowledgment of the business' responsible handling and sales policies on file for each employee;</li> <li>• Having an employee training plan that includes annual training on marijuana laws.</li> </ul>	<p>Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of marijuana license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor control board officer, or when people have sustained injuries.</li> </ul>

NEW SECTION

**WAC 314-55-520 Group 1 violations against public safety.** Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4).

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<b>Violations involving minors:</b>	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
<b>Sale or service to minor:</b> Sale of marijuana and/or paraphernalia to a person under twenty-one years of age WAC 314-55-079	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
<b>Allowing a minor to frequent</b> a restricted area. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	
<b>Employee under legal age.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
<b>Licensee and/or employee open and/or consuming marijuana on a retail licensed premises.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

<b>Violation Type</b>	<b>1st Violation</b>	<b>2nd Violation in a three-year window</b>	<b>3rd Violation in a three-year window</b>	<b>4th Violation in a three-year window</b>
<b>Conduct violations:</b> <b>Criminal conduct:</b> Permitting or engaging in criminal conduct.	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized pesticides, soil amendments, fertilizers, other crop production aids. WAC 314-55-020(8) WAC 314-55-083(4) WAC 314-55-087 (1)(f)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Adulterate usable marijuana with organic or nonorganic chemical or other compound WAC 314-55-105(8)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized solvents or gases in processing WAC 314-55-104	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
<b>Refusal</b> to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. WAC 314-55-050	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
<b>Marijuana purchased from an unauthorized source.</b> <b>Marijuana sold to an unauthorized source.</b> <b>Sales in excess of transaction limitations.</b> WAC 314-55-095(3)	Cancellation of license  Cancellation of license  Cancellation of license			

NEW SECTION

**WAC 314-55-525 Group 2 regulatory violations.** Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses.

<b>Violation Type</b>	<b>1st Violation</b>	<b>2nd Violation in a three-year window</b>	<b>3rd Violation in a three-year window</b>	<b>4th Violation in a three-year window</b>
<b>Hours of service:</b> Sales of marijuana between 12:00 a.m. and 8:00 a.m.	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Advertising:</b> Violations (statements/illustrations). WAC 314-55-155(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Advertising violations</b> – Sign exceeding 1600 square inches; within 1000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. RCW 69.50.357 RCW 69.50.369	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
<b>Packaging and/or labeling violations (processor/retailer).</b> WAC 314-55-105	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

<b>Violation Type</b>	<b>1st Violation</b>	<b>2nd Violation in a three-year window</b>	<b>3rd Violation in a three-year window</b>	<b>4th Violation in a three-year window</b>
<b>Licensee/employee failing to display required security badge.</b> WAC 314-55-083(1)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure to maintain required security alarm and surveillance systems.</b> WAC 314-55-083 (2) and (3)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Records:</b> Improper recordkeeping. WAC 314-55-087 WAC 314-55-089 (3), (4), and (5)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure to submit monthly tax reports and/or payments.</b> WAC 314-55-089 WAC 314-55-092	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Signs:</b> Failure to post required signs. WAC 314-55-086	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure to utilize and/or maintain traceability (processor or retail licensee).</b> WAC 314-55-083(4)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Violation of transportation requirements.</b> WAC 314-55-085	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Exceeding maximum serving requirements for marijuana-infused products.</b> WAC 314-55-095(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure for a processor to meet marijuana waste disposal requirements.</b> WAC 314-55-097	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure to maintain standardized scale requirements (processor/retailer).</b> WAC 314-55-099	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Marijuana processor extraction requirements.</b> WAC 314-55-104	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Retail outlet selling unauthorized products.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
<b>Retailer displaying products in a manner visible to the general public from a public right of way.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

NEW SECTION

**WAC 314-55-530 Group 3 license violations.** Group 3 violations are violations involving licensing requirements, license classification, and special restrictions.

<b>Violation Type</b>	<b>1st Violation</b>	<b>2nd Violation in a three-year window</b>	<b>3rd Violation in a three-year window</b>	<b>4th Violation in a three-year window</b>
<b>True party of interest violation.</b> WAC 314-55-035	Cancellation of license			
<b>Failure to furnish required documents.</b> WAC 314-55-050	Cancellation of license			
<b>Misrepresentation of fact.</b> WAC 314-55-050	Cancellation of license			
<b>Operating plan:</b> Violations of a board-approved operating plan. WAC 314-55-020	5-day suspension or \$500 monetary option	10-day suspension or \$1,500 monetary option	30-day suspension	Cancellation of license
<b>Failing to gain board approval for changes in existing ownership.</b> WAC 314-55-120	30-day suspension	Cancellation of license		
<b>Failure to maintain required insurance.</b> WAC 314-55-080	30-day suspension	Cancellation of license		

NEW SECTION

**WAC 314-55-535 Group 4 marijuana producer violations.** Group 4 violations are violations involving the manufacture, supply, and/or distribution of marijuana by marijuana producer licensees and prohibited practices between a marijuana producer licensee and a marijuana retailer licensee.

<b>Violation Type</b>	<b>1st Violation</b>	<b>2nd Violation in a three-year window</b>	<b>3rd Violation in a three-year window</b>	<b>4th Violation in a three-year window</b>
<b>Unauthorized sale to a retail licensee.</b> WAC 314-55-075	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Failure to utilize and/or maintain traceability.</b> WAC 314-55-083(4)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Packaging and/or labeling violations (producer).</b> WAC 314-55-105	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Unauthorized product/unapproved storage or delivery.</b>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Failure for a producer to meet marijuana waste disposal requirements.</b> WAC 314-55-097	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license

<b>Violation Type</b>	<b>1st Violation</b>	<b>2nd Violation in a three-year window</b>	<b>3rd Violation in a three-year window</b>	<b>4th Violation in a three-year window</b>
<b>Records: Improper recordkeeping.</b> WAC 314-55-087 WAC 314-55-089 (2) and (4) WAC 314-55-092	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Violation of transportation requirements.</b> WAC 314-55-085	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Failure to maintain required security alarm and surveillance systems.</b> WAC 314-55-083 (2) and (3)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Failure to maintain standardized scale requirements (producer).</b> WAC 314-55-099	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Violation.</b>				

NEW SECTION

**WAC 314-55-540 Information about marijuana license suspensions.**

(1) On the date a marijuana license suspension goes into effect, a liquor control officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a board law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable marijuana laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

(3) During the period of marijuana license suspension:

(a) A marijuana retailer or marijuana processor licensee may not operate his/her business during the dates and times of suspension.

(b) There is no sale, delivery, service, destruction, removal, or receipt of marijuana during a license suspension.

(c) A producer of marijuana may do whatever is necessary as a part of the producing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsalable during a suspension, provided it does not include processing the product. The producer may not receive any agricultural products used in the production of marijuana during the period of suspension.





## U.S. Department of Justice

## Office of the Deputy Attorney General

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.<sup>1</sup>

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

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<sup>1</sup> 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

1357-ORD  
10/21/13

**Option B-1**

## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6133 B-1

AN ORDINANCE of the City of Bellevue, Washington, adopting interim official zoning controls regarding recreational marijuana producers, processors and retailers for a period of six months, to be in effect while the City drafts, considers, holds hearings and adopts permanent zoning regulations, to be effective immediately upon adoption, scheduling a hearing on the maintenance of the interim zoning ordinance and declaring an emergency.

WHEREAS, Washington votes 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, the LCB re-filed its proposed rules regulating recreational marijuana uses on September 4, 2013, and accepted the proposed rules on October 16; and

WHEREAS, the LCB rules become effective on November 16, 2013, and the LCB will begin accepting license applications for recreational marijuana beginning November 18, 2013. Applicants will be required to identify a business location with their application submittals; and

WHEREAS, the LCB allocated four recreational marijuana retail licenses for the City of Bellevue, and there are no limits on the number of recreational marijuana producer and processor licenses to be issued; and

WHEREAS, the City of Bellevue Land Use Code (LUC) prohibits all recreational marijuana producers, processors, and retailers as uses in the City of Bellevue;

WHEREAS, the City Council deems it to be in the public interest to establish interim regulations advising the public where recreational marijuana producers, processors, and retail uses may be located in the City of Bellevue before the application deadline established by the LCB for state licensing for such uses; and

WHEREAS, the establishment or licensing of recreational marijuana uses may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony; and

**Option B-1**

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 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, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance; and

WHEREAS, establishment of interim regulations of six months in duration for establishment of recreational marijuana producers, processors, and retailers will prevent substantial change until the land areas and the text of development standards applicable to recreational marijuana uses is reviewed, and any needed revisions are made to city codes; and

WHEREAS, the potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; now therefore,

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

Section 1. Interim Regulation Adopted. Recreational marijuana producers, processors, and retailers shall comply with the following provisions:

- A. Definitions. For the purposes of this interim regulation only, the definitions provided below and the definitions codified at WAC 314-55-010, now provided or as hereafter amended, shall apply to the provisions of this ordinance.
1. "Director" means the Director of the City of Bellevue's Development Services Department or his 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 plant, its seeds or resin. The term does not include the mature stalks of

## Option B-1

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. "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.
8. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

B. Chapter 314-55 WAC, now or as hereafter amended, shall apply in addition to the provisions of this ordinance.

C. 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;

## Option B-1

- g. Libraries;
  - h. Any game arcade or
  - i. Any medical cannabis collective garden.
2. No marijuana producer, processor, or retailer shall be allowed in single family and multi-family land use districts (R-1 – R-30).
  3. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.
  4. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.
- D. Marijuana Retail Outlets. For the purposes of this interim ordinance, marijuana retail outlets are considered within the land use classification of "Miscellaneous Retail Trade," and shall comply with all corresponding notes in the use charts for the underlying land use district where the retail outlet is located. Retail outlets shall also comply with the applicable requirements of Chapter 20.25 LUC, Special and Overlay Districts. 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. Retail outlets may only be located in following land use districts:
1. General Commercial (GC);
  2. Community Business (CB);
  3. Factory Land Use District 1 (F1);
  4. Downtown Office District (DNTN O-1);
  5. Downtown Office District (DNTN O-2)
  6. Downtown Mixed Use District (DNTN-MU);
  7. Downtown Old Bellevue Business District (DNTN-OB);
  8. Downtown Office and Limited Business District (DNTN-OLB)
  9. Bel-Red Office Residential and Nodes (BR-OR/OR1/OR2)
  10. Bel-Red Residential Commercial and Nodes (BR-RC-1, RC-2, RC-3);
  11. Bel-Red General Commercial (BR-GC);
  12. Bel-Red Commercial Residential (BR-CR);
  13. Bel-Red Office Residential Transition (BR-ORT).
- E. 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 City of Bellevue Sign Code, Chapter 22B BCC.
- F. Marijuana Producers and Processors. For the purposes of this interim ordinance, marijuana producers are considered within the land use

## Option B-1

classification "Agricultural Production of Food and Fiber Crops," and marijuana processors are considered within the land use classification "Agricultural production." Marijuana processors and producers shall comply with all corresponding notes in the use charts for the Light Industrial land use district. Marijuana producers and processors shall also comply with the applicable requirements of Chapter 20.25 LUC, Special and Overlay Districts. 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 orders when delivering or transferring marijuana, useable marijuana, and marijuana-infused products.
- G. 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 refrigerator or freezer container in a manner approved by the Director, provided the container is affixed to the building structure.

Section 3. Duration and Scope of Interim Regulations. The interim regulations imposed by this ordinance shall become effective on the date herein, and shall continue in effect for an initial period of sixty (60) days, unless repealed, extended, or modified by the City Council after subsequent public hearings and the entry of additional findings of fact pursuant to RCW 35A.63.220.

Section 4. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this ordinance within sixty (60) days of its adoption, or no later than December 20, 2013, so as to hear and consider public comment and testimony regarding this ordinance. Following such hearing, the City Council may adopt additional findings of fact, and may extend the interim regulations for a period of up to six (6) months. If a period of more than six months is required to complete consideration of any changes to city codes, the Council may adopt additional extensions after any required public hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

**Option B-1**

Section 5. Permanent Regulations. The City Council hereby directs the staff to develop for its review and adoption permanent regulations to adopt the interim regulations adopted herein, and to transmit this ordinance to the Washington State Department of Commerce as required by law.

Section 6. 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 7. Public Emergency. The City Council hereby finds and declares that a public emergency exists and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should, therefore, take effect upon adoption. The facts upon which this public emergency is based include all recitals set out in this ordinance as well as those facts contained in the legislative record.

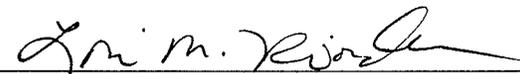
Section 8. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption by a majority plus one of the City Council.

Passed by the City Council this 21<sup>st</sup> day of October, 2013 and signed in authentication of its passage this 21<sup>st</sup> day of October, 2013.

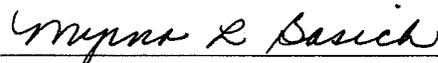
(SEAL)

  
\_\_\_\_\_  
Conrad Lee, Mayor

Approved as to form: ..

  
\_\_\_\_\_  
Lori M. Riordan, City Attorney

Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published October 24, 2013,

**DRAFT Proposed Project Principles for the  
Regulation of Recreational Marijuana Producers, Processors, and Retailers  
For Consideration by the Bellevue City Council**

**December 2, 2013**

1. Bellevue Appropriate. Bellevue will establish appropriate land use zones for recreational marijuana producers, processors, and retailers (“recreational marijuana uses”). To the extent permitted, Bellevue will establish performance standards consistent with applicable provisions of Chapter 69.50 RCW and Chapter 314-55 WAC, now or as hereafter amended, that ensure these business represent the community values and goals set forth in the City’s Comprehensive Plan.
2. Neighborhood Character is Protected. Recreational marijuana uses shall not be located in residential land use districts. Recreational marijuana uses shall be separated by 1,000 feet from elementary or secondary schools (public or private), playgrounds, recreation center or facility; child care center; public park; public transit center; library; and game arcade where admission is not restricted to persons age twenty-one or older, or a medical cannabis collective garden. Recreational marijuana use shall use appropriate ventilation to ensure abutting uses or properties are not impacted by odor.
3. Security Measures are Required. Recreational marijuana uses must have sufficient security measures to protect the public. Recreational marijuana uses must conform to state requirements for security and secure usable marijuana consistent with state pharmacy requirements for securing controlled substances.
4. Regulations are Specific and Understandable. The permanent regulations should be specific about the requirements to locate and operate recreational marijuana uses so that qualified licensees understand what is expected under the regulation.
5. Administration and Enforcement is Straightforward. Ensure regulations are capable of being administered and enforced. Development Services and the Bellevue police department should collaborate in matters of approval of license applications and renewals and where appropriate, enforcement.
6. The Outcome is in Conformance with Applicable Law. The establishment and operation of recreational marijuana uses must conform with, and not frustrate, the purpose of state law. Recreational marijuana uses must conform to the applicable requirements of Chapter 69.50 RCW and Chapter 314-55 WAC, now or as hereafter amended.

7. Processing of the Amendment is Inclusive. The code amendment process for recreational marijuana uses should seek and include input from a wide range of stakeholders.

1380-ORD  
04/08/14

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6156

AN ORDINANCE extending Ordinance No. 6133 B-1, adopting interim official zoning controls regarding the regulation of recreational marijuana producers, processors and retailers for a period of six months, to be in effect while the City drafts, considers, holds hearings and adopts permanent zoning regulations; providing for severability; and establishing an effective date.

WHEREAS, on November 6, 2012, Washington votes approved Initiative 502 (I-502), which in relevant part, 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, the LCB re-filed its proposed rules regulating recreational marijuana uses on September 4, 2013, and accepted the proposed rules on October 16; and

WHEREAS, the LCB rules became effective on November 16, 2013, and the LCB began accepting license applications for recreational marijuana uses on November 18, 2013; and

WHEREAS, the LCB allocated four recreational marijuana retail licenses for the City of Bellevue, and there are no limits on the number of recreational marijuana producer and processor licenses to be issued; and

WHEREAS, the City of Bellevue Land Use Code (LUC) prohibits all recreational marijuana producers, processors, and retailers as uses in the City of Bellevue;

WHEREAS, the City Council deems it to be in the public interest to establish interim regulations advising the public where recreational marijuana producers, processors, and retail uses may be located in the City of Bellevue before the application deadline established by the LCB for state licensing for such uses; and

WHEREAS, on October 21, 2013, in response to the licensing schedule published by the Washington State Liquor Control Board, the City Council adopted Ordinance No. 6133 B-1 implementing an emergency interim zoning ordinance regulating the location of recreational marijuana uses and imposing performance criteria intended to mitigate negative impacts arising from operation of recreational marijuana uses; and

WHEREAS, under the Growth Management Act (GMA), the City was required to hold a public hearing within 60 days of adopting Ordinance No. 6133 B-1, which public hearing was held on December 2, 2013, to receive public comment and extend Ordinance No. 6133 B-1 for a six-month period; and

WHEREAS, Ordinance No. 6133 B-1 will, by its own terms, expire on April 21, 2014, unless the City Council extends the ordinance as allowed by law; and

WHEREAS, on January 13, 2014 the Washington State Legislature convened and is considering several bills related to regulating recreational marijuana and reconciling medical cannabis with the recreational marijuana regulatory structure; and

WHEREAS, on January 14, 2014, the Washington State Attorney General issued its opinion (AGO No. 2014) that I-502 does not preempt counties, cities, and towns from banning recreational marijuana within their jurisdictions and 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 the properly exercise the local jurisdiction's police power; and

WHEREAS, the establishment or licensing of recreational marijuana uses may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony; 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 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, the extension of interim regulations of six months in duration for establishment of recreational marijuana producers, processors, and retailers will prevent substantial change until the land areas and the text of development standards applicable to recreational marijuana uses is reviewed, and any needed revisions are made to city codes; and

WHEREAS, the City has a compelling interest in the protection of the health and safety of all its residents, as well as a compelling interest in ensuring that the goals and policies contained within the Comprehensive Plan and other policy/planning documents are fulfilled; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorizes cities to adopt interim zoning ordinances provided the City Council holds a public hearing on the interim zoning ordinance within 60 days of the commencement of the ordinance; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 further authorizes Washington cities to extend interim zoning ordinances for additional periods of up to six months following a public hearing and adoption of findings of fact; and

WHEREAS, pursuant to BCC 22.02.050 and WAC 197-11-800(19), the adoption of this ordinance is exempt from environmental review under the State Environmental Policy Act; now, therefore,

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

Section 1. Extension of Interim Zoning Ordinance. Ordinance No. 6133 B-1 is hereby extended for an additional six-month period, unless repealed, extended or modified by the City Council after subsequent public hearing and the entry of additional findings of fact pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 2. Section 1.C of Ordinance 6133 B-1 shall be amended as follows:

C. 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.

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 allowed in single family and multi-family land use districts (R-1 – R-30).
4. No marijuana retailer is allowed as a subordinate or accessory use in any land use district.
5. Marijuana shall be grown in a structure. Outdoor cultivation is prohibited.

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. Findings of Fact. The findings contained in this ordinance are hereby adopted as findings of facts to justify extending Ordinance No. 6133 B-1 imposing the interim zoning ordinance.

Section 5. Effective Date. This ordinance shall take effect and be in force on April 21, 2014.

Passed by the City Council this 17<sup>th</sup> day of March, 2014  
and signed in authentication of its passage this 14<sup>th</sup> day of April,  
2014.

(SEAL)

  
Claudia Balducci, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

  
Lacey Hatch, Assistant City Attorney

Attest:

  
Myrna L. Basich, City Clerk

Published \_\_\_\_\_



# MEMORANDUM

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DATE: May 28, 2014

TO: Chair Tebelius and Members of the Planning Commission

FROM: Carol Helland, Land Use Director 452-2724  
Mike Bergstrom, Principal Planner 452-2970  
*Development Services Department*

SUBJECT: Residential Room Rentals – Study Session on Permanent Regulations

## Introduction

At the April 23, 2014 Planning Commission meeting, the Commission, assisted by a guest panel of stakeholders, discussed possible ways to control or avoid impacts stemming from the rental of rooms in private homes to multiple unrelated individuals. Several members of the public, many from the Spiritwood neighborhood, also contributed ideas for consideration. Staff has taken several of those ideas and incorporated them into a draft ordinance for Commission consideration and discussion at your May 28 meeting (Attachment A). In addition to input from the April 23 study session, the draft ordinance was informed by the Council-approved principles to guide the development of these regulations (Attachment B).

As the Commission is aware, Council hopes to have permanent regulations in place before the interim regulations expire on September 23. Therefore, it is hoped that at the conclusion of the May 28 study session the Commission will be prepared to provide staff with adequate direction to return on July 9 with a revised draft ordinance for a public hearing. Because this code amendment will apply city-wide, a courtesy hearing on the next draft of the ordinance would be held with the East Bellevue Community Council on July 1.

## Interim Regulations

Ordinance No. 6128 (Attachment C), intended to serve as the starting point for the permanent regulations, contains the following features:

- It lowers the number of unrelated people who can live together from 6 to 4;
- It clarifies what constitutes “related persons” (in the definition of “family”);
- It allows more than 4 unrelated people to live together if they can demonstrate that they operate in a manner “functionally equivalent” to a family;
- It clarifies the definition of “boarding/rooming houses and bed and breakfasts”; and
- It provides for amortization of uses/leases that do not conform to the interim regulations.

The attached draft ordinance builds upon Ordinance No. 6128, but reflects several differences discussed below. The intent is to create a narrowly-tailored set of regulations to respond to this issue, consistent with the Council-approved principles.

## Draft Permanent Regulations

The draft regulations are designed to strike a balance between the need to reasonably accommodate demand for rental housing with the desire to control impacts of some rental activities on the character of existing single-family neighborhoods. Key provisions of the draft ordinance are:

- Like the interim regulations, it defines “Family” as any number of related adults, or a group of not more than 4 unrelated adults;
- It clarifies that, under the definition of Family, related persons count as 1 toward the 4 unrelated person limit in situations where related persons and unrelated persons live together;
- It creates a new use – “High Occupancy Dwelling” - for dwellings that are rented to 5 or more unrelated individuals;
- Unlike the interim regulations, it does not use the concept of “functionally equivalent” in the definition of Family; that concept would no longer be needed with the introduction of an Administrative Conditional Use (ACU) requirement for High Occupancy Dwelling;
- It establishes High Occupancy Dwelling as an Administrative Conditional Use (ACU) only in single-family dwellings and only in the following land use districts: R-1 through R-30, BR-OR/OR-1, BR-R, BR-CR, BR-ORT, and EH-A (districts in which a single-family dwelling is permitted);
- It establishes approval criteria for High Occupancy Dwelling in addition to the general ACU approval criteria contained in LUC 20.30E.140, addressing such issues as property maintenance, parking, refuse collection, noise and nuisance laws, health and safety code compliance, and all other applicable City and State laws;
- It requires all renters in the High Occupancy Dwelling to be subject to a single lease;
- It requires that a contact person/responsible party reside on the premises (either the owner or one of the renters); and
- It clarifies the definitions of “Bed and Breakfast” and “Boarding/Rooming House” to exclude High Occupancy Dwelling.

Other features considered, but not included in the draft ordinance, include the following:

Residential registration program. The establishment of a residential registration program is outside of the direction provided by Council, although the Commission could recommend that Council consider such a program in addition to any ordinance recommended by the Commission. If the proposed ACU approach to High Occupancy Dwellings is adopted, it will accomplish much the same as a registration program without the need to create new regulatory infrastructure.

Residential parking zones. Establishing Residential Parking Zones (RPZs) is not within the purview of the Commission, but the Commission could recommend one or more be established if the Commission feels this is an effective measure. However, RPZs can be logistically challenging and have impacts of their own. At your April 23 meeting, the Commission did not express interest in pursuing this option.

Garage conversions. The regulation of garage conversions is outside of the direction provided by Council. However, the proposed requirements for on-site parking should sufficiently address this issue and ensure adequate parking for High Occupancy Dwellings.

Geographic or Land Use District limitations on number of unrelated persons. Having multiple thresholds would create confusion in administration of the rules and among the public. A consistent across-the-board threshold, combined with the ACU process to exceed that threshold, can be more uniformly applied while ensuring that impacts are properly controlled.

## **Administrative Conditional Use**

The ACU permit process is established by Part 20.30E LUC, and is a mechanism by which the City may require special conditions on development or on the use of land in order to ensure that designated uses or activities are compatible with other uses in the same land use district and in the vicinity of the subject property. All ACUs must comply with the decision criteria contained in LUC 20.30E.140, which are:

- A. The ACU is consistent with the Comprehensive Plan; and
- B. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
- C. The ACU will be served by adequate public facilities including streets, fire protection, and utilities; and
- D. The ACU will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
- E. The ACU complies with the applicable requirements of this Code.

As stated above, the draft ordinance proposes that a High Occupancy Dwelling would require approval as an ACU. Therefore, a High Occupancy Dwelling would need to satisfy the criteria contained in LUC 20.30E.140, listed above. In addition, the following criteria are proposed specifically for High Occupancy Dwellings:

- The High Occupancy Dwelling will be located in a single-family dwelling; and
- All tenants will be subject to a single lease agreement; and
- Either the owner or a registered agent will reside on-site and will be considered one of the unrelated persons. In lieu of an owner or registered agent, the lease may designate one of the tenants as the party responsible and accountable for compliance with the lease and with the terms of the approved ACU; and
- Legal on-site parking exists or will be provided, in a quantity equal to the number of bedrooms in the leased residence; and
- Appropriate provisions will be made for maintenance of the property exterior (this would address issues such as yard maintenance, enclosed storage, etc); and
- Appropriate provisions will be made for refuse collection, including trash, recycling, and yard waste; and
- In approving, conditioning, or denying an application for a High Occupancy Dwelling ACU, the City may consider, in addition to other criteria, the following:
  - The impacts that the proposed High Occupancy Dwelling may have on the residential character of the neighborhood; and

- The cumulative impacts of the proposed High Occupancy Dwelling in relation to other City-approved High Occupancy Dwellings in the immediate vicinity; and
- The imposition of a condition under which the City reserves the right to impose additional conditions or to reconsider the High Occupancy Dwelling ACU within a certain timeframe from approval date, based on complaints filed with the City; and
- A High Occupancy Dwelling shall comply with City of Bellevue noise and nuisance laws and health and safety codes, and with all other applicable City and State codes and regulations; and
- The Director of the Development Services Department may impose conditions to mitigate any potential adverse impact on surrounding uses.
- The owner and landlord shall be the “persons responsible for the violation” in any civil violations proceedings under the terms of BCC 1.18 for failure to comply with High Occupancy Dwelling provisions of this section. Tenants shall not be identified as responsible parties by virtue of signing a lease prepared by the owner or landlord for renting a room in a High Occupancy Dwelling.

An application for ACU is reviewed through Process II, per LUC 20.35.200. This process requires publication of a notice of application and provides opportunity for public comment. The Development Services Director issues the decision on the application, which is appealable to the City’s Hearing Examiner.

## **Conclusion**

The combination of the general ACU criteria and the High Occupancy Dwelling-specific criteria will ensure that the impacts of concern to neighbors will be considered and addressed. The Planning Commission should review the proposed ordinance and identify areas that should be strengthened or changed to ensure that it will be as effective as possible in achieving its intent, and balanced in its implications on renters and owner-occupants alike. Based on Commission direction, staff will return with a revised draft ordinance for public hearing.

## **Alternatives**

1. Provide direction to staff for the completion of a draft ordinance to be considered at a public hearing; or
2. Provide alternative direction to staff.

## **Next Steps**

Tentative upcoming meeting dates are:

1. July 1, 2014 – East Bellevue Community Council courtesy hearing
2. July 9, 2014 – Planning Commission public hearing and recommendation to Council
3. July 21, 2014 or August 4 – Council action on proposed ordinance
4. September 2, 2014 – East Bellevue Community Council public hearing and final action

## **Attachments**

- A. Draft Ordinance for Permanent Regulations
- B. Principles to Guide Development of Permanent Rental Housing Regulations
- C. Ordinance No. 6128 – Interim Regulations Currently In Effect



# Attachment A

## CITY OF BELLEVUE

ORDINANCE No. \_\_\_\_\_

(Title to be completed prior to adoption)

(Findings (i.e., "Whereas" statements) to be completed prior to adoption)

### Draft text of proposed amendment

Section 1. Section 20.10.440 of the Bellevue Land Use Code is hereby amended to identify "dwelling, high occupancy" as an administrative conditional use in the following land use districts: R-1, R-1.8, R-2.5, R-3.5, R-4, R-5, R-7.5, R-10, R-15, R-20, and R-30, and to add the following related note 17:

17. See LUC 20.20.455 for general development requirements for High Occupancy Dwelling.

Section 2. Section 20.25D.070 of the Bellevue Land Use Code is hereby amended to identify "dwelling, high occupancy" as an administrative conditional use in the following land use districts: BR-OR/OR-1, BR-R, BR-CR, and BR-ORT, and to add the following related note 6:

6. See LUC 20.20.455 for general development requirements for High Occupancy Dwelling.

Section 3. Section 20.25F.010 of the Bellevue Land Use Code is hereby amended to identify "dwelling, high occupancy" as an administrative conditional use in the following land use district: EH-A, and to add the following related note 12:

12. See LUC 20.20.455 for general development requirements for High Occupancy Dwelling.

Section 4. Section 20.20.140 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.140 Boarding/rooming houses and bed and breakfasts.** Boarding/rooming houses and bed and breakfasts require a Home Occupation Permit, Part 20.30N LUC, approval. In addition, not more than two rooms may be rented to not more than two persons other than those occupying a single-family dwelling, provided there is compliance with health and building code requirements. The owner of the rooms to be rented shall provide off-street parking for such rooms at the rate of at least one parking stall for each room.

Section 5. Chapter 20.20 of the Bellevue Land Use Code is hereby amended to add a new Section 20.20.455 – High Occupancy Dwelling – to read as follows:

#### 20.20.455 High Occupancy Dwelling.

A. ACU Required. High Occupancy Dwellings require Administrative Conditional Use (ACU), Part 20.30E, approval. In addition to the decision criteria contained in LUC 20.30E.140, an applicant for an ACU to establish a High Occupancy Dwelling shall demonstrate the following:

1. The High Occupancy Dwelling will be located in a single-family dwelling; and

## Attachment A

2. All tenants will be subject to a single lease agreement; and
  3. Either the owner or a registered agent will reside on-site and will be considered one of the unrelated persons. In lieu of an owner or registered agent, the lease may designate one of the tenants as the party responsible and accountable for compliance with the lease and with the terms of the approved ACU; and
  4. Legal on-site parking exists or will be provided, in a quantity equal to the number of bedrooms in the leased residence; and
  5. Appropriate provisions will be made for maintenance of the property exterior; and
  6. Appropriate provisions will be made for refuse collection, including trash, recycling, and yard waste.
- B. In approving, conditioning, or denying an application for a High Occupancy Dwelling ACU, the City may consider, in addition to the criteria in paragraph A of this section, the following:
1. The impacts that the proposed High Occupancy Dwelling may have on the residential character of the neighborhood; and
  2. The cumulative impacts of the proposed High Occupancy Dwelling in relation to other City-approved High Occupancy Dwellings in the immediate vicinity; and
  3. The imposition of a condition under which the City reserves the right to impose additional conditions or to reconsider the High Occupancy Dwelling ACU within a certain timeframe from approval date, based on complaints filed with the City.
- C. A High Occupancy Dwelling shall comply with City of Bellevue noise and nuisance laws and health and safety codes, and with all other applicable City and State codes and regulations.
- D. The Director of the Development Services Department may impose conditions to mitigate any potential adverse impact on surrounding uses.
- E. Notwithstanding section A.3 above, the owner and landlord shall be the “persons responsible for the violation” in any civil violations proceedings under the terms of BCC 1.18 for failure to comply with High Occupancy Dwelling provisions of this section. Tenants shall not be identified as responsible parties by virtue of signing a lease prepared by the owner or landlord for renting a room in a High Occupancy Dwelling.

Section 6. Section 20.20.700 of the Bellevue Land Use Code is hereby deleted as follows:

~~**20.20.700 Rooming houses.** The requirements of LUC 20.20.140 apply to rooming houses.~~

Section 7. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to revise the definition of “Bed and Breakfast” to read as follows:

**20.50.012 Bed and Breakfast.** A dwelling which temporarily houses guests for profit. A Bed and Breakfast does not include a High Occupancy Dwelling as defined in LUC 20.50.018.

## Attachment A

(Refer to LUC 20.20.140 for General Development Requirements applicable to Bed and Breakfast uses).

Section 8. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to revise the definition of “Boarding House” to read as follows:

**20.50.012 Boarding/Rooming House.** A dwelling in which ~~roomers and/or boarders~~ individuals unrelated to the owner are housed and/or fed for profit. A boarding/rooming house is a type of Transient Lodging as defined in LUC 20.50.048, but does not include a High Occupancy Dwelling as defined in LUC 20.50.018. (SeeRefer to LUC 20.20.140 for General Development Requirements applicable to Boarding/Rooming House uses).

Section 9. Section 20.50.018 of the Bellevue Land Use Code is hereby amended to create a new definition of “Dwelling, High Occupancy” to read as follows:

**20.50.018 Dwelling, High Occupancy.** A building proposed to house, or currently houses, five or more unrelated individuals. (Refer to LUC 20.20.455 for General Development Requirements applicable to High Occupancy Dwelling uses).

Section 10. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of “Family” to read as follows:

**20.50.020 Family.** One or more adult persons related by blood, marriage, or legal adoption; or a group of not more than four unrelated adult persons (but not more than six unrelated persons) living together as a single housekeeping in a dwelling unit. Where related and unrelated adult persons live together, the related persons, as a group, counts as one of the four unrelated persons. For purposes of this definition and notwithstanding any other provision of this Code, children with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h) will not be counted as unrelated persons.

Section 11. Ordinance No. 6128 and Ordinance No. 6152 are hereby repealed.

Section 12. 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 13. 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 \_\_\_\_\_, 2014 and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

(Seal and signatures to be provided prior to adoption)



# Attachment B

Approved by Council on November 4, 2013

## Planning Commission Principles to Guide Development of Permanent Rental Housing Regulations

**Issue Presented:** Residents of the Spiritwood neighborhood have raised concerns about an emerging business model in their single family neighborhood where an ownership group is purchasing homes with the intention of renting out individual rooms under separate lease agreements. If this practice is not curtailed, impacts on neighborhood livability are anticipated to continue and to increase over time.

**Emergency Action Taken:** On September 23, the City Council adopted Ordinance No. 6128 as an emergency ordinance under the authority in Chapter 36.70A RCW and RCW 35A.13.190. This interim zoning control (1) deleted the general development regulations applicable to rooming houses; (2) clarified that boarding home performance criteria apply to rooming houses; (3) amended the definition of "Boarding House;" and (4) amended the definition of "Family" to address impacts resulting from the rental of multiple rooms in single family dwellings to unrelated individuals.

**Work Program Item:** The Planning Commission is being asked to develop narrowly tailored permanent amendments to the Land Use Code that address issues presented by the Spiritwood neighbors.

### Principles to Guide the Planning Commission Work

1. The Council-adopted emergency ordinance should be used as a starting point for the Planning Commission work.
2. Work on the code amendment should progress expeditiously, with the goal of having permanent regulations in place by July 2014.
3. The recommended amendments should be narrowly tailored to prevent the conversion of single family homes to dormitory-like uses. With this goal in mind, the regulations should seek to ensure that:
  - a. Impacts of unrelated persons occupying a rental house are not greater than the impacts associated with a group of related persons occupying a home.
  - b. Single family homes are not designed to support future conversion to dormitory-like uses.
  - c. Impediments are not created that would limit access to fair housing choices for protected classes of people.
  - d. Tools to limit impacts are capable of being enforced.
4. City-wide impacts of the permanent amendments should be evaluated to ensure that negative consequences on rental housing and appropriate housing design are minimized.
5. Work on the rental housing amendment should not be undertaken in a manner that will delay final completion of the Shoreline Master Program Update, and the City Council will consider extensions to the Emergency Rental Housing Ordinance if necessary to accommodate Planning Commission review of these permanent regulations.

6. Policy topics relating to housing affordability and availability are part of a longer term strategy that should not be undertaken during current development of the narrowly tailored amendments contemplated to address the Spiritwood issue. The Comprehensive Plan Update that is currently underway and expected to result in additional code development work late in 2014 is the proper forum to discuss broader policies such as:
  - a. Placing limits on garage conversions for living space;
  - b. Adopting additional single room occupancy regulations;
  - c. Evaluating the appropriate role of detached accessory dwelling units in the provision of fair housing choices;
  - d. Evaluating the single family home definition to ensure that it is appropriately specific to foster development of desired housing options without encouraging the commercial use of housing in single family neighborhoods;
  - e. Addressing “apodments” and micro-housing development trends; and
  - f. Considering the role of rental registration and inspection program options as a viable enforcement strategy.

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6128

AN ORDINANCE of the City of Bellevue, Washington, adopting interim official zoning controls to address impacts resulting from the rental of multiple rooms in single-family dwellings to unrelated individuals, by amending the definitions of “boarding house” and “family” and creating a new definition of “rooming house”, for a period of six months, to be in effect while the City drafts, considers, holds hearings, and adopts permanent regulations, to be effective immediately upon adoption, scheduling a hearing on the maintenance of the interim zoning ordinance, providing for severability, and declaring an emergency.

WHEREAS, the Bellevue Comprehensive Plan seeks to maintain and strengthen the vitality, quality, and character of Bellevue’s residential neighborhoods while providing housing choices and affordability; and

WHEREAS, the City of Bellevue has begun an update of its Comprehensive Plan as mandated by the Growth Management Act, and that update will include a broader evaluation of the community’s housing policies, needs, and related issues; and

WHEREAS, the Bellevue City Council has recently heard numerous concerns from citizens about the rental of multiple rooms in single-family dwellings to unrelated individuals and under separate lease agreements, and the impacts of such rentals; and

WHEREAS, the concerns and impacts identified by citizens include the erosion of single-family neighborhood character, from a stable neighborhood character to one that is more transitory, increased density, declining property maintenance, and increased on-street parking, traffic, noise and instances of speeding, among others; and

WHEREAS, the Bellevue Land Use Code currently defines “family” as one or more persons (but not more than six unrelated persons) living together as a single housekeeping unit, but does not define “single housekeeping unit”; and

WHEREAS, the American Community Survey for 2007-2011 shows that the average single-family household size in Bellevue is 2.75 persons; and

WHEREAS, the Bellevue City Council has determined that this rental practice and its real and potential impacts threaten the vitality, quality, stability, and single-

family character of Bellevue's residential neighborhoods, and that emergency action is warranted to diminish this threat; and

WHEREAS, the adoption of the interim controls contained herein will address the immediate impacts resulting from the above-described rental practice, will protect the stability and character of Bellevue's single-family neighborhoods, and will provide an opportunity for the City to more fully research and develop appropriate long-term strategies; and

WHEREAS, the Bellevue City Council has determined that the termination of existing uses that do not conform to the interim controls by July 1, 2014, will fairly and reasonably balance the interests of property owners and users with the benefit to the public; and

WHEREAS, pursuant to WAC 197-11-880, actions that must be undertaken immediately or within a time too short to allow full compliance with the State Environmental Policy Act (SEPA), to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the provisions of that Act (see also BCC 22.02.050); and

WHEREAS, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance; and

WHEREAS, the potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; now, therefore,

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

Section 1. Section 20.20.140 of the Bellevue Land Use Code is hereby amended to revise the general development requirements applicable to "Boarding Houses and bed and breakfasts," to read as follows:

**20.20.140 Boarding/rooming houses and bed and breakfasts.**

Boarding/rooming houses and bed and breakfasts require a Home Occupation Permit, Part 20.30N LUC, approval. In addition, not more than two rooms may be rented to not more than two persons other than those occupying a single-family dwelling, provided there is compliance with health and building code requirements. The owner of the rooms to be rented shall provide off-street parking for such rooms at the rate of at least one parking stall for each room.

Section 2. Section 20.20.700 of the Bellevue Land Use Code is hereby deleted.

Section 3. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to revise the definition of "Boarding House," to read as follows:

**20.50.012 B definitions.**

**Boarding/Rooming House.** A dwelling in which roomers and/or boarders individuals unrelated to the owner are housed and/or fed for profit for any time period, including stays of 30 days or more. This definition includes, but is not limited to, Transient Lodging as defined in LUC 20.50.048. (Refer to see LUC 20.20.140 for General Development Requirements applicable to Boarding/Rooming House uses).

Section 4. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of "Family," to read as follows:

**20.50.020 F definitions.**

**Family.** One or more adult persons related by blood, marriage, or legal adoption (but not more than six unrelated persons); or a group of not more than four unrelated adult persons living together as a single housekeeping unit in a dwelling unit. A group of more than four unrelated adult persons living together in a dwelling unit may also be included within the definition of "Family" if they demonstrate to the Director that they operate in a manner that is functionally equivalent to a Family. Factors that shall be considered by the Director include whether the group of more than four unrelated persons:

- a. Shares the entire dwelling unit or act as separate roomers;
- b. Includes minor, dependent children regularly residing in the household;
- c. Can produce proof of sharing expenses for food, rent, or ownership costs, utilities, and other household expenses;
- d. Shares common ownership of furniture and appliances among the members of the household;
- e. Constitutes a permanent living arrangement, and is not a framework for transient living;
- f. Maintains a stable composition that does not change from year to year or within the year;
- g. Is not a society, fraternity, sorority, lodge, organization or other group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary; or
- h. Can demonstrate any other factors reasonably related to whether or not the group of persons is the functional equivalent of a family.

For purposes of this definition and notwithstanding any other provision of this Code, children with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h) will not be counted as unrelated persons.

Section 5. Amortization for Certain Nonconforming Uses. Notwithstanding Section 20.20.560 of the Bellevue Land Use Code, any use of a structure or of land which does not conform to the regulations of the district in which the use exists due to changes in the definition of "Boarding/Rooming House" in Section 20.50.012 and/or "Family" in Section 20.50.020, adopted on September 23, 2013, which use lawfully existed on the date such changes became effective, shall be discontinued by July 1, 2014.

Section 6. Duration and Scope of Interim Regulations. The interim regulations imposed by this ordinance shall become effective on the date herein, and shall continue in effect for an initial period of sixty (60) days, unless repealed, extended, or modified by the City Council after subsequent public hearings and the entry of additional findings of fact pursuant to RCW 35A.63.220.

Section 7. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this ordinance within sixty (60) days of its adoption, or no later than November 22, 2013, so as to hear and consider public comment and testimony regarding this ordinance. Following such hearing, the City Council may adopt additional findings of fact, and may extend the interim regulations for a period of up to six (6) months. If a period of more than six months is required to complete consideration of any changes to city codes, the Council may adopt additional extensions after any required public hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 8. Permanent Regulations. The City Council hereby directs the staff to develop for its review and adoption permanent regulations to adopt the interim regulations adopted herein, and to transmit this ordinance to the Washington State Department of Commerce as required by law.

Section 9. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

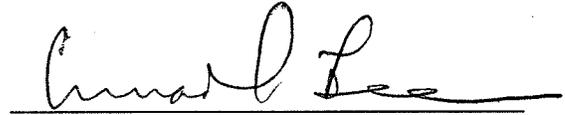
Section 10. Public Emergency. The City Council hereby finds and declares that a public emergency exists and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should, therefore, take effect upon adoption. The facts upon which this public emergency is based include all recitals set out in this ordinance as well as those facts contained in the legislative record.

Section 11. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption by a majority plus one of the City Council.

# ORIGINAL

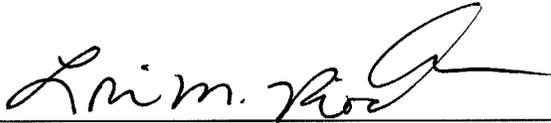
PASSED by the City Council this 23rd day of September,  
2013, and signed in authentication of its passage this 23rd day of  
September, 2013.

(SEAL)



Conrad Lee, Mayor

Approved as to form:



Lori M. Riordan, City Attorney

Attest:



Myrna L. Basich, City Clerk

Published September 26, 2013,





# MEMORANDUM

*Materials on the **Housing Draft Policy Updates** were previously distributed in the April 9 and April 23 Planning Commission packet. No updates have been made to the memo, the Housing Element Discussion Paper, or to the Housing Element Policy Table. At the May 28 meeting the Planning Commission will continue review of the Housing Element Policy Table at row number 30.*

DATE: April 4, 2014

TO: Chair Tebelius and Members of the Planning Commission

FROM: Paul Inghram, AICP, Comprehensive Planning Manager  
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*Planning and Community Development*

SUBJECT: 2014 Comprehensive Plan Update – Land Use and Housing Element Draft Policy Updates

The April 9, 2014, study session will continue review of the Bellevue Comprehensive Plan as part of the city's major Comprehensive Plan update. Following a series of previous meetings reviewing information about how the city has changed over the last ten years and forecasts for future growth, this study session will be an opportunity to review the development of draft policy updates for the Land Use and Housing sections (or elements) of the Comprehensive Plan.

No formal action is requested at this study session. The Commission is encouraged to review the enclosed discussion papers and draft policy tables. The discussion papers provide information about the changes suggested in the policy tables and include references to the table lines or policy numbers. Comments on the draft policies at this stage will help staff prepare complete draft chapters and ultimately a full draft Comprehensive Plan for the Commission's later review.

At this stage of the update process, the city's boards and commissions are reviewing potential policy updates to the Comprehensive Plan. Early in the process, the city conducted a number of community engagement activities (summary are posted online) and boards and commissions reviewed background information including how the city has changed, demographic information about the community, future growth projections, and information about economic conditions, and other information. The boards and commissions have shifted to reviewing the existing policies of the Comprehensive Plan sections (or elements) to provide staff guidance as the city prepares a draft update of the plan. At the previous study session, the Planning Commission provided feedback on the Economic Development Element policies. The Commission has also directed an approach to updating the Community Vision statement, which will be developed over

the upcoming weeks. Meanwhile, the Environmental Services Commission reviewed the Utilities Element policies and the Human Services Commission reviewed the Human Services Element policies. The Parks and Community Services Board and Transportation Commission are in the process of review policies related to parks and transportation, respectively.

## **NEXT STEPS**

Review of draft policy tables is scheduled to continue at the May 12 Planning Commission meeting. Following review of each of the policy sections, staff will develop a complete draft update of the Comprehensive Plan for the Planning Commission's review.

## **ATTACHMENTS**

1. Land Use Element Discussion Paper
2. Land Use Element Policy Table
3. Housing Element Discussion Paper
4. Housing Element Policy Table

Copies of the Comprehensive Plan Land Use and Housing Elements were previously distributed to the Planning Commission. They are also available online:

[http://www.ci.bellevue.wa.us/comprehensive\\_plan.htm](http://www.ci.bellevue.wa.us/comprehensive_plan.htm)

Additional background information:

1. 2012 King County Countywide Planning Policies (CPPs):  
<http://www.kingcounty.gov/property/permits/codes/growth/GMPC/CPPs.aspx>
2. Employment and housing growth information (9-25-2013 Planning Commission agenda materials and presentation)
3. East King County Housing Analysis (3-13-2013 Planning Commission agenda materials)
4. Appendix to East King County Housing Analysis (3-13-2013 Planning Commission agenda materials)
5. Human Services Needs Update and Consolidated Plan (City of Bellevue Human Services Division webpage: [http://www.cityofbellevue.org/human\\_services.htm](http://www.cityofbellevue.org/human_services.htm))
6. King County rapid re-housing pilot program to help homeless families (King County news release:  
<http://www.kingcounty.gov/exec/news/release/2013/December/RapidRehousing.aspx>)
7. The Ten Year Plan and East King County Plan to End Homelessness (Committee to End Homelessness King County webpage: <http://www.cehkc.org/>)

## HOUSING ELEMENT DISCUSSION PAPER

The Housing Element is a mandatory element of the Comprehensive Plan under the state Growth Management Act (GMA). The Housing Element identifies the City’s strategy to meet the state GMA housing goal: *“Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.”*

Consistent with the GMA housing goal, Bellevue’s Housing Element addresses wide-ranging housing topics within the following four housing sections:

<b>Housing Section</b>	<b>Description</b>
Neighborhood Quality & Vitality Policies HO-1-10	This section recognizes the diversity and quality of Bellevue’s neighborhoods. It also recognizes that neighborhoods are not static over time and that they evolve to meet the changing needs and lifestyles of the residents and the community.
Housing Opportunities Policies HO-11-21	This section provides the policy framework for increasing the housing supply while protecting existing neighborhoods – a critical challenge for Bellevue.
Affordable Housing Policies HO-22-36	This section includes policies that direct the city’s efforts to create housing opportunities for all economic segments of the population through regulatory and incentive approaches.
Special Housing Needs Policies HO-37-41	This section addresses the needs of some members of the community who cannot live on their own due to disability, health, age, or other circumstances that require special accommodations. Unfortunately, the difficulties some people have in finding housing may be so extreme as to result in homelessness. The city supports emergency housing and takes an active role in creating a variety of housing opportunities for those with special needs.

### **Housing Recommendations, Opportunities and Gaps**

At the January 22, 2014, Planning Commission meeting the Commission reviewed Housing Element recommendations from the Human Services Commission and the Bellevue Network on Aging. Michael Yantis, Chair of the Human Services Commission, and Eileen Rasnack, Chair of the Bellevue Network on Aging presented these recommendations and answered the Planning Commission’s questions.

Next the Planning Commission reviewed “opportunities and gaps” that staff identified in their review of the existing Housing Element. This list had been previously reviewed with the Planning Commission on July 10, 2013.

1. Clarify policies for consistency with City's downtown planning
2. **Clarify policies for consistency with current direction on shelters and homeless housing**
3. **Greater focus on mixed use neighborhoods**
4. Jobs/housing balance
5. Affordable housing near transit
6. Active /Healthy communities
7. **Universal design and accessibility in new housing / Aging in place**
8. Fair housing
9. **Identifying the need for affordable housing and the steps to take to address the need**
10. Addressing the need for housing affordable to very low income households
11. New implementation strategies and monitoring progress to meet affordable housing need
12. **Student housing** (recently added)

### **Five Key Housing Issues and Intended Policy Direction**

From the list of potential Comprehensive Plan "opportunities and gaps", five topics (in bold, above) were discussed as key issues for Planning Commission review and comment. Intended Policy Direction for each issue was also presented.

#### **1. Shelters and Homelessness**

Homelessness is a growing concern in the community. Many aspects of this issue have changed since the last Comprehensive Plan update in 2004. The Comprehensive Plan Policy HO-38 is indirect in its response. We have also heard from the community that current regulation prevents siting shelters in many zones.

#### ***Intended policy direction:***

- Address city position to work towards ending homelessness, including city's role in 10-year plan to end homelessness.
- Support for strategies that avoid displacement (foreclosure mediation) and that move people out of homelessness (rapid rehousing).
- Assess code to remove unintended barriers to shelters and group quarters in commercial and mixed use areas, while retaining appropriate land use controls.

#### ***Planning Commission comment:***

- Support for policy that uses clearly defined housing responses, and focuses on responses that work to move people from homelessness to independence.

#### **2. Mixed Use Neighborhoods**

Current Comprehensive Plan supports housing in mixed use areas, but the city's residential areas are generally described as being either multifamily or single family. Most of the City's future housing growth will be in mixed use areas, primarily Downtown and BelRed.

***Intended policy direction:***

- Update policy to better reflect today's conditions and future growth.
- Monitor amount and affordability of housing achieved in mixed use areas.
- Encourage Family Friendly Housing.

***Planning Commission comment:***

- Include in Comprehensive Plan that Lake Heights /Newport Hills could benefit from mixed-use redevelopment.

**3. Affordable Housing**

The Comprehensive Plan already includes policy support for ARCH and other partnerships, and for affordable housing funding, incentives, and preservation. The affordable housing update needs to address the updated Countywide Housing Planning Policies that includes a focus on effective strategies, implementation, and monitoring.

***Intended policy direction:***

- Recognize the range of housing needs of the community, especially the housing needs of lower income households where the greatest housing gap exists.
- Emphasize strategies to increase housing for very low income households, e.g. funding support for non-profit housing providers.
- Better recognize new housing growth will be in MF and mixed use areas.
- Need for affordable housing near transit options.
- Monitor amount and affordability of housing achieved.
- Update ADU policy to support neighborhood compatibility.

***Planning Commission comment:***

- Implement programs enabled by the state to increase affordable housing.

**4. Universal Design and Aging in Place**

Studies show that older residents want to stay in their neighborhood as they age. Many seniors find that their homes do not adapt well to their changing abilities, and struggle to find the programs and services that they need.

***Intended policy direction:***

- Preservation of older homes; ability to adapt homes as people age.
- Universal Design that improves accessibility in public spaces; for private residential development increase Universal Design education to development community.
- Support for programs and services that allow seniors to stay in their homes.
- Support for MF senior housing that allows seniors to stay close to their neighborhood.
- Support for walking, accessibility and safety in neighborhoods.
- Update ADU policy to support neighborhood compatibility.

***Planning Commission comment:***

- Do not propose added requirements that increase the cost of housing.

**5. Student Housing**

The issue of single family homes being converted to student housing is a new concern in Bellevue, and has not been previously discussed in the review of the Comprehensive Plan. Balance needs to be achieved between the need for affordable housing and the concerns of neighbors about incompatible uses in single family neighborhoods.

***Intended policy direction:***

- Emphasize maintaining or enhancing the character of residential neighborhoods.
- Support development of on-campus student housing at Bellevue College that is compatible with the surrounding neighborhood.
- Support development of off-campus student housing in adjacent MF and mixed use zones (part of Eastgate plan).
- Related to success of other strategies to increase affordable housing.

***Planning Commission comment:***

- Policy should not be specific to Bellevue College.
- Policy should address the housing need of younger adults in general.
- Need to address other issues that could result from small units e.g. traffic, parking, density.

**Comprehensive Plan Policy Development – Housing Element**

Attachment #1 lists each existing Housing Policy, along with proposed changes and rationale. In most instances, the rationale refers to the ***Intended policy direction*** and ***Planning Commission comment*** reviewed above. Note that the policy numbering is not updated as new and deleted policies are still under consideration. The following list of key changes by topic will help guide the April 9, 2014 discussion.

Neighborhood Quality and Vitality

- New mixed use neighborhoods and future housing growth targeted to downtown and mixed use areas - edits to HO-2, HO-12 and HO-29.
- Addressing impacts of room rentals in single family areas - new policy #5a.
- Maintaining or enhancing the character of residential neighborhoods - edits to policies HO-3.

Housing Opportunities

- Family friendly housing - edits to existing policy HO-10
- Support for programs that allow seniors to age in place - new policy #4.
- Increasing education about Universal Design - new policy #4.
- ADU direction consistent with neighborhood plans - edits to HO-16.
- Creating a diversity of housing types - edits to HO-12, HO-21, former policy LU-23
- Support for fair housing - new policy #1.

- Student housing - new policy #5b.

Affordable Housing (*including Countywide Planning Policy Housing update*)

- Implementation and monitoring of strategies to address housing need - new policy 2a.
- Removing unintended regulatory barriers to affordable housing - edits to HO-23, new policy 2b.
- The need for affordable housing near transit - edits to HO-25.
- Addressing housing need for low and very low income households - HO-27

Special Needs Housing

- Support for regional efforts to address homelessness - edits to HO-38
- Support for collaborative efforts with social service agencies and other jurisdictions to fund and operate emergency shelters and day centers – edits to HO-39
- Temporary encampments - new policy #8.



## Comprehensive Plan Policy Development - Housing Element

Housing Element Policies		If action proposed, why?	Proposed Change
<b>Housing Chapter Goal</b>			
<i>Note: Housing Chapter Goal, Housing Section Goals and Housing Vision Statement will be considered in a subsequent discussion. They are not included in this Housing Element Policy Development table.</i>			
<b>Section 1: Neighborhood Quality &amp; Vitality</b>			
1	HO-1	Encourage investment in and revitalization of single family and multifamily neighborhoods where private investment patterns are not accomplishing this objective.	<i>No change</i>
2	HO-2	Promote quality, community-friendly multifamily development, through features such as enhanced open space and pedestrian connectivity.	<b>Policy edit:</b> Promote quality, community-friendly <u>single family, multifamily and mixed use</u> development, through features such as enhanced open space and pedestrian connectivity.
3	HO-3	Refine Land Use Code standards to improve the compatibility of single family infill development with the neighborhood.	<b>Policy edit:</b> <del>Refine Land Use Code standards to improve</del> <u>Maintain the character of the compatibility of single family infill development with the established single family neighborhoods through application of appropriate development regulations.</u>
4	NEW (#5a)	Student Housing	<ul style="list-style-type: none"> <li>Support development of on-campus student housing at Bellevue College that is compatible with the surrounding neighborhood</li> <li>Support development of off-campus student housing in adjacent MF and mixed use zones (part of Eastgate plan)</li> </ul> <p><b>Planning Commission comments:</b> Policy should not be specific to Bellevue College. Policy should address housing need of younger adults in general. Need to address other issues that could</p> <p><b>Policy draft:</b> <u>Monitor and appropriately regulate room rentals in single family areas to balance potential impacts to neighborhood character with need for affordable housing opportunity.</u></p> <p><i>See also New Student Housing Policy #5b in Housing Opportunity section, and New affordable housing policy #2a in Affordable Housing section.</i></p>

Housing Element Policies			If action proposed, why?	Proposed Change
			result from small units e.g. traffic, parking, density. (see HO-3)	
5	HO-4	Initiate and encourage neighborhood and community involvement to foster a positive civic and neighborhood image through the Neighborhood Enhancement Program, or similar program.		Move to Land Use element.
6	HO-5	Assure that site and building design guidelines create an effective transition between substantially different land uses and densities.		Address in Urban Design element.
7	HO-6	Anticipate the future maintenance and restoration needs of older neighborhoods through a periodic survey of housing conditions. Report results of such surveys to residents.	No change	
8	HO-7	Provide financial assistance to low-income residents for maintaining or repairing the health and safety features of their homes through the Housing Repair Program, or similar program.	No change	
9	HO-8	Protect residential areas from illegal land use activities through enforcement of city codes.	Address in Land Use Policy LU-19: Maintain stability and improve the vitality of residential neighborhoods through adherence to, and enforcement of, the city's land use regulations.	Delete. Address in Land Use Policy LU-19.
10	HO-9	Explore opportunities to implement alternative neighborhood design concepts. Involve residents and other stakeholders in this process.	Repeats HO-15.	Delete
<b>Section 2: Housing Opportunities</b>				
11	Move from LU	LU-23 Provide the potential for a broad range of housing choices to meet the changing needs of the community.	<ul style="list-style-type: none"> <li>Recognize the range of needs in the community, and in particular the housing needs of lower income households.</li> </ul>	Move from Land Use to Housing Element

Housing Element Policies			If action proposed, why?	Proposed Change
12	New Policy (#1)	Fair Housing	<ul style="list-style-type: none"> <li>○ Addresses Housing CPP H-3, H-13</li> </ul> <p><i>Bellevue is one of 14 jurisdictions in the Puget Sound Region that receive federal housing funds (CDBG) and are required to not only abide by fair housing law, but also to go a step further and include real and effective fair housing strategies that affirmatively further fair housing.</i></p> <ul style="list-style-type: none"> <li>○Addresses Housing CPP H-13</li> </ul>	<p><b>Policy draft:</b> <u>Employ effective fair housing strategies that support the Fair Housing Act and affirmatively further fair housing.</u></p>
13	HO-10	Support housing with appropriate amenities for families with children.	<ul style="list-style-type: none"> <li>● Encourage Family Friendly Housing</li> <li>○ Addresses Housing CPP H-12</li> </ul>	<p><b>Policy draft:</b> <u>Encourage appropriate amenities for families with children in new housing throughout the City through city investments, development regulations and incentives.</u></p> <p><b>Discussion draft:</b> <u>Amenities for families with children may include school access, walkable streets, accessible open space and community facilities.</u></p>
14	NEW (#5b)	Student Housing	<ul style="list-style-type: none"> <li>● Support development of on-campus student housing at Bellevue College that is compatible with the surrounding neighborhood</li> <li>● Support development of off-campus student housing in adjacent MF and mixed use zones (part of Eastgate plan)</li> <li>○ Addresses Housing CPP H-10</li> </ul> <p><b>Planning Commission comments:</b> Policy should not be specific to Bellevue College. Policy should address housing need of younger adults in general. Need to address other issues that could result from small units e.g. traffic, parking, density. (see HO-3)</p>	<p><b>Policy draft:</b> <u>Work with colleges, including Bellevue College, and private developers to support housing for students on-campus and in adjacent transit served mixed use/ commercial areas.</u></p> <p><i>See also New Student Housing Policy #5b in Housing Opportunity section, and New affordable housing policy #2a in Affordable Housing section.</i></p>

Housing Element Policies			If action proposed, why?	Proposed Change
15	HO-11	Encourage housing opportunities in mixed residential/ commercial settings throughout the city.		
16	HO-12	Provide incentives to encourage residential development for a range of household types and income levels in commercial zones.	<ul style="list-style-type: none"> <li>Better reflect that new housing growth will be in MF and mixed use areas.</li> <li>Update policy to better reflect today's conditions and future growth. <ul style="list-style-type: none"> <li>Addresses Housing CPP H-9</li> </ul> </li> </ul> <p><b>Planning Commission Comment:</b> Include in policy that Lake Heights /Newport Hills could benefit from mixed use redevelopment.</p>	<b>Policy edit:</b> Provide incentives to encourage residential development for a range of household types and income levels in <u>multifamily and mixed use</u> commercial zones.
17	HO-13	Ensure that mixed-use development complements and enhances the character of the surrounding residential and commercial areas.	<i>No change</i>	
18	HO-14	Encourage housing development Downtown including innovative, affordable housing.	<i>Policy HO-14 and HO-29 are repetitious.</i>	<b>Delete and merge</b> with HO-29.
19	HO-15	Adopt an interim ordinance enabling a demonstration project(s) that would serve as a model for housing choices currently not being built in Bellevue. <i>Discussion: The interim ordinance would set factors such as number of demonstration projects, size of project, types of housing to be demonstrated, ability to vary from certain standards, compatibility with surrounding development, review by the affected neighborhood, etc.</i>	<p>For example, feasibility studies for Newport Hills have shown there is potential for mixed use redevelopment including housing. If redevelopment moves forward, an innovative housing ordinance is one tool that could be explored.</p> <p><b>Planning Commission Comment:</b> Include in policy that Lake Heights /Newport Hills could benefit from mixed use redevelopment.</p>	<b>Policy edit:</b> Provide opportunity to allow a <u>demonstration(s) project through methods such as an interim ordinance enabling a demonstration project(s) that would serve as a model for housing choices currently not being built in Bellevue.</u>
20	HO-16	Allow attached and detached accessory dwelling units in single family districts subject to specific development, design, and owner occupancy standards.	<ul style="list-style-type: none"> <li>Update ADU policy to support neighborhood compatibility.</li> </ul> <p><b>Human Services Commission Comment:</b> ADUs should be allowed where compatible.</p>	<b>Policy edit:</b> Allow attached and detached accessory dwelling units in single family districts subject to specific development, design, <u>location</u> , and owner occupancy standards, <u>where</u>

Housing Element Policies			If action proposed, why?	Proposed Change
				<u>consistent with neighborhood subarea plans.</u>
21	HO-17	Encourage infill development on vacant or under-utilized sites that have adequate urban services and ensure that the infill is compatible with the surrounding neighborhoods.		<b>Delete</b> ; no longer needed.
22	HO-18	Provide opportunities and incentives through the Planned Unit Development (PUD) process for a variety of housing types and site planning techniques that can achieve the maximum housing potential of the site.	<i>No change</i>	
23	HO-19	Periodically review land use regulations to assure that regulations and permit processing requirements are reasonable.		<b>Delete</b> . Address in Land Use element compatibility section.
24	HO-20	Evaluate the housing cost and supply implications of proposed regulations and procedures.	<i>No change</i>	
25	HO-21	Promote working partnerships with housing developers to help create opportunities for housing in the community.	<ul style="list-style-type: none"> <li>Recognize the range of housing needs of the community, and in particular the housing needs of lower income households.</li> </ul>	<b>Edit</b> : Promote working partnerships with housing developers to help create <u>opportunities for a diversity of housing types</u> in the community.
26	New Policy (#4)	Universal Design / Aging in Place	<ul style="list-style-type: none"> <li>Preservation of older homes; ability to adapt homes as people age.</li> <li>Support for Universal Design that improves accessibility in public spaces; for private residential development increase Universal Design education to development community.</li> <li>Support for programs and services that allow seniors to stay in their homes</li> <li>Support for MF senior housing that allows seniors to stay close to their neighborhood</li> </ul>	<b>Policy draft</b> : <u>Support housing options, programs, and services that allow seniors to stay in their homes or neighborhood. Promote awareness of Universal Design improvements that increase housing accessibility.</u>

Housing Element Policies			If action proposed, why?	Proposed Change
			<ul style="list-style-type: none"> <li>○ Addresses Housing CPP H-5</li> </ul> <hr/> <p><b>Planning Commission comment:</b> Do not propose added requirements that increase the cost of housing.</p>	
<b>Section 3: Affordable Housing</b>				
27	HO-34	Address the entire spectrum of housing needs in the city's affordable housing programs.	<i>Moved to the beginning of the Affordable Housing section.</i>	
28	HO-22	Work cooperatively with King County, A Regional Coalition for Housing (ARCH), and other Eastside jurisdictions to assess the need for, and to create, affordable housing.	<i>No change</i>	
29	New Policy (#2a)	Housing Strategy Plan	<ul style="list-style-type: none"> <li>● Recognize the range of housing needs of the community, and in particular the housing needs of for lower income households where the greatest housing gap exists.</li> <li>● Monitor amount and affordability of housing achieved (in mixed use areas).</li> <li>● Emphasize strategies to increase housing for very low income households, e.g. funding support for non-profit housing providers.</li> <li>○ Addresses Housing CPP H-1, H-2, H-5, H-8, H-16, H-17, H-18</li> </ul>	<b>Policy draft:</b> <u>Employ a housing strategy plan to promote housing supply, affordability and diversity, including strategies that address the need for housing affordable to very-low, low and moderate income households and persons with special needs. Monitor amount and affordability of housing achieved.</u>
30	HO-23	<p>Review Land Use Code regulations to remove barriers or unnecessary standards that discourage affordable multifamily housing and to refine affordable housing incentives so they are more successful.</p> <p><i>Discussion: The city has spent considerable time revising processes and standards to remove barriers. This policy encourages</i></p>	<ul style="list-style-type: none"> <li>● Assess code to remove unintended barriers in commercial and mixed use areas</li> <li>○ Addresses Housing CPP H-7</li> </ul>	<b>Policy edit:</b> <u>Encourage the development of affordable housing through incentives and by removing regulatory barriers.</u>

Housing Element Policies		If action proposed, why?	Proposed Change
		<i>continuation of this work with an emphasis on housing affordability.</i>	
31	HO-24	Ensure that all affordable housing development is consistent with currently adopted building codes and design standards.	<b>Delete.</b> Address in Land Use element compatibility section.
32	HO-25	Ensure that affordable housing opportunities are not concentrated, but rather are dispersed throughout the city.	<b>Policy edit:</b> Ensure that affordable housing opportunities are <u>available not concentrated, but rather are dispersed</u> throughout the city, <u>including multifamily and mixed use/commercial areas served by transit.</u>
33	New Policy (#2b)	Barriers to group facilities	<b>Policy draft:</b> <u>Remove unintended barriers to group facilities in commercial and mixed use areas, while retaining appropriate land use controls.</u>
		<ul style="list-style-type: none"> <li>• Student housing accessibility related to other strategies to increase affordable housing.</li> <li>• Assess code to remove unintended barriers to group facilities in commercial and mixed use areas, while retaining appropriate land use controls</li> </ul>	
		○ Addresses Housing CPP H-7	
34	HO-26	Involve both the public and private sectors in the provision of affordable housing.	<b>Policy edit:</b> <del>Involve</del> <u>Support and collaborate with</u> both the public and private sectors in the provision of affordable housing.
35	HO-27	Re-assess city guidelines approximately every five years for use of the Housing Trust Fund to ensure they are consistent with changing community needs and priorities.	<b>Policy edit:</b> <u>Provide funding to support housing need, especially for low and very low income households. Re-assess city</u> <del>Assess housing fund guidelines approximately every five years for use of the Housing Trust Fund</del> to ensure they are consistent with changing community needs and priorities.
36	HO-28	Provide incentives and work in partnership with not-for-profit and for-profit developers and agencies to build permanent low- and moderate-income housing.	<i>No change</i>

Housing Element Policies			If action proposed, why?	Proposed Change
37	HO-29	Encourage the building of affordable housing Downtown.	<ul style="list-style-type: none"> <li>Better recognize new housing growth will be in MF and mixed use areas <ul style="list-style-type: none"> <li>Addresses Housing CPP H-9</li> </ul> </li> </ul> <i>See Policy HO-14.</i>	<b>Policy edit:</b> Encourage the building of <u>new</u> affordable housing Downtown <u>and in mixed use centers planned for housing growth.</u>
38	HO-30	Encourage preservation, maintenance, and improvements to existing affordable housing.	<i>No change</i>	
39	HO-31	Encourage the development of long-term management strategies for affordable housing in cooperation with not-for-profit housing organizations.		<b>Delete</b> and address as a strategy (usually a condition of funding).
40	HO-32	Explore all available federal, state, and local programs and private options for financing affordable housing.	<i>No change</i>	
41	HO-33	Explore financial incentives to encourage affordable multifamily housing, such as partial exemptions from city permit fees and use of the state property tax exemption program.	<ul style="list-style-type: none"> <li>Related to success of other strategies to increase affordable housing</li> </ul> <b>Planning Commission Comment:</b> Implement programs enabled by the state to increase affordable housing.	<b>Policy edit:</b> Explore financial incentives to encourage affordable multifamily housing, such as partial exemptions from city permit fees, <del>and use of the state property tax exemption program,</del> <u>and other state enabled programs.</u>
42	HO-35	Ensure that all affordable housing created in the city with public funds or by regulation remains affordable for the longest possible term.	<i>No change</i>	
43	HO-36	Participate in relocation assistance to low-income households whose housing may be displaced by condemnation or city-initiated code enforcement.	<i>No change</i>	
<b>Section 4: Special Needs Housing</b>				
44	HO-37	Plan for housing for people with special needs. Avoid concentrations of such housing and protect residential neighborhoods from adverse impacts. Encourage ongoing stable family living situations for people with special needs. Provide in all areas for the siting of facilities devoted to the care of people with	<i>Edit Policy HO-37 into policy that supports housing for special needs that is not concentrated (HO-37), and addresses HO-41: Encourage a variety of local incentives and support activities that help provide housing that is affordable and</i>	<b>Policy edit:</b> Plan for <u>and provide reasonable accommodation for housing for people with special needs. Provide in all areas and</u> avoid concentrations of such housing and protect residential neighborhoods from adverse impacts. <del>Encourage ongoing stable family living situations</del>

Housing Element Policies		If action proposed, why?	Proposed Change	
		handicaps.	<del>for people with special needs. Provide in all areas for the siting of facilities devoted to the care of people with handicaps.</del>	
45	HO-38	Encourage and support social and health service organizations that offer programs and facilities for people with special needs, particularly those programs that address homelessness and help people remain in the community.	<ul style="list-style-type: none"> <li>• <u>Address city position to work towards ending homelessness, including city's role in 10-year plan to end homelessness</u></li> <li>• <u>Support for strategies that avoid displacement (foreclosure mediation) and that move people out of homelessness (rapid rehousing).</u></li> </ul> <p><b>Planning Commission comment:</b> Support for policy that uses clearly defined housing responses, and focuses on responses that work to move people from homelessness to independence.</p>	<b>Policy draft:</b> <u>Support regional efforts to prevent homelessness. Provide a range of affordable housing options as well as support to move homeless persons and families to long-term financial independence.</u>
46	HO-39	Assist social service organizations in their efforts to obtain funds and to operate emergency and transitional housing in the community.	<ul style="list-style-type: none"> <li>• Address city position to work towards ending homelessness, including city's role in 10-year plan to end homelessness. <ul style="list-style-type: none"> <li>○ Addresses Housing CPP H-14</li> </ul> </li> </ul>	<b>Policy edit:</b> <u>Work with other jurisdictions and social service organizations to fund and operate emergency shelters and day centers consistent with regional planning efforts to address homelessness.</u>
47	New Policy (#8)	Direction for Temporary Encampments	Establish direction for temporary encampments consistent with State HB1956. Bellevue's current Temporary Encampment Ordinance includes a Consent Decree that will sunset 1-27-16.	<b>Policy draft:</b> Allow hosting of Temporary Encampments within or outside religious facilities as a form of religious expression and consistent with state law pertaining to religious use.
48	HO-40	Support and plan for assisted housing using federal or state aid and private resources.	<i>No change</i>	
49	HO-41	Encourage a variety of local incentives and support activities that help provide housing that is affordable and accommodates people with special needs.	<i>Repeats edited HO-37.</i>	<b>Delete.</b>

Housing Element Policies			If action proposed, why?	Proposed Change
50	New Policy (#9)	Adult family homes and special needs housing		<b>Policy draft:</b> Recognize that adult family homes and other state regulated special needs housing provide stable, neighborhood housing options for elderly and disabled residents. Work to address needs for services, emergency response and other potential accommodation.