



During the July 15 City Council meeting, the Council directed staff to develop recommendations for an interim zoning regulation implementing land use regulations for recreational marijuana producers, processors, and retailers for Council's consideration in early September. In response to the LCB's announcement it would file revised rules in early September,<sup>1</sup> Council consideration of staff recommendations was rescheduled for October 7. The materials provided during the July 15 study session include a substantive discussion of the passage of I-502 and are included as Attachment A to this memorandum.

Under its revised rules, the LCB will begin accepting license applications for licenses for recreational marijuana producers, processors, and retailers on November 18. Based on this schedule, there is insufficient time for the City to pursue enactment of permanent zoning regulations using the process generally employed under the Land Use Code (LUC) of delegating consideration of proposed zoning to the Planning Commission for a public hearing and subsequent recommendation to Council. The Growth Management Act (GMA) allows cities to adopt emergency interim zoning ordinances to address such situations. Consequently, to ensure the City has considered locating these uses before the November 18 license deadline, an emergency interim zoning ordinance as allowed under the GMA is necessary.

#### Federal Response to State Regulation of Marijuana

On August 29, 2013, 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, legalizing the possession of small amounts of marijuana and regulating the production, processing, and sale of marijuana. 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. A primary question in all cases is if the conduct at issue implicates one or more of the eight stated federal enforcement priorities set forth in the guidance. The DOJ appears to not differentiate application of the guidance between medical cannabis and recreational marijuana. A copy of the DOJ's August 29 guidance is included with this memorandum as Attachment B.

#### Initial Considerations – Limitations on the number of Recreational Marijuana Uses in Bellevue

The LCB has allocated four recreational marijuana retail licenses for Bellevue. Additionally, there are 11 at-large licenses that will be issued for King County. There are no similar limitations on the number of recreational marijuana producer and processor licenses. If Council desires to limit the number of retail locations to 4 or less, the Council may do so in the interim ordinance. As discussed below, the staff recommendation limits marijuana producers and processors to the Light Industrial land use district. Staff also recommends that the retail marijuana use be limited to land use districts where similar miscellaneous retail is permitted. The 1,000 foot use separation requirements in I-502 will also limit available locations to some degree. Council may also consider directing staff to monitor the distribution of recreational marijuana uses throughout the City and their associated

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<sup>1</sup> The Washington State Liquor Control Board filed revised rules on September 4, 2013 (Supplemental CR 102). [http://www.liq.wa.gov/publications/Marijuana/SEPA/SEPA\\_Checklist\\_Addendum.pdf](http://www.liq.wa.gov/publications/Marijuana/SEPA/SEPA_Checklist_Addendum.pdf)

impacts. This would provide the data necessary to determine if future amendments are required to address any negative outcomes related to the siting of recreational marijuana uses.

### General Provisions that Apply to all Three Uses (Producers, Processors, and Retailers)

The LCB's draft rules contain the following relevant provisions applicable to all three uses and should be considered when considering appropriate land use districts for the uses:

1. LCB will not issue a license for locations where law enforcement access, without notice or cause, is restricted. This includes a personal residence. This provision supports prohibiting recreational marijuana uses in single-family and multi-family residential districts. (R-1 – R-30).
2. Marijuana retailers cannot be located within another business. This means marijuana retailers cannot be a subordinate use. LCB will consider issuing multiple licenses within the same building if each licensee has their own area separated by full walls with their own entrance.
3. The LCB must deny a new license if the proposed license business is within 1,000 feet of the perimeter of the following uses:
  - Elementary or secondary school;
  - Playgrounds;
  - Recreation center or facility;
  - Child care centers
  - Public parks
  - Public transit centers
  - Libraries; or
  - Any game arcade.

**Staff Recommendation Regarding General Provisions:** For consistency with state rules, staff recommends prohibiting recreational marijuana uses in single and multi-family residential districts (R-1 – R-30), and prohibiting these uses as subordinate uses. A description of the land use districts is provided as Attachment C to this memorandum.

### Recreational Marijuana Producers, Processors, and Retailers.

#### A. Marijuana Producers & Processors

*Activities Allowed with a Marijuana Producer License.* A marijuana producer license allows the licensee to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. The LCB draft rules require that the marijuana production take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. The draft rules also allow marijuana producers to grow the plants outdoors 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-obscuring wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083. Outdoor cultivation is prohibited under the City's interim regulations for medical cannabis collective gardens.

*Activities Allowed with a Marijuana Processor License.* 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. Under the draft rules, marijuana may be processed using gases, solvents, or CO<sub>2</sub> gas. Other extraction methods not employing solvents or gas, such as heat, screens, presses, steam distillation, or water, are also allowed. A marijuana producer licensee may also hold a marijuana processor license. Holding both licenses reduces the tax burden, so it is likely that applicants will seek both licenses. According to the LCB, dual license holders will not pay the 25% excise tax envisioned for sales between producers and processors.

Processing marijuana falls under the land use category of agricultural processing. The production of food and fiber crops is allowed under the LUC in several land use districts, including residential districts. Agricultural production is allowed in residential districts; however, it occurs in only limited instances in City parks and is a legacy of the City's agricultural history. Agricultural production of marijuana in residential land use zones is inconsistent with the City's comprehensive plan and it is unlikely there is sufficient land or appropriate structures available in these districts to support agricultural production in accordance with the draft rules. Therefore, marijuana production should be prohibited in residential areas. Under the LUC, agricultural production is allowed in the following land use districts:

1. Residential land use districts (R-1 – R-30)
2. Professional Office (PO)
3. Office (O)
4. Office/Limited Business (OLB)
5. Light Industrial (LI) (Note: Proposed land use district for medical cannabis collective gardens)
6. General Commercial (GC) (Note: Proposed land use district for medical cannabis collective gardens)
7. Neighborhood Business (NB)
8. Community Business (CB)
9. Factoria Land Use District 1 (F1)
10. Factoria Land Use District 2 (F2)
11. Factoria Land Use District 3 (F3)
12. Bel-Red General Commercial (BR-GC) (Note: Proposed land use district for medical cannabis collective gardens)
13. Bel-Red Commercial Residential (BR-CR)

Unlike agricultural production, agricultural processing is allowed only in the Light Industrial land use district.

**Staff Recommendation:** To accommodate the anticipated double license for marijuana producers and processors, staff recommends that marijuana production and processing be permitted solely in the Light Industrial land use district. Consistent with the medical cannabis interim regulations, marijuana production should be allowed only within a structure. Marijuana production and processing should be prohibited in residential land use districts.

## B. Marijuana Retailers

*Activities Allowed with a Marijuana Retailer License.* 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. Retail outlets are prohibited from displaying marijuana or marijuana products in a way that is visible from the public right-of-way. The draft LCB rules allow only one sign identifying the retail outlet that cannot exceed a maximum of 1,600 square inches (11 square feet) (WAC 314-55-155). These retail outlets and the restrictions

on the allowed activities resemble former state liquor stores. Liquor stores are permitted as miscellaneous retail uses and are allowed as noted in the following land use districts:

- General Commercial (GC) (Note: Proposed land use district for medical cannabis collective gardens).
- Neighborhood Business (NB)(size limit of 3,000 square feet)
- Community Business (CB)
- Factorial Land Use District 1 (F1)
- Downtown Office District (DNTN O-1)
- Downtown Office District (DNTN O-2)
- Downtown Mixed Use District (DNTN-MU)
- Downtown Residential (DNTN-R) (Limitation: Use must be developed simultaneously with an equal or greater amount of floor area devoted to residential uses; consequently staff does not recommend this land use district)
- Downtown Old Bellevue Business District (DNTN-OB) (limited to a maximum of 15,000 gross square feet).
- Downtown Office and Limited Business District (DNTN-OLB) (performance standards likely will reduce availability of this land use district to the extent the standards conflict with state rules regarding required separation distances).
- Bel-Red Office Residential and Nodes (BR-OR/OR1/OR2) (size limitations apply in certain circumstances)
- Bel-Red Residential Commercial and Nodes (BR-RC-1, RC-2, RC-3) (size limitations apply in certain circumstances)
- Bel-Red Residential (BR-R) (size limitations apply)
- Bel-Red General Commercial (BR-GC) (Note: Proposed land use district for medical cannabis collective gardens).
- Bel-Red Commercial Residential (BR-CR) (size limitations apply)
- Bel-Red Office Residential Transition (BR-ORT).

**Staff Recommendation:** Under the LUC, miscellaneous retail trade includes the retail sale of drugs and alcohol. Consequently, it seems reasonable to allow recreational marijuana retail stores in land use zones allowing miscellaneous retail sales. Staff is not recommending limitations on the number of retail stores because the LCB will issue a finite number of licenses for retail outlets, and the number of available sites will be influenced by the mandatory separation requirements. Also, the interim zoning regulation should ensure that state requirements, such as prohibiting the view of marijuana from a public way, and the City's design and sign requirements are harmonious.

#### Emergency Interim Zoning Ordinance Process

The LUC designates allowed uses in land use districts consistent with the goals and policies set forth in the City's Comprehensive Plan. The LUC is a development regulation as defined by the GMA, Chapter 36.70A RCW. Legislative actions relating to the LUC must comply with the process requirements set forth in the GMA. The required process for passage of "interim official controls" is set forth in RCW 36.70A.390. Adoption of an interim zoning regulation for recreational marijuana uses would constitute imposition of an interim official control and that legislative action would be required to adhere to the following processes and limitations:

- Council must hold a public hearing within 60 days of adoption of the emergency ordinance:

- If Council does not adopt findings of fact justifying its actions before the public hearing, then Council must do so immediately after the public hearing;
- The interim official control may be effective for up to six months, unless a work plan is developed for related studies; and
- The interim official control may be renewed for one or more six-month periods, provided Council holds a public hearing and enters additional findings before each renewal.

By using the GMA “interim official control” adoption process, a Planning Commission public hearing will not be required to impose zoning regulations for recreational marijuana producers, processors, and retailers. Instead, the Council will hold the public hearing within 60 days of adoption of the interim ordinance. A work program will subsequently be initiated for the Planning Commission to develop permanent regulations for recommendation to the City Council. This process is similar to the adoption process that is required for the passage of a moratorium.

#### Planning Principles

Like was done for medical cannabis collective gardens, staff recommends development of planning principles for the Planning Commission to use in preparing permanent land use regulations for recreational marijuana uses. Planning principles would be developed based on discussions at Council study sessions and public comments received during public hearings for recreational marijuana producers, processors, and retailers. Staff would draft principles for Council’s consideration and approval at a future Study Session.

#### **RECOMMENDATION**

Direct staff to prepare an emergency interim zoning ordinance addressing the appropriate land use zones for recreational marijuana producers, processors, and retailers. Action on the emergency interim zoning ordinance is scheduled for October 21 to enable implementation before the LCB November 18 license application date.

#### **ATTACHMENTS**

- A. Council Study Session Materials, Item SS 2(b), July 15, 2013.
- B. Memorandum for all United States Attorneys, from James M. Cole, Deputy Attorney General, Subject: Guidance Regarding Marijuana Enforcement, August 29, 2013.
- C. Descriptions of Land Use Districts (LUC 20.10.050 – 20.10.420)

**CITY COUNCIL STUDY SESSION ITEM**

**SUBJECT**

Regulation of Medical Cannabis Gardens and Recreational Marijuana-Related Uses

**STAFF CONTACT**

Lori M. Riordan, City Attorney, 452-7220  
*City Attorney's Office*

Carol Helland, Land Use Director, 452-2724  
Catherine Drews, Legal Planner, 452-6134  
*Development Services Department*

**POLICY ISSUES**

- 1) Whether additional direction is needed from Council to the Planning Commission regarding the scope of work for the Commission's consideration of permanent regulations for collective gardens, particularly with respect to zoning.
- 2) Whether Council should consider local regulation of recreational marijuana uses, including zoning, prior to finalization of the state regulations of such uses by the state Liquor Control Board

**FISCAL IMPACT**

There will be no fiscal impact resulting from Council's decisions at the present time. Initiative 502 (I-502), legalizing the production, manufacturing and retail sales of recreational marijuana expressly contemplates treating these land uses as lawful business activities. The state of Washington will collect taxes related to these businesses and anticipates that local jurisdictions may also choose to license these businesses and collect local taxes such as B&O tax. Should the City Council determine at a later point in time to require such uses to secure local business licenses and apply B&O tax to their enterprises, some tax revenue may be assumed. However, until such time as the state Liquor Control Board issues licenses for these uses, we will not know how many of these businesses may seek to locate in Bellevue.

There are currently no valid business licensees for medical marijuana collective gardens within Bellevue, and therefore no B&O taxes being collected.

**DIRECTION NEEDED FROM COUNCIL**

- Action
- Discussion
- Information

After adopting interim regulations of medical cannabis collective gardens and extending those regulations on two separate occasions during 2012 and 2013, the City Council tasked the Planning Commission with holding a public hearing and recommending permanent regulations of these uses. On February 25, 2013 the Council considered guiding principles to assist the Commission in devising recommended permanent regulations. During that discussion, the Council also discussed the passage of I-502, the citizen initiative authorizing the production, processing and retail sales of recreational marijuana, and the need for the Planning Commission to include consideration of zoning for those uses when recommending permanent zoning for medical cannabis collective gardens.

In their first discussion of the proposed regulation of medical cannabis in May 2013, the Planning Commission expressed concern regarding moving forward with recommendations on permanent regulations until the state Liquor Control Board issued rules regarding recreational marijuana uses under I-502. There was general consensus at that meeting that it would be appropriate to suggest to the Council that the Planning Commission should wait for state action on those rules before taking up the question of local regulations.

On July 3, 2013, the State Liquor Control Board (“LCB”) issued a second draft of proposed WACs<sup>1</sup>, which are the rules by which the state intends to license and regulate recreational marijuana uses in conformance with I-502, which has now been codified into Ch. 69.50 RCW, the state Uniformed Controlled Substances Act. In a meeting with LCB staff prior to issuance of this draft of the WACs, local governments were urged by the LCB to act on any local regulations, specifically zoning, prior to issuance of any permits by the LCB, which are anticipated to occur before the end of 2013. Furthermore, because the LCB intends to open the application process for recreational marijuana uses in mid-September, it has become clear that we need to accelerate discussions of zoning designations for these uses.

Consequently, in addition to the previously transmitted guiding principles for regulation of medical marijuana collective gardens, direction is needed from Council to the Planning Commission regarding the timeline for continuing forward on finalizing medical cannabis regulations, as well as commencing discussions for consideration of potential zoning designations for the three types of recreational marijuana uses—production, processing and retail sales. A public hearing is scheduled for July 24, 2013 before the Planning Commission, and staff is preparing to present options and make recommendations to the Commission regarding potential zoning designations.

To address recreational marijuana zoning, we propose taking a similar approach to that taken on medical cannabis collective gardens, of bringing interim zoning regulations to Council for consideration in early September, and seeking Council direction to the Planning Commission to discuss and propose final regulations.

### **BACKGROUND/ANALYSIS**

Initiative 502 was passed by 55.49% of Washington voters participating in the in November 2012 elections. In Bellevue, over 59% of voters approved the initiative.

The initiative:

- Legalizes the use of marijuana by people 21 years and older. They 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;

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<sup>1</sup> The Washington Administrative Code is commonly referred to as the WACs.



- 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, playgrounds, recreation centers, child care centers, public parks, public transit centers, libraries and arcades;
- Limits signage to a maximum of one that is no larger than 11 square feet in area;
- Prohibits retail facilities from:
  - o Displaying marijuana or marijuana products so they are visible from the public right-of-way;
  - o Selling anything other than marijuana, marijuana-infused products and paraphernalia.
- Prohibits, for all recreational marijuana facilities, the following activities:
  - o Advertising, in any medium, within 1,000 feet of any school, playground, recreation center, child care center, public park, transit center, library or arcade
  - o Advertising on publically-owned or- operated property or within a public transit vehicle or shelter; and
- Prohibits on-premises consumption; and
- Establishes a standard for driving under the influence of marijuana.

I-502 requires that the state Liquor Control Board draft and approve rules for the licensing and regulation of recreational marijuana uses. The LCB staff has been working on these rules for several months, and on July 3, 2013, published draft rules for introduction to the Board and for public comment at hearings to be held in August 2013. The LCB anticipates adoption of the rules, codified in the WAC in late August or early September, to take effect 30 days later.

With the passage of I-502, there has been some confusion about the interplay between medical cannabis collective gardens and I-502. A general misconception has been that the passage of I-502 effectively rendered the regulation of medical cannabis collective garden uses unnecessary. I-502, however, did not repeal or amend the Medical Cannabis Act, Chapter RCW 69.51A RCW. There was also some general confusion about the role of the LCB and the potential scope of regulations of recreational cannabis businesses. Despite the passage of I-502, the LCB anticipates continuation of medical cannabis collective gardens (and in some cities, dispensaries) in part because that activity is not taxed in the manner of recreational marijuana, and because patients can access significantly greater quantities of marijuana in a single transaction. The LCB had introduced a bill in the legislature to synch up the taxation of medical cannabis uses with recreational marijuana uses during this past legislative session, however that bill was not acted on due to the prolonged budget debates. While the LCB or others may seek to introduce new medical cannabis legislation in the next legislative session, there is no guarantee that the bill would draw a sponsor, or get a hearing to secure passage.

#### **LICENSE RULES AND TAXES**

I-502 imposes a 25% excise tax at each transaction point (producer to processor, processor to retailer, and retailer to consumer) but local governments will not receive any of the excise tax revenues. Local governments will receive sales tax revenue that will be collected on retail sale of marijuana in the same way they do for all retail sales.

State license applicants will have to pay a \$250 license application fee and a \$1,000 license issuance fee. After that, an annual renewal fee of \$1,000 will be required. A separate license will be required for each facility location. Licensed producers and processors may not have a direct or indirect financial interest in a licensed retailer. While a licensee may hold both a producer and a processor license, holders of a producer license and/or a processor license may not also hold a retailer license.

Eventually, the LCB will set a maximum number of retail licenses that can be issued in each county. The limits will be based on population and access to product. At this time it is not possible to predict how many retail licenses will be allowed for King County. The licensing procedure will include a requirement that local jurisdictions be notified of any application for a marijuana facility within their boundaries and will provide a process to object to issuance of the license. The process will be similar to what's in place for liquor licenses.

As noted above, the state Liquor Control Board issued preliminary draft rules for the regulation of licensing recreational marijuana uses in May 2013 and sought feedback from local government, potential licensees and the general public.

After taking in over 1,000 comments, the LCB made some modifications to the proposed rules and filed them with the Code Reviser. Attached is a publication from the LCB entitled "Proposed Rules Highlights" dated July 3, 2013, describing the LCB's responsibilities and timeline for these regulations and providing brief "highlights" of these draft rules.

In conversations with LCB staff, local governments specifically discussed the interplay between state and local regulatory authority. LCB staff made clear to city representatives that it would emphasize for potential applicants the requirement that their proposed recreational marijuana businesses must comply with all applicable local regulations. They also made clear to city representatives that they would convey to applicants any objections that local governments have to license applications, such as objections that the proposed business location is not zoned for such uses, and that the issuance of a license will not be a guarantee of the ability to operate in a given location. The LCB staff urged cities to adopt zoning regulations to guide potential applicants and help inform the LCB on issues with potential business sites. The LCB will not deny a license based upon a zoning issue, as they view that as the sole responsibility of the local jurisdiction, meaning that it will leave responsibility for enforcing local zoning regulations against any licensee who attempts to open a business to cities and counties.

Based on the LCB's stated rule-making schedule, there is insufficient time for the City to pursue enactment of permanent zoning regulations in the manner generally employed under the Land Use Code of delegating consideration of proposed zoning to the Planning Commission for a public hearing and recommendation to the Council prior to finalization of the LCB's proposed rules. We are therefore recommending that we again employ the alternative process provided for in the Land Use Code that we utilized for the interim medical cannabis collective garden regulations. This would involve staff developing recommendations for Council to consider as interim zoning regulations to be presented for Council action in early September. Under GMA, within 60 days of adoption of any interim zoning, Council would be required to hold a public hearing on the interim regulations. As with the interim regulations for medical cannabis collective gardens, we would then ask Council to adopt guiding principles and forward them to the Planning Commission for consideration of proposed permanent regulations.

Since the Planning Commission will be holding a public hearing on June 24 regarding proposed permanent medical cannabis collective gardens, including zoning regulations, we will be presenting the Planning Commission with information regarding potential zoning locations for the recreational marijuana uses, and comparing them with the zoning proposed for medical cannabis collective gardens. This will provide the Planning Commission with some advance context for the later consideration of permanent zoning regulations for recreational marijuana uses.

## **RECOMMENDATION**

- 1) Provide direction to the Planning Commission to continue with consideration of proposed permanent medical cannabis collective gardens and zoning, including consideration of potential zoning for recreational marijuana uses to provide context for the collective garden zoning; and
- 2) Provide direction to staff to bring forward proposed interim zoning regulations for recreational marijuana uses in early September for consideration by Council prior to finalization of LCB rules.

## **ATTACHMENTS**

Proposed Rules Highlights from WSLCB  
Frequently Asked Questions about the I-502 Proposed Rules



# Washington State Liquor Control Board

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## Proposed Rules Highlights

July 3, 2013

### 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
May 16, 2013	Draft rules sent to stakeholders for input and vetting
July 03 2013	Proposed rules filed with Code Reviser (CR 102)
August 6-8, 2013	Public hearings on proposed rules
August 14, 2013	Rules adopted
September 16, 2013	Rules become effective
September 16, 2013	Begin accepting applications for all three licenses (30-day window)
December 1, 2013	Rules are complete (as mandated by law)
Dec. 2013 / Jan. 2014	Begin issuing producer, processor and retailer licenses

## Proposed Rules Highlights

### License Requirements

- **30 day window**
  - The LCB will open registration for all license types for a 30 calendar day window (mid-September)
  - 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 form with 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
  - Rules allow exceptions for two misdemeanor convictions of possession w/in three years

July 03, 2013

- **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.

## **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
  - WSP and FBI back 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
- **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.

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- May not contain statements or illustrations that: is false or misleading, promotes over consumption, represents that the use of marijuana has curative or therapeutic effects, depicts a child or may be appealing to children.
- **Limits on Retail Stores**
  - LCB to provide advance notice to local authority
  - Per I-502, LCB to determine number of retail outlets per county
    - LCB to hold county-by-county lottery accounting for population distribution
    - BOTEK Analysis Corporation determining county consumption levels.
      - Consumption will drive number of retail outlets.

## **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 and five other cannabinoids
  - 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
- **Lab Tested and Approved (monograph)**
  - All lots will be tested by independent accredited labs
  - Established and uniform testing standards
- **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).

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July 03, 2013



## Washington State Liquor Control Board

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### Frequently Asked Questions about the I-502 Proposed Rules

Topic: Initiative 502

Date: July 3, 2013

#### Licensing

##### **When can I get my license?**

We will begin accepting applications for all three license types (producer, processor and retailer) for 30 days on September 16, 2013 and expect to begin issuing licenses, at the earliest, in December 2013. Due to the anticipated turnout and rush to obtain a license it is possible that the process may take longer than the projected 90 days. The best way to stay up to date on the implementation process and when the applications become available is to register for [email notifications](#) on the WSLCB website.

##### **Why are you only accepting applications for 30 days?**

Opening up the licensing window for 30 days affords anyone who is qualified to apply for a license the opportunity to do so. Whether you are a small grower or larger company you will be given the same opportunity to get a license. Closing the window after 30 days allows the Board the opportunity to assess the market and see what changes, if any, are needed regarding the number of licenses. The Board may also reopen the window at its discretion.

##### **How many producer and processor licenses will be issued?**

Presently the WSLCB does not intend to limit the amount of producer or processor licenses it will issue. The LCB will open a 30 day window in September where anyone can apply, and qualified applicants will receive licenses.

##### **How many retail licenses will be issued?**

The number of retail locations will be determined using a formula 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. Once the number of locations per city and at-large have been identified, the specific locations will be selected by lottery in the event the number of applications exceeds the allotted amount for the cities and county.

##### **How will the lottery work?**

WSLCB staff are developing the guidelines for the retail license lottery. As more information becomes available we will notify stakeholders via the [I-502 Listserv](#).

##### **If the local authority objects to my proposed location after filing my application can I move my location without refileing?**

Applicants will be able to change the location of a potential license if the local authority objects, as long as the application is still in the processing stage, without filing a new application.

##### **Will a criminal record impact my ability to get a license?**

The WSLCB will employ a disqualifying criminal history point system similar to liquor. An exception would be allowed for two misdemeanor convictions of possession within three years. A felony conviction will prohibit you from obtaining a marijuana license if the conviction was in the last 10 years.

**How do I prove three months residency?**

There are many ways to prove residency. Some examples include:

- Get a Washington State driver's license or ID card, which has an issue date on it
- Present three months worth of utility bills, pay stubs, etc.
- Register to vote

You can find out more about state residency requirements at [Access Washington](#).

**How do I show I'm current on my taxes?**

Prospective licensees will be required to sign an attestation that they are current on their taxes. Failure to do so or misrepresentation of the status of your taxes is grounds to deny the application.

**Can I get my \$250 application fee back?**

Marijuana application fees are non-refundable.

**Is it true that the WSLCB is just going to license current medical marijuana outlets to retail marijuana?**

No. Retail licenses will be issued to qualified applicants who meet the licensing criteria. A medical marijuana outlet that wants to convert to a recreational outlet will have to go through the same application process as any other potential applicant. If they were to obtain a retail license they would only be allowed to sell marijuana purchased from the recreational system, they would not be allowed to commingle medical and recreational marijuana.

**Can local jurisdictions prevent me from opening a location?**

The LCB has no authority to dictate zoning requirements to local governments. Municipalities could conceivably zone marijuana/related businesses out of their geographical area, check with your local authority to understand their requirements.

**Since there are a limited number of retail licenses available can I apply for a retail license and a processor and/or producer license at the same time to ensure that I'm not left out and then withdraw the processor and/or producer license application in the event that I get the retail license?**

No. Applicants must decide ahead of time which license type they are pursuing. If an applicant applies for a retail license in addition to one of the other two license types all of the applications will be rejected.

**Can I be a processor and a producer?**

Yes. Licensees may hold a both a producer and processor license together.

**Is there a producer/processor license?**

No. Applicants must apply for, and obtain, both licenses separately and must pay the application and renewal fees on both licenses.

**Do I have to pay the 25% tax on sales between producer and processor if I hold both licenses?**

No. If you hold a producer/processor license you avoid the 25% tax that would be applied to a producer to processor sale.

**Do I have to provide proof from my landlord that they are aware of how their property is being used?**

No. The provision requiring an applicant to provide a signed affidavit showing their landlord is aware of the marijuana related business using their property has been removed.



**There is a bus stop in front of my location; will that disqualify me from getting a license?**

The rules define "public transit center" as 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.

**Can I have multiple locations?**

Yes. However each location must be licensed separately and the licensee must meet the previously mentioned requirements on license types.

**How will the WSLCB measure distance from a restricted area to a potential marijuana location?**

I-502 directs the WLCB to measure, in a straight line, from the perimeter of a restricted area to the perimeter of a potential location.

**If I'm providing financial backing do I have to be a resident?**

Yes. Financiers will be required have three months Washington state residency and to pass the same criminal background checks as a licensee.

**Testing**

**How can I get my laboratory certified to test marijuana?**

The LCB will contract (via the request for proposals process) with a firm who will be responsible for accrediting labs.

**How will I get my products tested?**

The LCB will furnish a list, via our website, of accredited labs for producers to contract with for testing services.

**Traceability/Product**

**What is the traceability system?**

A robust and comprehensive traceability software system will that will trace product from start to sale. Licensees will have to use tracking software that is compatible with LCB's traceability system and allows the LCB to monitor and track any plant at any time.

**When do my plants need to be entered into the traceability system?**

Prior to reaching eight inches in height or width each plant must be tagged and tracked individually

**How do I obtain startup inventory?**

Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises and recorded into the traceability system. No flowering marijuana plants may be brought into the facility during this fifteen day timeframe. After the 15 days pass, 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.

**Growing**

**Where can I grow?**

- **Indoors/Greenhouse**

Fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

- **Outdoor**

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.

**Can a current farm just convert its crop to marijuana?**

Converting a crop to marijuana would require a producer license and the farm would have to meet all of the guidelines set forth in the rules pertaining to outdoor growing.

**Can I grow in my personal residence?**

No. The rules state that "the Board will not approve a license for any location where law enforcement access, without notice or cause, is limited. This includes personal residences." Private residences are afforded a degree of privacy under the 4<sup>th</sup> amendment of the U.S. Constitution that is incompatible with the regulatory requirements of I-502.

**Are there any limits on how much marijuana I can produce or keep on hand?**

Presently the LCB does not plan to limit the amount of marijuana on hand at licensed locations. All marijuana products must be tracked through the traceability software.

**How many plants can I grow? Are there any size restrictions on growing operations?**

Presently the WSLCB is not capping the number of plants that a producer can grow or how large of a production facility they operate. However producers will have to track and trace every plant and grant access to that information upon request of the WSLCB.

**How can I get my marijuana certified as organic?**

Marijuana may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

## **Processing**

**Why can't I advertize marijuana's medical benefits?**

The WSLCB is regulating the recreational marijuana market and does not evaluate the medical claims of a recreational product. Prospective licensees who want to produce/market marijuana for medical purposes should research Washington's medical marijuana laws.

**How will you prevent children from accidentally ingesting marijuana products?**

Marijuana infused products must be packaged in child resistant packaging in accordance with Title 16 CFR 1700 of the Poison Prevention Packaging Act.

**What happened to the "Produced in Washington" icon?**

During the public comment period the WSLCB heard a variety of comments on the icon and ultimately decided to remove it from the rules. The intent of the icon was to provide parents, teachers, etc with a visual aid that helped them readily identify a product as marijuana. Many of the comments were positive and appreciated the WSLCB's work on this issue, while others were concerned that the icon may be seen

as promotional. The Board does reserve the ability to require an icon be included on packaging in the future for public safety purposes if they deem it necessary.

**Why does the Board want to ban concentrates?**

The Board's analysis believes that the definition of usable marijuana or infused product in I-502 does not cover concentrates. While the Board was willing to allow concentrates they are not inclined to break the law to do so.

**Does hash qualify as usable marijuana?**

No. Under the definitions of I-502 hash does not qualify as usable marijuana.

**Can I infuse concentrates with an inert oil, or similar substance, and sell it?**

Yes. This would qualify as a marijuana infused product.

**What is the minimum level of added marijuana for a product to be considered a marijuana infused product?**

The Board has not set minimum thresholds for what constitutes an "infused" product.

**Retail**

**Can I run a retail delivery business?**

No. Third party delivery is not allowed. All retail sales must take place in a licensed retail establishment.

**Can a medical marijuana outlet and a retail outlet share the same space?**

No. The two operations would have to be separate. Retail outlets are only allowed to sell marijuana that comes from a licensed processor and licensed processors are not allowed to sell to unlicensed entities, such as a medical marijuana outlet.

**Are there any restrictions on retail hours of operation?**

Retail marijuana operations may take place between the hours of 8:00AM and 12:00AM.

**Why can't I hold the marijuana before purchase?**

I-502 is very clear that there can be no open containers of marijuana, or consumption of marijuana at licensed locations. The WSLCB cannot write rules that contradict the law.

**Why can't I smell the marijuana before purchase?**

Retail licensees are allowed to provide a sample jar with a plastic or metal mesh screen to allow customers the ability to smell the product before purchasing. Opened marijuana products are not allowed inside a licensed retail outlet.

**Miscellaneous**

**Will the WSLCB be setting prices?**

No. The WSLCB will not set prices but licensees are not allowed to sell marijuana products below their acquisition cost.

**Can I provide samples?**

Producers are allowed to provide samples to a processor and processors are allowed to provide samples to a retailer. Retailers are not allowed to supply samples to the public.




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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

**20.10.100 District descriptions.**

LUC 20.10.180 through 20.10.395 describe the purpose and scope of the City's land use districts. These sections may be used to guide the interpretation of the regulations associated with each district. (Ord. 5385, 7-15-02, § 3; Ord. 5232, 7-17-00, § 1; Ord. 4654, 6-6-94, § 3; Ord. 3145, 9-27-82, § 4)

**20.10.180 Single-Family Residential Estate Districts (R-1, R-1.8).**

Single-Family Residential Estate Districts provide for a low density residential environment (1 and 1.8 dwellings per acre) which may serve to protect steep slopes or unstable land from overdevelopment and may include agricultural uses and activities compatible with low residential density. (Ord. 4654, 6-6-94, § 6; Ord. 4270, 7-8-91, § 2; Ord. 3145, 9-27-82, § 8)

**20.10.200 Suburban Residential Districts (R-2.5, R-3.5, R-4, R-5).\***

Suburban Residential Districts provide for residential areas of low to moderate densities (2.5, 3.5, 4 and 5 dwellings per acre), and permit compatible, related activities. (Ord. 4654, 6-6-94, § 8; Ord. 3145, 9-27-82, § 9)

\* Effective only within the jurisdiction of the East Bellevue Community Council and Sammamish Community Council.

**20.10.200 Suburban Residential Districts (R-2.5, R-3.5, R-4, R-5).\***

Suburban Residential Districts provide for residential areas of low to moderate densities (2.5, 3.5, 4 and 5 dwellings per acre), and permit compatible, related activities. (Ord. 4654, 6-6-94, § 8; Ord. 3145, 9-27-82, § 9)

\* Effective only within the jurisdiction of the East Bellevue Community Council and Sammamish Community Council.

**20.10.220 Multifamily Residential Districts (R-10, R-15, R-20, R-30).**

Multifamily Residential Districts provide areas for attached residential dwellings of low density (10 units per acre) and of moderate density (15, 20, and 30 dwellings per acre). The R-20 and R-30 Districts are intended to be convenient to centers of employment and have primary access to arterial streets. The R-10 and R-15 Districts are more restrictive and may be utilized as a buffer between Suburban Residential Districts and moderate density residential or commercial districts. (Ord. 4654, 6-6-94, § 9; Ord. 4270, 7-8-91, § 4; Ord. 3145, 9-27-82, § 10)

**20.10.240 Professional Office District (PO).**

Professional Office Districts provide areas for low-intensity office uses. Structures shall have exterior designs which are compatible with surrounding developments, vegetation and topography. The Professional Office District may act as a buffer between residential and more intensively developed properties. (Ord. 4654, 6-6-94, § 10; Ord. 3145, 9-27-82, § 11)

**20.10.260 Office District (O).**



Office Districts provide areas for business, financial and professional service offices, located on arterial or commercial access streets. In the proximity of other major business and commercial districts, this district may serve as a buffer between residential areas and more intensive commercial districts. (Ord. 4654, 6-6-94, § 11; Ord. 3145, 9-27-82, § 12)

**20.10.280 Office and Limited Business District (OLB).**

Office and Limited Business Districts provide areas for the location of integrated complexes made up of offices, hotels or motels, eating establishments and retail sales accessory to permitted uses. Such districts are located in areas that abut and have convenient access to freeways and major highways. (Ord. 4654, 6-6-94, § 12; Ord. 3145, 9-27-82, § 13)

**20.10.290 Office and Limited Business-Open Space District (OLB-OS).**

Office and Limited Business-Open Space Districts provide for significant amounts of open space and for offices, hotels, or motels, and other uses permitted in the Office and Limited Business District, except for residential uses. The OLB-OS properties are developed as a cohesive site with unified building design. The open space area is reserved for public use and access and may include active and passive recreational uses. OLB-OS properties are at least 25 acres in size with at least 40 percent of the total site area reserved as a contiguous open space area. (Ord. 5403, 8-5-02, § 2)

**20.10.300 Light Industrial District (LI).**

Light Industrial Districts provide for the location of a broad array of activities, including manufacturing, wholesale trade and distribution activities. Offices are discouraged unless they support the primary functions of the LI District. Sales of goods and services subordinate to permitted activities and sales of bulky or large scale items are appropriate, except for auto sales and rentals which are appropriate only in certain locations. (Ord. 4176, 11-26-90, § 1; Ord. 3145, 9-27-82, § 14)

**20.10.320 General Commercial District (GC).**

General Commercial is a mixed retail and commercial designation that provides for the location of a wide variety of business activities that provide goods and services to other businesses and the general public. (Ord. 5434, 1-21-03, § 1; Ord. 4176, 11-26-90, § 2; Ord. 3145, 9-27-82, § 15)

**20.10.340 Neighborhood Business District (NB).**

Neighborhood Business Districts are small scale, mixed-use commercial areas that provide housing opportunities and retail and service businesses for the surrounding residential community. These sites may also accommodate a limited amount of administrative office space, provided that the office use does not interfere with the site's primary neighborhood-serving function. NB Districts front on designated primary or minor arterials and are generally 1,000 feet or more apart along the arterials. It is the intent of the City that any such district be located adjacent to existing or proposed residential areas. The maximum size of an NB District, composed of contiguous properties and located on one side of a street, is four and one-half acres. The maximum size is expanded to six acres for NB sites separated by a street. (Ord. 5430, 1-21-03, § 1; Ord. 4654, 6-6-94, § 13; Ord. 4422, 9-28-92, § 1; Ord. 3145, 9-27-82, § 16)

**20.10.360 Community Business District (CB).**

Community Business Districts serve community markets and provide areas for the location of services and retail outlets, other than Downtown. (Ord. 4654, 6-6-94, § 14; Ord. 3145, 9-27-82, § 17)

**20.10.370 Downtown (D).**

**A. Purpose.**

Downtown is the financial and business hub of the community. It is to be developed as an aesthetically attractive area of intense use. Toward this end, the City shall encourage the development of regional retail shopping facilities and major mixed office complexes along with specialty retail, business support services, urban residential, hotel and institutional uses. Certain areas of Downtown are to be more intensively developed in order to facilitate pedestrian circulation. Development must enhance people orientation, and provide for the needs, activities, and interests of people. The City will encourage land uses which emphasize variety, mixed uses, and unity of form within buildings or complexes. Specific land use districts have been established within the Downtown District to permit variation in use and development standards in order to implement the objectives of the Downtown Subarea Plan.

1. Downtown-Office District 1 (Downtown-O-1). The purpose of the Downtown-O-1 Land Use District is to provide an area for the most intensive business, financial, specialized retail, hotel, entertainment, and urban residential activities. The district is limited in extent in order to provide the level of intensity needed to encourage and facilitate a significant level of transit service. Pedestrian-attracting day and nighttime activities are encouraged. Transit and pedestrian facilities linking them are encouraged; long-term parking and other automobile oriented uses are discouraged.
2. Downtown-Office District 2 (Downtown-O-2). The purpose of the Downtown-O-2 Land Use District is to provide an area for intensive business, financial, retail, hotel, entertainment, institutional, and urban residential use to serve as a transition between the more intensive Downtown-O-1 Land Use District and the lesser intensive Downtown-Multiple Use Land Use District.
3. Downtown-Multiple Use District (Downtown-MU). The purpose of the Downtown-MU Land Use District is to provide an area for a wide range of retail activity, low intensity offices, Downtown support services, and residential uses. Multiple uses are encouraged on individual sites, and in individual buildings, as well as broadly in the district as a whole.
4. Downtown-Residential District (Downtown-R). The purpose of the Downtown-R Land Use District is to provide an area for the City's most intensive urban residential uses. Limited office and retail uses are permitted secondary to residential use, in order to provide the amenity of shopping and services within easy walking distance of residential structures.
5. Downtown-Old Bellevue District (Downtown-OB). The purpose of the Downtown-OB Land Use District is to describe the Old Bellevue area and assure

compatibility of new development with the scale and intensity of the area. The social and historic qualities of this area are to be preserved.

6. Downtown-Office and Limited Business District (Downtown-OLB). The purpose of the Downtown-OLB Land Use District is to provide an area for the location of integrated complexes made up of offices, and hotels or motels, with eating establishments and retail sales secondary to these primary uses. The district abuts and has convenient access to the I-405 Freeway.

**B. Permitted Uses.**

Specific categories of uses are listed in Chart 20.10.440. LUC 20.10.400 and 20.10.420 explain Chart 20.10.440 and refer to the applicable review procedures.

**C. General Development Requirements.**

Regulations applying to specific structures or activities are found listed alphabetically in Chapter 20.20 LUC; consult the alphabetical Key Word Index in the beginning of that chapter. Additional development requirements for downtown are found in Chapter 20.25 LUC.

D. Area and dimensional requirements are found in LUC 20.25A.020.A.2; specific exceptions to the requirements in the chart are given in the sections immediately following it. All structures shall conform to these requirements. (Ord. 5496, 11-17-03, § 1; Ord. 4654, 6-6-94, § 15; Ord. 2945, 2-2-81, § 2)

**20.10.375 Bel-Red.**

**A. Purpose and Intent.**

Bel-Red is a major mixed use employment and residential area characterized by a transit-oriented, nodal development pattern, over time replacing the area's original low intensity light industrial and commercial past. The City will encourage land uses in the Bel-Red area which promote employment, retail and residential opportunities. More intense uses and greater heights are concentrated in designated nodal development areas along the NE 15th/16th corridor; these areas are intended to be served by high capacity transit. New development in these designated nodal areas is expected to have a transit-supportive and pedestrian-friendly form. The entire Bel-Red area will be distinguished by environmental and community amenities that serve residents and employees in the area, as well as nearby neighborhoods and the entire city. New development is expected to make significant contributions to these amenities, and to the infrastructure needed to support redevelopment.

Redevelopment of the Bel-Red area will occur over decades, and the City encourages a graceful transition of land use over time. Therefore special provisions are appropriate for existing uses that may not be part of the area's long-term envisioned future.

1. Bel-Red-Medical Office (Bel-Red-MO). The purpose of the Bel-Red-MO Land Use District is to provide an area for office uses, with an emphasis on medical office.

2. Bel-Red-Medical Office Node (Bel-Red-MO-1). The purpose of the Bel-Red-MO-1 Land Use District is to provide an area for the most intense medical office uses. The district is located within the core of a nodal area, and is limited in extent in order to provide the level of intensity appropriate for areas in close proximity to the highest levels of transit service within the Bel-Red area.
3. Bel-Red Office/Residential (Bel-Red-OR). The purpose of the Bel-Red-OR Land Use District is to provide an area for a mix of office, housing and retail uses, with office as the predominant use.
4. Bel-Red-Office/Residential Node 1 (Bel-Red-OR-1). The purpose of the Bel-Red-OR-1 Land Use District is to provide an area for a mix of office, housing and retail uses within the core of a nodal area, with offices as the predominant use. The district is limited in extent in order to provide the level of intensity appropriate for areas in close proximity to the highest levels of transit service within the Bel-Red area.
5. Bel-Red-Office/Residential Node 2 (Bel-Red-OR-2). The purpose of the Bel-Red-OR-2 Land Use District is to provide an area for a mix of office, housing and retail uses, with office as the predominant use. The district is located within a node but outside the node's core, and building heights provide for a transition between the node's core and areas outside the node.
6. Bel-Red-Residential/Commercial Node 1 (Bel-Red-RC-1). The purpose of the Bel-Red-RC-1 Land Use District is to provide an area for a mix of housing, retail, office and service uses within the core of a nodal area, with an emphasis on housing. The district is limited in extent in order to provide the level of intensity appropriate for areas in close proximity to the highest levels of transit service within the Bel-Red area.
7. Bel-Red-Residential/Commercial Node 2 (Bel-Red-RC-2). The purpose of the Bel-Red-RC-2 Land Use District is to provide an area for a mix of housing, retail, office and service uses. The district is located within a node but outside the node's core, and building heights provide for a transition between the node's core and areas outside the node.
8. Bel-Red-Residential/Commercial (Bel-Red-RC-3). The purpose of the Bel-Red-RC-3 Land Use District is to provide an area for a mix of housing, retail, office and service uses, with an emphasis on housing. The district is located within a node but in close proximity to mature, stable neighborhoods, and is thus appropriate for transitional heights.
9. Bel-Red-Commercial/Residential (Bel-Red-CR). The purpose of the Bel-Red-CR Land Use District is to provide an area for a mix of housing, retail, office and services. Multiple uses are encouraged on individual sites, in individual buildings, and in the district as a whole.
10. Bel-Red-Residential (Bel-Red-R). The purpose of the Bel-Red-R Land Use District is to provide an area for residential uses. Limited retail and service uses

are permitted secondary to residential use, in order to provide the amenity of shopping and services within easy walking distance of residential structures.

11. Bel-Red-General Commercial (Bel-Red-GC). The purpose of the Bel-Red-GC Land Use District is to provide an area for a wide variety of business activities that provide goods and services to other businesses and the general public.

12. Bel-Red-Office/Residential Transition (Bel-Red-ORT). The purpose of the Bel-Red-ORT Land Use District is to provide an area for low-intensity offices and uses and low density multifamily residential dwellings, developed in such a manner as to provide a buffer between residential and more intensively developed properties.

**B. Permitted Uses.**

Specific categories of uses are listed in Chart 20.25D.070. LUC 20.25D.050 explains Chart 20.25D.070 and describes the applicable review procedures for Bel-Red. The description of the use chart contained in LUC 20.10.400 and the categories of uses contained in LUC 20.10.440 do not apply to the Bel-Red Land Use Districts.

**C. General Development Requirements.**

1. Regulations applying to specific structures or activities are found listed alphabetically in Chapter 20.20 LUC; consult the alphabetical Key Word Index in the beginning of that chapter.

2. Bel-Red specific standards and guidelines are found in Chapter 20.25D LUC. All development in Bel-Red shall conform to these requirements. (Ord. 5876, 5-18-09, § 2)

**20.10.380 Evergreen Highlands Design District (EH).**

**A. Purpose.**

The Evergreen Highlands Design District provides an area for the location of high technology research and development facilities; associated light assembly and warehousing; other manufacturing uses with similar character, intensity and impact; support service and retail uses; office uses; corporate headquarters and residential uses. It represents a unique land resource, and is to be developed as a well integrated, mixed-use district sensitive to natural constraints and surrounding established development patterns. All development should exhibit high quality design, and maintain high performance levels.

B. The Evergreen Highlands Design District is divided into four performance areas as delineated by the Evergreen Highlands Zoning Map. These performance areas constitute separate land use districts and permit variation in use and development standards in order to implement the goals and policies of the Evergreen Highlands Subarea Plan, and to insure attention to specific environmental features of the various performance areas.

1. Evergreen Highlands Performance Area A (EH-A). The purpose of this performance area is to provide a location for Medium Density Multifamily

development, not exceeding 11 units per gross acre. This performance area is intended to provide housing opportunities, and to serve as a transition to the single-family housing adjacent to the Evergreen Highlands Design District.

2. Evergreen Highlands Performance Area B (EH-B). The purpose of this performance area is to provide a location for lower intensity office uses. It serves as a transition between the residential development in Performance Area A and the higher intensity nonresidential uses in Performance Area C. This performance area constitutes the area of highest environmental sensitivity within the Design District, and development must reflect the natural limitations of the land.

3. Evergreen Highlands Performance Area C (EH-C). The purpose of this performance area is to provide a location for research and development activity, office uses, and convenience retail and service uses. This performance area will serve as the focal point for the entire Design District. It must be developed in a campus-like research and development park theme, and should be compatible with nearby less intense areas.

4. Evergreen Highlands Performance Area D (EH-D). The purpose of this performance area is to provide a location for office uses. It serves as a transition between the concentration of research and development and office uses to the north and the surrounding land use districts. (Ord. 3219, 1-17-83, § 2)

#### **20.10.390 Medical Institution District (MI).**

The Medical Institution (MI) District provides for the location of hospital uses and ancillary uses to the primary hospital use located on the same site or on sites in close proximity. The purpose of the district is to encourage comprehensive long-term master development planning for the properties designated MI and to allow flexible dimensional standards to facilitate development of major medical institutions and provision of the vital public services offered by these institutions. Specific development areas have been established in order to implement the objectives of the Medical Institution District.

A. Hospital Center Development Area (DA1). The purpose of the Hospital Center Development Area is to provide an area for the primary hospital and the most intensive ambulatory health care center uses to be located within close proximity. The tallest heights and largest floor plates in the MI district are appropriate in this area. The Hospital Center Development Area is located on the topographically lowest portion of the district adjacent to the freeway where pedestrian orientation is low and heights of the tallest campus structures and largest floor plates are most appropriate. The tallest heights are necessary for the primary hospital towers to accommodate patient bed demand in the region within floor plates that are sized appropriately for patient care delivery. Large floor plates are necessary for hospital diagnostic and treatment uses and ambulatory health care center uses to accommodate adjacencies of multiple operating rooms, interventional radiology rooms and urgent care. The Hospital Center Development Area provides the dimensional flexibility necessary to allow the primary hospital and ambulatory health care center uses to be located in close proximity and benefit from the collocation of complementary uses. Medical office uses may also be appropriate for this area, but do not have the same proximity needs as the ambulatory health care center uses. Gateways on 116th Avenue NE at NE 8th Street and NE 10th

Street identify the entry into the district and provide wayfinding cues for identification of individual institutions located within the district.

B. Medical Office Development Area (DA2). The purpose of the Medical Office Development Area is to provide an area for medical office and hospital-related uses that are less dependent on immediate access to the primary hospital emergency rooms and patient beds. Taller buildings are appropriate in this area. Building mass variations (i.e., stepbacks, floor plate limitations) create transitions to less intense land use districts. Appropriate sidewalk widths, pedestrian-sensitive design and amenities and gateways ensure pedestrian orientation to perimeter sidewalks located on 116th Avenue NE and NE 12th Street. A gateway on 116th Avenue NE at NE 12th Street identifies the entry into the district.

C. Hospital Perimeter Development Area (DA3). The purpose of the Hospital Perimeter Development Area (DA3) is to provide an area for less intense hospital and ambulatory health care center uses to be located within close proximity to the primary hospital located in the Hospital Center Development Area (DA1). The Hospital Perimeter Development Area is located on a topographically sloping portion of the district adjacent to the Burlington Northern Railroad right-of-way where parking can be accommodated under the building and is appropriately separated from pedestrian ways. More modest heights are contemplated for the less intense hospital uses in the Hospital Perimeter Development Area, but floor plates remain sized appropriately for patient care delivery. Large floor plates are necessary for hospital diagnostic and treatment uses and ambulatory health care uses to accommodate adjacencies of multiple operating rooms, interventional radiology rooms and urgent care. The Hospital Perimeter Development Area provides the dimensional flexibility necessary to allow the less intense hospital uses and ambulatory health care center uses to be located in close proximity and benefit from the collocation of complementary uses. Medical office uses may also be appropriate for this area, but do not have the same proximity needs as the ambulatory health care center uses. (Ord. 5831, 8-4-08, § 1; Ord. 5587, 3-7-05, § 1)

**20.10.395 Factoria Land Use Districts (F).**

A. Factoria Land Use District 1 (F1). Factoria, F1 District is a mixed-use residential and regional retail center located adjacent to freeway corridors. It is to be developed as an aesthetically attractive urban village center to serve the Factoria community as well as shoppers attracted to the retail stores. Specific development areas and design guidelines apply within the district. Total size of the district is approximately 40 acres.

B. Factoria Land Use District 2 (F2). Factoria, F2 District provides for intensive office, movie theater, and service uses adjacent to freeway corridors in the Factoria area.

C. Factoria Land Use District 3 (F3). Factoria, F3 District provides for highly intensive office use in an integrated complex adjacent to freeway corridors in the Factoria area. This is the most intensive office district outside the Downtown. (Ord. 5385, 7-15-02, § 4)