



*Burien*  
WASHINGTON

**PLANNING COMMISSION AGENDA**  
September 11, 2013, 7:00 p.m.  
Multipurpose Room/Council Chamber  
Burien City Hall, 400 SW 152<sup>nd</sup> Street  
Burien, Washington 98166

**This meeting can be watched live on Burien Cable Channel 21 or  
streaming live and archived video on [www.burienmedia.org](http://www.burienmedia.org)**

**1. ROLL CALL**

**2. AGENDA CONFIRMATION**

**3. PUBLIC COMMENT** Public comment will be accepted on topics not scheduled for a public hearing.

**4. APPROVAL OF MINUTES** August 28, 2013

**5. NEW BUSINESS** Introduction and Discussion on Interim Zoning Regulations Related to Recreational Marijuana Businesses in Burien

**6. PLANNING COMMISSION COMMUNICATIONS**

**7. DIRECTOR'S REPORT**

**8. ADJOURNMENT**

- Future Agendas (Tentative)** September 25, 2013
- Public Hearing on Interim Recreational Marijuana Zoning Regulations
  - Schedule for 2013 Comprehensive Plan and Zoning Amendments
- October 9, 2013
- Introduction of 2013 Comprehensive Plan and Zoning Amendments
- October 23, 2013
- Public Hearing on 2013 Comprehensive Plan and Zoning Amendments
- November 13, 2013
- Recommendation on 2013 Comprehensive Plan and Zoning Amendments

**Planning Commissioners**

**Greg Duff  
Brooks Stanfield**

**Jim Clingan (Chair)  
Ray Helms  
Nancy Tosta (Vice Chair)**

**Joey Martinez  
Butch Henderson**

*City of Burien*

BURIEN PLANNING COMMISSION  
August 28, 2013  
7:00 p.m.  
Multipurpose Room/Council Chambers  
MINUTES

*To hear the Planning Commission's full discussion of a specific topic or the complete meeting, the following resources are available:*

- Watch the video-stream available on the City website, [www.burienwa.gov](http://www.burienwa.gov)
- Check out a DVD of the Council Meeting from the Burien Library
- Order a DVD of the meeting from the City Clerk, (206) 241-4647

**CALL TO ORDER**

Chair Jim Clingan called the August 28, 2013, meeting of the Burien Planning Commission to order at 7 p.m.

**ROLL CALL**

Present: Jim Clingan, Greg Duff, Ray Helms, Butch Henderson and Brooks Stanfield

Absent: Joey Martinez and Nancy Tosta

Administrative staff present: David Johanson, senior planner; Chip Davis, Community Development director

**AGENDA CONFIRMATION**

**Direction/Action**

**Motion** was made by Commissioner Duff, seconded by Commissioner Henderson, to approve the agenda for the August 28, 2013, meeting. Motion passed 5-0.

**PUBLIC COMMENT**

**Robbie Howell, 15240 20<sup>th</sup> Ave SW:** A letter regarding the Transit Corridor Redevelopment Gap Analysis was submitted on her behalf for distribution to the Planning Commission and the City Council.

**Chestine Edgar, 1811 SW 152<sup>nd</sup> St.,** said the written/electronic comments submitted during the previous meeting's public hearing need to be noted in the minutes. She also said the proposed amendments are confusing to her because they are expressed in percentages instead of square footages.

She said she toured Legacy's Youngstown Flats project in West Seattle that morning and it appeared to her to be built for singles or unmarried couples and there is no recreational space for children. She said the common recreation space on the building's roof is unusable for any recreation other than sitting and talking; it would be too dangerous for children to use. She said the photos in the August 28<sup>th</sup> Planning Commission packet must have come from the City of Burien because they did not reflect the Youngstown site. She said the Youngstown site has no open space at ground level, therefore there is no outdoor open space for children at all and only the roof for adults. She said the balconies are uncovered and are unusable in bad weather and the Juliet balconies are so narrow there is no room to do anything except open the sliding door. She said her observation is that what she has seen at Youngstown is "sorely inadequate" in terms of recreation space and it looks like most of the recreation is expected to go offsite to Delridge Park a few blocks away. She said Burien doesn't have that kind of nearby recreation space to offset the lack of onsite recreation, other than Town Square Park, which is not a recreation space for children or even adults

picnicking. She said Youngstown has 195 units, which tells her there will be at least 300+ people living there, and there is no way Town Square Park can accommodate that number of people. She noted that the other options are to walk over to the small Dotty Harper Park or to the former Community Center property, which is not developed as a park. She said if this kind of development is being considered at Town Square, additional recreation facilities will need to be provided to offset the lack onsite.

Ms. Edgar said she also noted that Youngstown has underground parking but all off the offsite street parking was filled at the time she was there, between 10 and 11 a.m., and Burien does not have that available for apartment dwellers.

She summarized that the recreation space being proposed is inadequate for Town Square and the kind of residents who typically occupy it; she encouraged the commissioners, if they insist on voting on the proposed amendments, to make it a one-time exception and to look at what it really looks like when people try to live in it.

**Robert Richmond, 17431 Ambaum Blvd S**, who said he was speaking from the perspective as a real estate agent, asked how many new storefronts are being planned and left to the real estate agents to try and fill. He said he expected not many, because commercial space is not where developers make their money and so they are willing to let the storefronts sit open for years. He said they make their money on residential space. Then he asked who is going to occupy the residential side.

He said Burien has enough empty commercial store fronts and asked who is going to occupy them. He pointed out the vacant storefronts around Bartells and noted that they have been vacant for about two years. He asked how long the developer plans on having vacant storefronts and whether the developer can absorb the vacancies financially speaking or will they be thinking “if you build it they will come.” He said he guessed that no one will come.

Mr. Richmond said that, speaking from his real estate background, it is not feasible to put up more commercial space. He suggested the developers go to 160<sup>th</sup> and Ambaum, where there are two acres to work with; or to 138<sup>th</sup> and First Avenue where there is an acre and a half. He requested that they not keep commercial land undervalued and instead move their project to a different area that might not pencil out for them but to move out of the downtown.

**Debi Wagner, 1520 SW 158<sup>th</sup> St.**, said she has a number of concerns about the downzoning of this area and the type of development that’s going in. She said some people believe this will lead to subsidized housing.

She said she believes that the developer’s expectation that the project will draw people willing to pay higher rents is premature because she believes there isn’t much to attract people to live in downtown Burien, unlike The Landing in Renton that has great restaurants, park space and a multiplex theater. She said putting subsidized housing next to the Town Square condos is going to create problems for both projects of both not having recreational space and both not using Burien for entertainment or recreation.

Ms. Wagner added that the City won’t get anything out of it because of the temporary tax exemption, so if it is subsidized housing the only thing the City will get is franchise fees for Comcast and other service. Those fees, she said, won’t help keep the area neat and tidy and you don’t want problems in the middle of the city giving the area a black eye. She said the project needs to be very high quality apartments to meet the vision for Burien and to maintain the quality that all Burien citizens expect in Town Square. She asked the commissioners not to downzone.

## **APPROVAL OF MINUTES**

### **Direction/Action**

**Motion** was made by Commissioner Duff, seconded by Commissioner Stanfield, and passed 5-0 to approve the minutes of the August 14, 2013, meeting.

## NEW BUSINESS

None.

## OLD BUSINESS

### a. Discussion and possible recommendation – Zoning Code Amendments – Downtown Commercial Zone Multi-family Recreation Space Requirements

David Johanson reviewed the proposed changes to the private and public recreation space requirements for multi-family housing in the Downtown Commercial zone. He compared the current requirements to the originally proposed amendments and to the changes made to create an alternative proposed amendment as requested by the commission following the public hearing on August 14<sup>th</sup>.

The commissioners discussed at length how the numbers were arrived at and whether the target market, young professionals, even want or would use large decks on their apartments; the feeling was expressed that decks are not as much of a priority to the younger generation as high-end finishes in the interior of the apartments.

Chair Clingan said he, too, visited the Youngstown Flats. In response to comments by Burien residents made during the public comment portion of the agenda, he said he specifically asked how many parking spaces were allotted per unit at Youngstown and was told there are two spaces per unit. He said he also asked if Burien's project is going to be a mixed use building and was told maybe a couple thousand square feet would be for commercial uses.

Mr. Clingan noted that the commission is not being asked to downzone the Downtown Commercial area; the proposed amendments address a couple of building requirements in the zoning code. He reminded his fellow commissioners that they are not being asked to design the proposed apartment building but to provide builders the ability to invest their money in Burien and build good projects. The estimated rent of \$1.85 per square foot quoted by Legacy's representatives puts the rents in the \$1,400 - \$1,600 range or higher, which he said indicates to him that they will be high quality units. He encouraged the commissioners that haven't toured Youngstown Flats to do so.

#### Direction/Action

**Motion** was made by Commissioner Duff to adopt the 10 percent gross floor area of residential, 24 square feet for private space, 30 percent of units must have private space, 51 percent of remaining units shall have alternative private space, and eliminate the fee-in-lieu, which is what was proposed at the August 14<sup>th</sup> Planning Commission meeting. Commissioner Henderson seconded the motion. Motion carried 4-1, with Commissioners Clingan, Duff, Henderson and Stanfield voting in favor, and Commissioner Helms opposed.

## PLANNING COMMISSION COMMUNICATIONS

Commissioner Helms asked if it would be possible to look at the nuisance ordinance to address trash and clutter on balconies and decks. Mr. Johanson said staff will pass Commissioner Helms' comments on and see if the Council wishes to add it to the work program.

## DIRECTOR'S REPORT

Chip Davis advised the commissioners of two training opportunities coming up on the same day. The first, A Short Course on Local Planning, is being offered from 1 - 4 p.m. Tuesday, October 1, free to the commissioners as part of the Washington Chapter American Planning Association conference. The second opportunity, an overview of the Open Public Meetings Act and how it pertains to boards, commissions and committees, is being offered that evening from 7 - 9 p.m. in the Normandy Park City Council Chamber, free to the commissioners as part of the City's insurance coverage.

Mr. Davis also informed the commissioners that the City Council has adopted interim zoning regulations for recreational marijuana, and the commissioners will be conducting a required public hearing next month as part of the public involvement phase of developing permanent regulations.

**ADJOURNMENT**

**Direction/Action**

Commissioner Stanfield moved for adjournment. Motion carried 5-0. The meeting was adjourned at 8:29 p.m.

**APPROVED:** \_\_\_\_\_

\_\_\_\_\_  
Jim Clingan, chair  
Planning Commission

DRAFT

# CITY OF BURIEN, WASHINGTON MEMORANDUM

**DATE:** September 5, 2013

**TO:** Burien Planning Commission

**FROM:** Charles W. “Chip” Davis, AICP, Community Development Director

**SUBJECT:** Introduction to Interim Zoning Regulations for Recreational Marijuana and Establishing a Public Hearing

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## **PURPOSE**

The purpose of this agenda item is to introduce the interim zoning regulations for recreational marijuana which were adopted by the Burien City Council on August 19, 2013. The focus of this meeting will be on reviewing the interim regulations in preparation for a Planning Commission public hearing scheduled for September 25, 2013.

## **BACKGROUND**

On August 19, 2013 the Burien City Council adopted Ordinance No. 586 establishing a six-month interim zoning ordinance on the establishment, location, operation, licensing, maintenance or continuation of marijuana producers, processors, and retailers as regulated pursuant to Washington State Initiative 502. The ordinance was adopted as an emergency and as such took effect immediately upon passage. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, within sixty days of passage of the ordinance the City must conduct a public hearing on the interim zoning regulations.

At this meeting staff will present an overview of the interim regulations and outline the proposed timeline for completion of the rulemaking process for the Washington State Liquor Control Board. The public hearing, which will occur at the next scheduled Planning Commission meeting, will serve a dual purpose: it will provide the required public hearing for the newly adopted interim regulations and it will initiate the public involvement process for the development of permanent rules relating to recreational marijuana businesses in Burien prior to the expiration of the interim zoning regulations on February 19, 2014.

## **ACTION**

Staff is requesting that the Planning Commission receive the staff presentation on the interim zoning regulations for recreational marijuana and conduct a public hearing at the next regularly scheduled Planning Commission meeting on September 25, 2013.

## **DRAFT SCHEDULE**

### **Planning Commission:**

09/25/13: Public Hearing on Interim Zoning Regulations for Recreational Marijuana.

12/11/13: Introduction of Permanent Zoning Regulations for Recreational Marijuana.

01/08/14: Public Hearing on Permanent Zoning Regulations for Recreational Marijuana.

01/22/14: Recommendation on Permanent Zoning Regulations for Recreational Marijuana.

City Council:

February, 2014: Consideration and Adoption of Zoning Code Amendment by City Council

**Attachments:**

1. Summary of Interim Zoning Regulations for Recreational Marijuana
2. Ordinance No. 586 Establishing Six-Month Interim Zoning Ordinance
3. I-502 Marijuana Draft Allowable Areas Map
4. I-502 Marijuana Draft Exclusion Areas Map
5. Public Hearing Notice

**Effective August 19, 2013, City of Burien Ordinance No. 586 established the following interim zoning regulations governing recreational marijuana businesses in the City of Burien:**

- A. The terms “marijuana”, “marijuana-infused products”, “marijuana producer”, “marijuana processor”, and “marijuana retailer” shall have the meaning set forth in RCW 69.50.101.

*"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 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.*

*"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.*

*"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.*

*"Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.*

*"Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.*

*"Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.*

*"Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of usable marijuana and marijuana-infused products.*

- B. **State licensed marijuana producers and marijuana processors** may locate in the City of Burien pursuant to the following restrictions:
1. **Marijuana producers and marijuana processors** must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.

2. **Marijuana producers and processors** may locate only in the I-Industrial and AI-Airport Industrial zones following a **Type 1 Administrative Review**.

*The Draft Allowable Areas Map for Burien delineates the areas where producers and processors may locate in orange. A detailed, property specific map is being produced.*

3. **Marijuana producers and processors** shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any zone other than the I-Industrial and AI-Airport Industrial zones.
4. **Marijuana producers and processors** shall not operate as an accessory to a primary use or as a home occupation.
5. **Marijuana producers and processors** may locate in the same building, and all production and processing activities shall occur within an enclosed structure.
6. **Marijuana producers and processors** shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

*The I-502 Marijuana Exclusion Areas Map delineates the areas where producers and processors are excluded from locating. Areas shown in peach color are located within 1000' of a protected site.*

- C. **State licensed marijuana retailers** may locate in the City of Burien pursuant to the following restrictions:

1. **Marijuana retailers** must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.
2. **Marijuana retailers** may locate only in the CN-Neighborhood Commercial, CI-Intersection Commercial, CR-Regional Commercial, CC-Community Commercial, DC-Downtown Commercial, SPA-1 Old Burien and SPA-3 Gateway zones following a **Type 1 Administrative Review**.

*The Draft Allowable Areas Map for Burien delineates the areas where retailers may locate in red. A detailed, property specific map is being produced.*

3. **Marijuana retailers** shall not locate in the RS-Residential Single-Family, RM-Multi-Family, PR-Professional Residential, O-Office and SPA-2 Ruth Dykeman Children's Center zones.
4. **Marijuana retailers** shall not locate in a building in which non-conforming retail uses have been established in any residential or office zone.
5. **Marijuana retailers** shall not operate as an accessory to a primary use or as a home occupation.
6. **Marijuana retailers** shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

*The I-502 Marijuana Exclusion Areas Map delineates the areas where retailers are excluded from locating. Areas shown in peach color are located within 1000' of a protected site.*

- D. **The Type 1 Review process for marijuana producers, marijuana processors and marijuana retailers** shall include a determination and finding as to whether or not the proposed use is compatible with adjoining uses. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Special attention shall be given to minimizing odor, noise, light, glare and traffic impacts.
- E. **Marijuana producers, marijuana processors and marijuana retailers** are required to acquire all necessary business licenses and are required to comply with municipal tax regulations and all other applicable City ordinances.

### **Where do we go from here?**

- Ordinance No. 586 requires a public hearing on the interim zoning regulations within 60 days and that process will begin with an initial presentation to the Planning Commission on September 11<sup>th</sup>. A public hearing on the interim regulations will be scheduled for the September 25<sup>th</sup> Planning Commission meeting which will also serve as the beginning of public involvement phase for adoption of permanent regulations within the next six months.

**CITY OF BURIEN, WASHINGTON**

**ORDINANCE NO. 586**

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**AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, ESTABLISHING A SIX-MONTH INTERIM ZONING ORDINANCE ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, MAINTENANCE OR CONTINUATION OF MARIJUANA PRODUCERS, PROCESSORS, AND RETAILERS AS REGULATED PURSUANT TO WASHINGTON STATE INITIATIVE 502; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

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WHEREAS, the City of Burien has the authority to adopt interim zoning regulations pursuant to RCW 35A.63.220; and

WHEREAS, on November 6, 2012, Initiative 502 was passed by the voters of the State of Washington, providing a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, Initiative 502 directs the Washington State Liquor Control Board (LCB) to develop rules and regulations to:

1. Determine the number of producers, processors and retailers of marijuana by county;
2. Develop licensing and other regulatory measures;
3. Issue licenses to producers, processors, and retailers at locations which comply with the Initiative's distancing requirements prohibiting such uses within one thousand feet of schools and other designated public facilities; and
4. Establish a process for the City to comment prior to the issuance of such licenses.

WHEREAS, the LCB recently issued initial draft rules, and was expected to adopt final rules in mid-August 2013 to begin issuance of marijuana producer, processor and retail licenses to qualified applicants in December, 2013; and

WHEREAS, after receiving public input regarding the proposed rules, the LCB postponed adoption of final rules to allow more time to clarify certain aspects of the I-502 implementation including, but not limited to, limits or caps on the amount of marijuana that will be grown and the number of retail stores to be licensed; and

WHEREAS, now the final rules are not scheduled to take effect until November of 2013; and

WHEREAS, Initiative 502 prohibits marijuana-related uses within 1,000 feet of the perimeter of certain uses and buildings, such as child care centers, public parks and recreation

centers or facilities, but does not address whether LCB-licensed marijuana businesses must comply with land use and zoning restrictions of local jurisdictions; and

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's police power and is specifically authorized by RCW 35A.63.100; and

WHEREAS, Section 69.51A.140 RCW, enacted as part of Washington's medical cannabis act, delegates authority to cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes related to marijuana production, processing and dispensing as exercises of the City's police powers and not necessarily limited to medical marijuana-related uses; and

WHEREAS, the Burien Municipal Code does not currently have specific provisions addressing licensing, producing, processing or retailing of recreational marijuana; and

WHEREAS, marijuana production, processing, and retailing uses must be addressed in the City's zoning code, but the land use and secondary impacts of these uses are still largely unknown and the regulations that the City will need to address them are uncertain pending the LCB's adoption of its licensing regulations and procedures; and

WHEREAS, unless the City acts immediately to address marijuana-related uses, such uses may be able to locate in the City without regulation and thereby have adverse impacts on the City and its citizens; and

WHEREAS, although the Washington state electorate as a whole voted to approve I-502, the City has not heard from the citizens of Burien regarding their opinions on the implementation of recreational marijuana-related land uses; and

WHEREAS, the City deems it in the public interest to impose interim zoning regulations for a period of six months in order to investigate this issue further and obtain regulatory clarity and guidance from the LCB's rules and Burien's citizens;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35A.63.220. The Council may adopt additional findings in the event that additional evidence is presented to the City Council.

Section 2. Interim Regulations Established. The City hereby establishes the following interim zoning regulations for the location and establishment of marijuana producers, processors, and retailers that are licensed by the State of Washington under Initiative No. 502 and the regulations promulgated pursuant thereto:

- A. The terms “marijuana”, “marijuana-infused products”, “marijuana producer”, “marijuana processor”, and “marijuana retailer” shall have the meaning set forth in RCW 69.50.101.
- B. State licensed marijuana producers and marijuana processors may locate in the City of Burien pursuant to the following restrictions:
1. Marijuana producers and marijuana processors must comply with all requirements of state law and the Washington State Liquor Control Board’s regulations.
  2. Marijuana producers and processors may locate only in the I-Industrial and AI-Airport Industrial zones following a Type 1 Administrative Review.
  3. Marijuana producers and processors shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any zone other than the I-Industrial and AI-Airport Industrial zones.
  4. Marijuana producers and processors shall not operate as an accessory to a primary use or as a home occupation.
  5. Marijuana producers and processors may locate in the same building, and all production and processing activities shall occur within an enclosed structure.
  6. Marijuana producers and processors shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.
- C. State licensed marijuana retailers may locate in the City of Burien pursuant to the following restrictions:
1. Marijuana retailers must comply with all requirements of state law and the Washington State Liquor Control Board’s regulations.
  2. Marijuana retailers may locate only in the CN-Neighborhood Commercial, CI-Intersection Commercial, CR-Regional Commercial, CC-Community Commercial, DC-Downtown Commercial, SPA-1 Old Burien and SPA-3 Gateway zones following a Type 1 Administrative Review.

3. Marijuana retailers shall not locate in the RS-Residential Single-Family, RM-Multi-Family, PR-Professional Residential, O-Office and SPA-2 Ruth Dykeman Children's Center zones.
  4. Marijuana retailers shall not locate in a building in which non-conforming retail uses have been established in any residential or office zone.
  5. Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation.
  6. Marijuana retailers shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.
- D. The Type 1 Review process for marijuana producers, marijuana processors and marijuana retailers shall include a determination and finding as to whether or not the proposed use is compatible with adjoining uses. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Special attention shall be given to minimizing odor, noise, light, glare and traffic impacts.
- E. Marijuana producers, marijuana processors and marijuana retailers are required to acquire all necessary business licenses and are required to comply with municipal tax regulations and all other applicable City ordinances.

Section 3. Public Hearing Required. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, within sixty days of the passage of this Ordinance the City Council will hold a public hearing on these interim zoning regulations.

Section 4. Duration. The interim zoning regulations established herein shall be in effect until six-months from the effective date noted below, unless extended by the City Council, pursuant to State law.

Section 5. Definitions. As used in this ordinance, the following terms have the meanings set forth below:

1. "Marijuana" or "Cannabis" 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 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 there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

2. "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.
3. "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.
4. "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.
5. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.
6. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.
7. "Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

Section 6. No Non-conforming Uses. No use that constitutes or purports to be a marijuana producer, marijuana processor, or marijuana retailer as those terms are defined in this ordinance, that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use under the provisions of the Burien Municipal Code and that use shall not be entitled to claim legal non-conforming status.

Section 7. Work Program. The Director of Community Development and/or his/her designee is hereby authorized and directed to address issues related to determining the legality of marijuana production facilities, processing facilities, and retailing facilities, including but not limited to review of the pending dispute between state and federal law enforcement authorities regarding the legality of recreational marijuana under any circumstances and notwithstanding the enactment by the legislature of Initiative 502. The work program should also develop appropriate permanent land use regulations pursuant to the new state law and state licensing requirements for review and recommendation for inclusion in the zoning regulations or other provisions of the Burien Municipal Code. Such regulations shall permit the location of marijuana producers, marijuana processors, and marijuana retailers in the city to the extent, but only to the extent, authorized by state law and then only when in compliance with state licensing requirements and City regulations. Further, appropriate nuisance declaration and abatement provisions should be developed to address any violations of any new State or City regulations or licensing requirements. Such regulations shall be presenting to the Burien Planning Commission and Burien City Council for consideration and action in due course. The Finance Director and/or

his/her designee is hereby authorized to develop business licensing or other regulations that may be necessary and appropriate pursuant to the newly amended law for review and recommendation for inclusion in the Burien Municipal Code.

Section 8. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council as required by RCW 35A.13.190. Without immediate interim zoning regulations on the establishment on such uses, development or use of a property may occur or attempt to become vested that is incompatible with I-502, the rules to be adopted by the Liquor Control Board and the laws adopted by the City of Burien. Therefore, the interim zoning regulations must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time. This Ordinance does not affect any existing vested rights to use or develop a property in a lawful way.

Section 9. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein.

Section 10. Conflict with other BMC Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Burien Municipal Code, this Ordinance shall control.

Section 11. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 19<sup>TH</sup> DAY OF AUGUST 2013, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 19<sup>TH</sup> DAY OF AUGUST 2013.**

CITY OF BURIEN

/s/ Brian Bennett, Mayor

ATTEST/AUTHENTICATED:

/s/ Monica Lusk, City Clerk

Approved as to form:

/s/ Ann Marie Soto, Acting City Attorney

Filed with the City Clerk: August 19, 2013

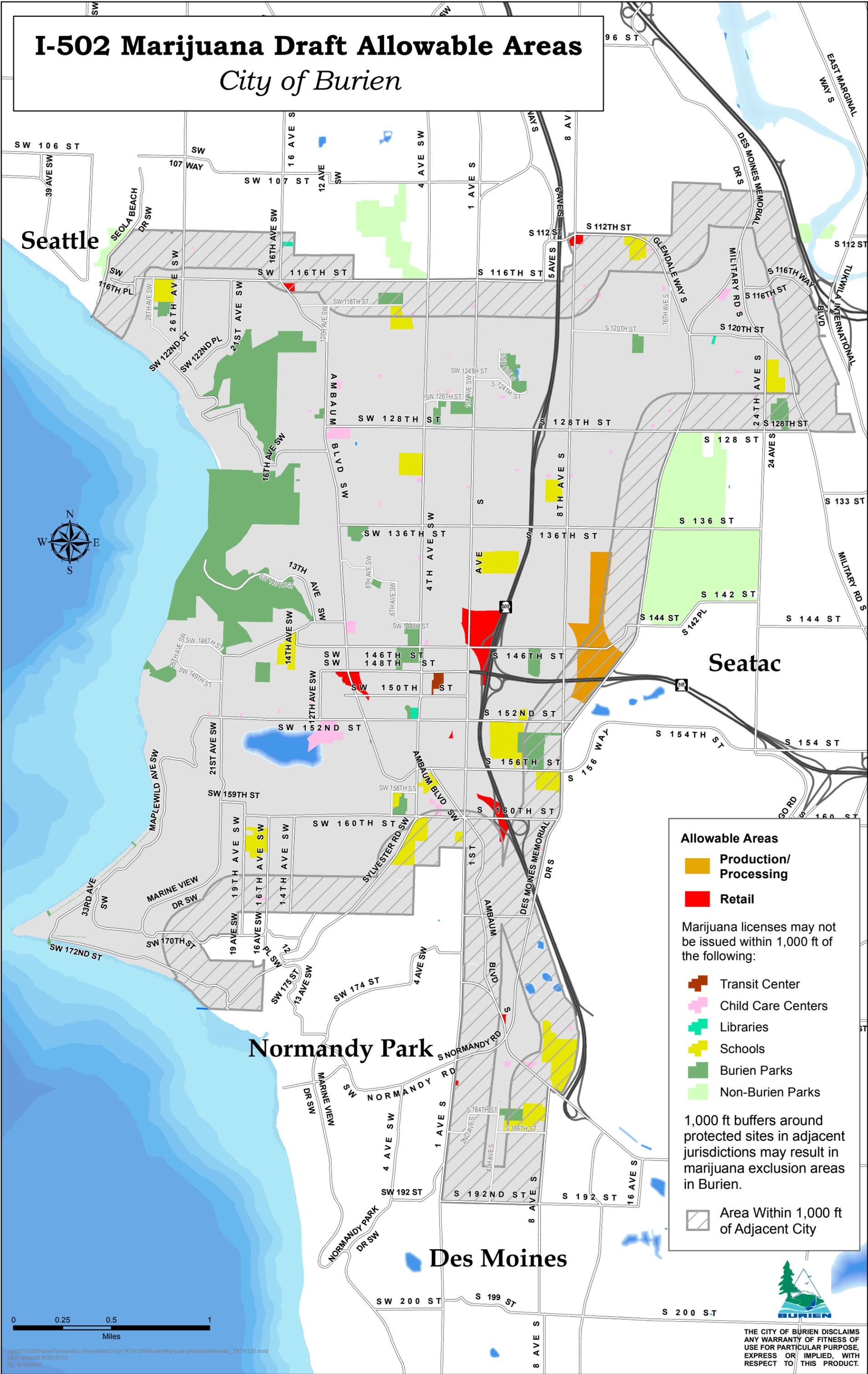
Passed by the City Council: August 19, 2013

Ordinance No. 586

Date of Publication: August 22, 2013

# I-502 Marijuana Draft Allowable Areas

## City of Burien



**Allowable Areas**

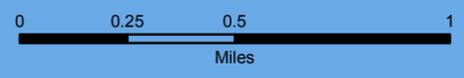
- Production/Processing**
- Retail**

Marijuana licenses may not be issued within 1,000 ft of the following:

- Transit Center
- Child Care Centers
- Libraries
- Schools
- Burien Parks
- Non-Burien Parks

1,000 ft buffers around protected sites in adjacent jurisdictions may result in marijuana exclusion areas in Burien.

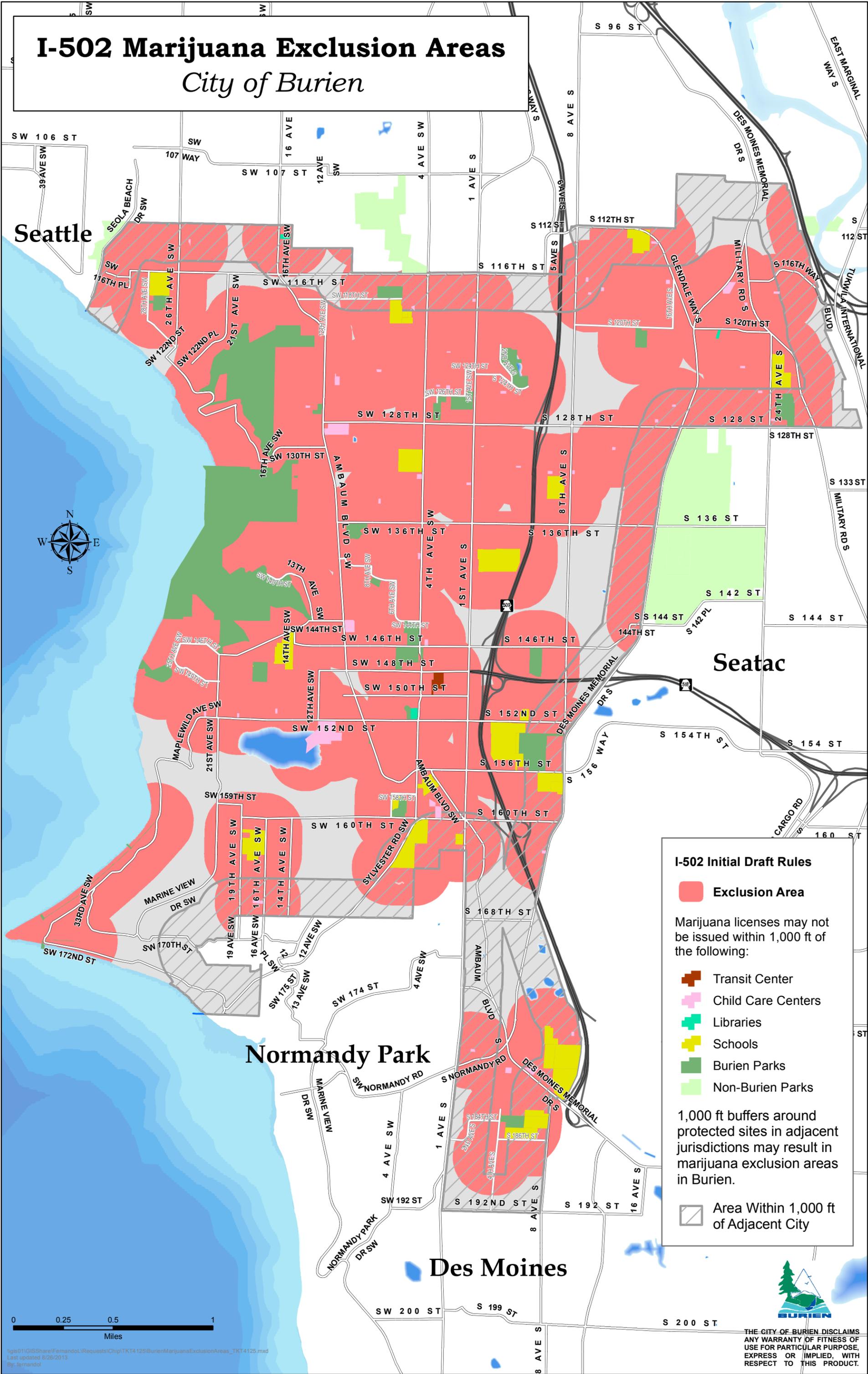
- Area Within 1,000 ft of Adjacent City



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# I-502 Marijuana Exclusion Areas

## City of Burien



**I-502 Initial Draft Rules**

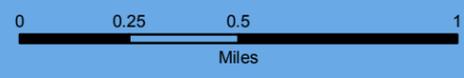
- Exclusion Area**

Marijuana licenses may not be issued within 1,000 ft of the following:

- Transit Center
- Child Care Centers
- Libraries
- Schools
- Burien Parks
- Non-Burien Parks

1,000 ft buffers around protected sites in adjacent jurisdictions may result in marijuana exclusion areas in Burien.

- Area Within 1,000 ft of Adjacent City



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 Last updated: 8/26/2013  
 By: fernando



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# Public Hearing Notice

City of Burien

400 SW 152<sup>nd</sup> St, Suite 300

Burien, Washington 98166

## Hearing Information

The City of Burien Planning Commission will hold a public hearing on **September 25, 2013, at 7:00 p.m.** at Burien City Hall, 400 SW 152<sup>nd</sup> St, Suite 300, to receive public comments on interim zoning regulations governing recreational marijuana.

## Applicant

City of Burien

## Proposal

On August 19, 2013 the Burien City Council adopted Ordinance No. 586 establishing a six-month interim zoning ordinance on the establishment, location, operation, licensing, maintenance or continuation of marijuana producers, processors, and retailers as regulated pursuant to Washington State Initiative 502. The ordinance was adopted as an emergency and as such took effect immediately upon passage. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, within sixty days of passage of the ordinance the City must conduct a public hearing on the interim zoning regulations.

## File No.

2013 Recreational Marijuana Interim Zoning Regulations  
The interim zoning regulations and project file are available for viewing at Burien City Hall during regular business hours.

## How to Comment

Any person may submit written or oral comments or testimony at the public hearing, or may submit written comments prior to the hearing. Written comments may be submitted in person, via mail, e-mail or by facsimile. All documents submitted or requested as part of this application, including the City staff report are available for review at City Hall during regular business hours.

## Project Planner (for submittal of written comments or for more information)

Charles W. "Chip" Davis, AICP  
Community Development Director  
City of Burien  
400 SW 152<sup>nd</sup> St, Suite 300  
Burien, WA 98166

Phone: (206) 248-5501  
E-Mail: [chipd@burienwa.gov](mailto:chipd@burienwa.gov)

Date of Notice: September 11, 2013