



Burien
WASHINGTON

PLANNING COMMISSION AGENDA
January 22, 2014, 7:00 p.m.
Multipurpose Room/Council Chamber
Burien City Hall, 400 SW 152nd 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

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 January 8, 2014

5. OLD BUSINESS Discussion and Recommendation - Amended Zoning Regulations for Marijuana-related Businesses

6. NEW BUSINESS Election of Vice-Chairman

7. PLANNING COMMISSION COMMUNICATIONS

8. DIRECTOR'S REPORT

9. ADJOURNMENT

Future Agendas (Tentative)

February 12, 2014

- 2014 Comprehensive Plan Housing Element Introduction

February 26, 2014

- 2014 Comprehensive Plan Housing Element

March 18, 2014

- 2014 Comprehensive Plan Docket Public Hearing

Planning Commissioners

Jim Clingan (Chair)

Ray Helms

Greg Duff
Brooks Stanfield

Joey Martinez
Butch Henderson

City of Burien

BURIEN PLANNING COMMISSION
January 8, 2014
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
- 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 January 8, 2014, meeting of the Burien Planning Commission to order at 7:00 p.m.

ROLL CALL

Present: Jim Clingan, Ray Helms, Butch Henderson, Brooks Stanfield

Absent: Greg Duff, Joey Martinez, with one position now vacant

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

AGENDA CONFIRMATION

Direction/Action

Motion was made by Commissioner Stanfield, seconded by Commissioner Henderson, to approve the agenda for the January 8, 2014, meeting. Motion passed 4-0.

PUBLIC COMMENT

None.

APPROVAL OF MINUTES

Direction/Action

Motion was made by Commissioner Henderson, seconded by Commissioner Stanfield, and passed 4-0 to approve the minutes of the December 11, 2013, meeting.

PUBLIC HEARING

Chair Clingan opened the hearing at 7:02 p.m. Chip Davis gave a brief summary of the proposed permanent regulations and outlined the proposed timeline for adoption of zoning regulations for the location of marijuana-related businesses in Burien. The interim zoning regulations expire on February 19, 2014.

Jag Basra owns an airport-related parking lot on South 140th Street in the Northeast Redevelopment Area (NERA). He asked if the City did enough to notify residents about the hearing. He said he noticed on the map that some parcels are partially in the exclusion area and partially in the allowable area and asked how that would be resolved. He said he is concerned about increased crime as a result of these businesses being allowed. He asked if the state requires the City to allow marijuana-related businesses. He said he is not happy about the City allowing marijuana-related businesses in the NERA.

Rick (last name unclear) asked if child care businesses will not be allowed to open within 800 feet of an established marijuana-related business.

Commissioner Helms asked for clarification of the process after a prospective marijuana-related business receives a license from the state. Mr. Davis explained that the business would have to apply for a City of Burien Type I review, which includes notification of property owners within 500 feet of the selected location, allowing those property owners to comment on the proposed business.

Commissioner Stanfield asked for confirmation that Burien is not allowed to ban marijuana-related businesses from the city. Mr. Davis said the City can ban them, but that opens the City up to potential lawsuits from people denied the right to locate a legitimate use, approved by Washington voters, in the city. He noted that the City Council chose to accommodate the use, but with very strict limitations. He pointed out that the Liquor Control Board will grant only one retail license for Burien out of eight license applications filed, and only one producer and one producer-processor application have been filed for Burien, neither of them in NERA.

Mike Dudley, 16466 Ambaum Blvd S., said marijuana-related businesses will attract crime; a consequence that he believes the Liquor Control Board has underestimated and that needs to be addressed by the City as part of the infrastructure. He said it comes down to whether or not Burien is going to embrace this change, which has the potential to help schools and jobs. He compared having a single retailer in Burien to having a liquor store, which isn't a big issue to him. He is interested to see how the future of Burien is shaped by having these businesses.

Mr. Davis noted that these businesses will not be much of a tax revenue source for the City, based on how the state has set up the system.

There being no further testimony or commissioner comments, Chair Clingan closed the hearing at 7:40 p.m.

OLD BUSINESS

None.

NEW BUSINESS

None.

PLANNING COMMISSION COMMUNICATIONS

None.

DIRECTOR'S REPORT

David Johanson said the commission will resume its work on the Comprehensive Plan update in February, starting with the Housing Element. The annual docket process is now open and will close March 2nd.

ADJOURNMENT

Direction/Action

Commissioner Stanfield moved for adjournment; Commissioner Henderson seconded. Motion carried 4-0. The meeting was adjourned at 7:45 p.m.

APPROVED: _____

Jim Clingan, chair
Planning Commission

CITY OF BURIEN, WASHINGTON MEMORANDUM

DATE: January 15, 2014

TO: Burien Planning Commission

FROM: Charles W. "Chip" Davis, AICP, Community Development Director

SUBJECT: Recommendation Regarding Amended Zoning Regulations for Marijuana Related Businesses

PURPOSE

The purpose of this agenda item is for the Planning Commission to discuss and make a recommendation to the City Council on amendments to the Burien Zoning Ordinance (BMC Title 19) for marijuana related businesses based on the interim zoning regulations which were adopted by the Burien City Council as Ordinance No. 586, on August 19, 2013.

Two versions of the draft of the proposed zoning code amendments are attached. Attachment 1 is the summary version which includes a list of key points and history for this issue. Attachment 2 is a codified version of the proposed zoning code changes and has been included to aid in your deliberations. The proposed amendments are based on Ordinance No. 586 which is included in the packet as Attachment 3.

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. The Planning Commission conducted a public hearing on the interim zoning regulations on September 25, 2013.

The proposed amendments were presented to the Planning Commission on December 11, 2013 and on January 8, 2014 a public hearing was conducted. Public testimony was received at the January 8, 2014 hearing and the minutes of that meeting are attached which summarize testimony received. One written comment was received following the public hearing and this comment is included in the packet as Attachment 4. Draft maps of Allowable and Exclusion Areas for marijuana related businesses are included in the packet as Attachments 5 and 6 respectively.

ACTION

Pursuant to BMC 19.65.100 and as part of the Type 4 review process, the Planning Commission should make a recommendation to the City Council regarding adoption of the proposed zoning code amendments.

A SEPA Checklist has been prepared for the proposed amendments and the SEPA responsible official for Burien issued a determination of non-significance on December 9, 2013. The proposed amendments were provided to the Washington State Department of Commerce as required by RCW Chapter 36.70A and no comments have been received from state agencies as of this date.

The production, growth, processing and retailing of marijuana may present land use and public safety issues for the licensed location, as well as surrounding properties, so enacting permanent local zoning regulations to ensure proper placement and operation of these uses is both necessary and appropriate. The proposed regulations are consistent with Burien's Comprehensive Plan, bear a substantial relationship to public health, safety and welfare and are in the best interests of the community as a whole.

Action is required by the City Council prior to the expiration of the interim zoning regulations and Staff recommends adoption of the proposed permanent regulations.

RECOMMENDED MOTION

The following suggested motion may be used, however if one or more of the options are modify selected the motion may need to be amended:

I move the Planning Commission recommend to the City Council approval of the zoning code amendments for Marijuana Related Businesses as presented in Attachment 2.

Attachments:

1. Marijuana Related Businesses Zoning Summary
2. Proposed Marijuana Related Business Zoning Amendments
3. Ordinance No. 586 Establishing Six-Month Interim Zoning Ordinance
4. Public Hearing Comment Received January 9, 2014
5. Marijuana Related Businesses Draft Allowable Areas Map
6. Marijuana Related Businesses Draft Exclusion Areas Map

Marijuana Related Business Zoning Summary

On August 19, 2013, City of Burien Ordinance No. 586 established interim zoning regulations governing recreational marijuana businesses in the City of Burien. The following marijuana related business regulations, based on the previously adopted regulations, are proposed as amendments to the Burien Zoning Ordinance (BMC Title 19):

A. Definitions (New sections BMC 10.10.333, 19.10.333.2-.5, 19.10.467 and 19.10.549):

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.*

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

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

B. State licensed marijuana producers and marijuana processors (New sections BMC 19.16.050.23 and 19.15.070.13):

State licensed marijuana producers and processors may locate in the City of Burien pursuant to the following regular and special regulations:

1. **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. Detailed, property specific designations may be obtained by contacting the Community Development Department.

2. **The Type 1 Review process for marijuana producers and marijuana processors** 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.
3. **Marijuana producers and marijuana processors** must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.
4. **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.
5. **Marijuana producers and processors** shall not operate as an accessory to a primary use or as a home occupation.
6. **Marijuana producers and processors** may locate in the same building, and all production and processing activities shall occur within an enclosed structure.
7. **Marijuana producers and processors** shall not locate within one thousand feet (1,000') as measured by the shortest straight line distance from the property line of the licensed facility to the property line of an 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 Draft 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 youth-oriented facility.

C. **State licensed marijuana retailers (New sections BMC 19.15.015.11, 19.15.020.11, 19.15.025.13, 19.15.035.16, 19.15.040.17, 19.15.055.14 and 19.15.065.16)**

State licensed marijuana retailers may locate in the City of Burien pursuant to the following regular and special regulations:

1. **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. Detailed, property specific designations may be obtained by contacting the Community Development Department.
2. **The Type 1 Review process for 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.
3. **Marijuana retailers** must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.
4. **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.
5. **Marijuana retailers** shall not locate in a building in which non-conforming retail uses have been established in any residential or office zone.
6. **Marijuana retailers** shall not operate as an accessory to a primary use or as a home occupation.
7. **Marijuana retailers** shall not locate within one thousand feet (1,000') as measured by the shortest straight line distance from the property line of the licensed facility to the property line of an 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 Draft Exclusion Areas Map delineates the areas where retailers are excluded from locating. Areas shown in peach color are located within 1000' of a youth-oriented facility.

Key Points

- The initial presentation for the proposed marijuana related business zoning is scheduled for the Planning Commission on December 11th. A public hearing on the proposed regulations is scheduled for the January 8, 2014 Planning Commission meeting and the Commission will make its recommendation to the Burien City Council on January 22nd. The Burien City Council is scheduled to consider the proposed regulations at their January 27th and February 3rd meetings.
- Since the Liquor Control Board has not issued any licenses yet and will not be doing so until January, 2014 at the earliest, the interim zoning regulations have been instrumental in responding to inquiries from property owners and potential licensees on the suitability of specific properties for locating recreational marijuana uses and serve as the basis for the proposed marijuana related business zoning amendments.
- All marijuana uses will be prohibited as a use or as a non-conforming use in all Single-Family Residential, Multi-Family Residential, Professional Residential, Office and SPA-2 (Ruth Dykeman Children's Center) zones.
- State licensed marijuana production and processing will only be allowed as a use or as a non-conforming use in the Industrial or Airport Industrial zones (more specifically only in a portion of the Northeast Redevelopment Area) and all activities must occur within an enclosed structure.
- State licensed marijuana production and processing can be located in the same industrially zoned building.
- State licensed marijuana production, processing or retailing cannot operate as an accessory to a primary use or as a home occupation.
- In order to apply for the required Type 1 Administrative review, the applicant will be required to produce either a license or license application from the State of Washington as only State licensed producers, processors and retailers will be considered.
- No use that purports to be a marijuana producer, processor or retailer that was engaged in the activity prior to August 19, 2013 shall be deemed to be a legally established use and shall not be entitled to non-conforming status.
- Marijuana producers, processors and retailers are required to acquire all necessary business licenses and are required to comply with municipal tax regulations and all other applicable City ordinances.

City of Burien
Marijuana Related Business Zoning Amendments

Section	BMC	Topic	Current Code	Proposal	Comment
1	NEW 19.10.333 – Definitions	Marijuana definition	None	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.	Definition from RCW 69.50.101
2	NEW 19.10.333.2 – Definitions	Marijuana processor definition	None	A facility 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.	Definition from RCW 69.50.101
3	NEW 19.10.333.3 – Definitions	Marijuana producer definition	None	A facility licensed by the state liquor control board for the production and sale at wholesale of marijuana to marijuana processors and other marijuana producers.	Definition from RCW 69.50.101
4	NEW 19.10.333.4 – Definitions	Marijuana retailer definition	None	A facility licensed by the state liquor control board where useable marijuana and marijuana-infused products may be sold at retail.	Definition from RCW 69.50.101
5	NEW 19.10.333.5 – Definitions	Marijuana-infused products definition	None	Products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include usable marijuana.	Definition from RCW 69.50.101

City of Burien
Marijuana Related Business Zoning Amendments

Section	BMC	Topic	Current Code	Proposal	Comment
6	NEW 19.10.467 – Definitions	Retail marijuana outlet definition	None	A location licensed by the State Liquor Control Board for the retail sale of usable marijuana and marijuana-infused products.	Definition from RCW 69.50.101
7	NEW 19.10.549 – Definitions	Usable marijuana definition	None	Dried marijuana flowers. The term “useable marijuana” does not include marijuana-infused products.	Definition from RCW 69.50.101
8	NEW 19.15.050.23 19.15.070.13	Marijuana producers and processors as permitted use	Industrial (I) and Airport Industrial (AI) zone use charts	<p>Marijuana producers and processors are a permitted use in these zones subject to a Type 1 Review process which includes a determination and finding as to whether or not the proposed use is compatible with adjoining uses. Producers and processors are subject to the following special regulations:</p> <ol style="list-style-type: none"> 1. 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 minimizing odor, noise, light, glare and traffic impacts. 2. Must comply with all requirements of State law and the Washington State Liquor Control Board’s regulations. 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 I or AI zones. 	From Ordinance No. 586, Interim Zoning Regulations

City of Burien
Marijuana Related Business Zoning Amendments

Section	BMC	Topic	Current Code	Proposal	Comment
8 (cont.)	NEW 19.15.050.23 19.15.070.13	Marijuana producers and processors as permitted use	Industrial (I) and Airport Industrial (AI) zone use charts	<ol style="list-style-type: none"> 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 (1,000') as measured by the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreational center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older. 	From Ordinance No. 586, Interim Zoning Regulations
9	NEW 19.15.015.11 19.15.020.11 19.15.025.13 19.15.035.16 19.15.040.17 19.15.055.14 19.15.065.16	Marijuana retailers as permitted use	Neighborhood Commercial (CN), Intersection Commercial (CI), Regional Commercial (CR), Community Commercial (CC), Downtown Commercial (DC),	<p>Marijuana retailers are a permitted use in Commercial zones subject to a Type 1 Review process which includes a determination and finding as to whether or not the proposed use is compatible with adjoining uses. Retailers are subject to the following special regulations:</p> <ol style="list-style-type: none"> 1. 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 minimizing odor, noise, light, glare and traffic impacts. 2. Must comply with all requirements of State law and the Washington State Liquor Control Board's regulations. 	From Ordinance No. 586, Interim Zoning Regulations

City of Burien
Marijuana Related Business Zoning Amendments

Section	BMC	Topic	Current Code	Proposal	Comment
9 (cont.)	NEW 19.15.015.11 19.15.020.11 19.15.025.13 19.15.035.16 19.15.040.17 19.15.055.14 19.15.065.16	Marijuana retailers as permitted use	Old Burien (SPA-1) and Gateway (SPA-3) zone use charts	<p>3. Marijuana retailers shall not locate in the Single-Family Residential (RS), Multi-Family (RM), Professional Residential (PR), Office (O) and Ruth Dykeman Children’s Center zones.</p> <p>4. Marijuana retailers shall not locate in a building in which non-conforming retail uses have been established in any residential or office zone.</p> <p>5. Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation.</p> <p>6. Marijuana retailers shall not locate within one thousand feet (1,000’) as measured by the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreational center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older.</p>	From Ordinance No. 586, Interim Zoning Regulations
10	ADD 19.17.090.4.A.x	Marijuana Businesses as prohibited use	Home Occupations	A. Prohibited home occupations. x. Marijuana producers, processors and retailers.	From Ordinance No. 586, Interim Zoning Regulations

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 586

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

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 19TH DAY OF AUGUST 2013, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 19TH 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

Chip Davis

From: Earl Long [Earl.Long@comcast.net]
Sent: Thursday, January 09, 2014 6:27 AM
To: Chip Davis
Subject: Public comments regarding regulations for Marijuana sales in Burien

Mr. Davis:

I apologize that I was unable to attend last night's public hearing. I again would like to resubmit my comments sent to you and the previous city council on September 27, 2013. I am requesting that you share my comments with the new council.

I am happy to discuss my comments with you and any member of the Council. I can be reached at 206-498-6187 or email at earl.long@comcast.net.

Respectfully,

Earl Long,
13772 – 16th Avenue SW
Burien, WA 98166

From: Earl Long [Earl.Long@comcast.net]
Sent: Friday, September 27, 2013 11:04 AM
To: Chip Davis
Cc: Monica Lusk; Craig Knutson; Carol Allread; Brian Bennett; Lucy Krakowiak; Jack Block Jr.; Joan McGilton; Rose Clark; Jerry Robison; Bob Edgar
Subject: Public comments regarding regulations for Marijuana sales in Burien

Thank you. I was sick on the 25th and unable to attend the public hearing. Please accept this email as my testimony regarding the regulations for Marijuana.

I am opposed to the establishment of a recreational marijuana business within the city limits of Burien. The laws passed last election is a "permissive" law. It does not require communities to let these businesses operate with city boundaries. Thus encouraging each community to determine for themselves if such business is consistent with the communities' norms and values. I would suggest that marijuana sales business will increase the amount of crime in our community, expose youth to this product which by the same law is prohibited. I'd suggest such businesses that have the potential to increase crime are inconsistent with Burien's core values that are the underlying principles described in the Council's goals - <http://www.burienwa.gov/DocumentCenter/Home/View/613>. In fact, the very first goal reads as follows:

"Ensure that Our Residents are Healthy & Secure and we do that by...

> Keeping our Residents Safe"

Without checking crime reports, I'm pretty sure that crime has increased since the law was changed to permit the sale of liquor in grocery stores and businesses such as Walgreen's and Bartell Drug. My only proof to support this statement comes from my conversations with

cashiers at these business. They told me crime has increased. So, why increase the potential for more crime by permitting recreational marijuana sales in Burien?

The research showing the delay in brain development caused by the consumption of marijuana is well documented. Especially, as related to the brain development of youth. That research/fact sheets are available from national sites, such as the National Institute of Health in documents such as, <http://www.drugabuse.gov/publications/drugfacts/marijuana>. Again, I ask you the question "Why would Burien want to support the location of businesses in our community that sell such a product that is harmful in the hands of youth?"

If Burien decides to not permit this business the amount of marijuana will increase in our community. The law permits personal consumption by adults within the confines of their home. I want to advocate a strict enforcement of this law. I want the Burien law enforcement officers to ticket or arrest violators according to the limitations of this law. I won't consume this product and do not want to have to smell it drifting in our parks, near taverns, restaurants, or on the streets of my neighborhood.

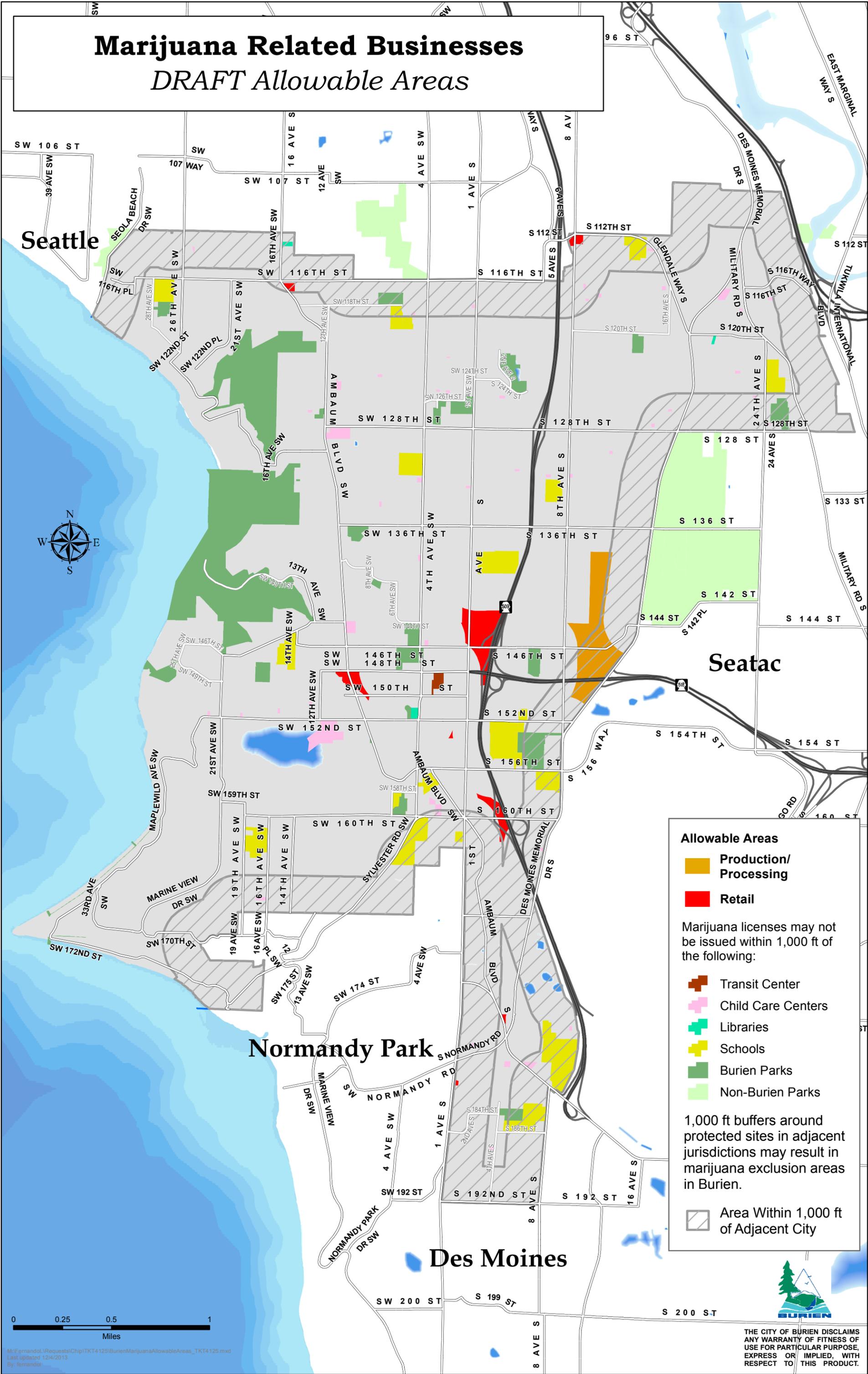
I support you efforts to have an open and honest discussion of this matter. I believe after you look at the merits of my testimony you will make the decision to not permit this business in our community.

Thank you,

Earl Long

Marijuana Related Businesses

DRAFT Allowable Areas



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

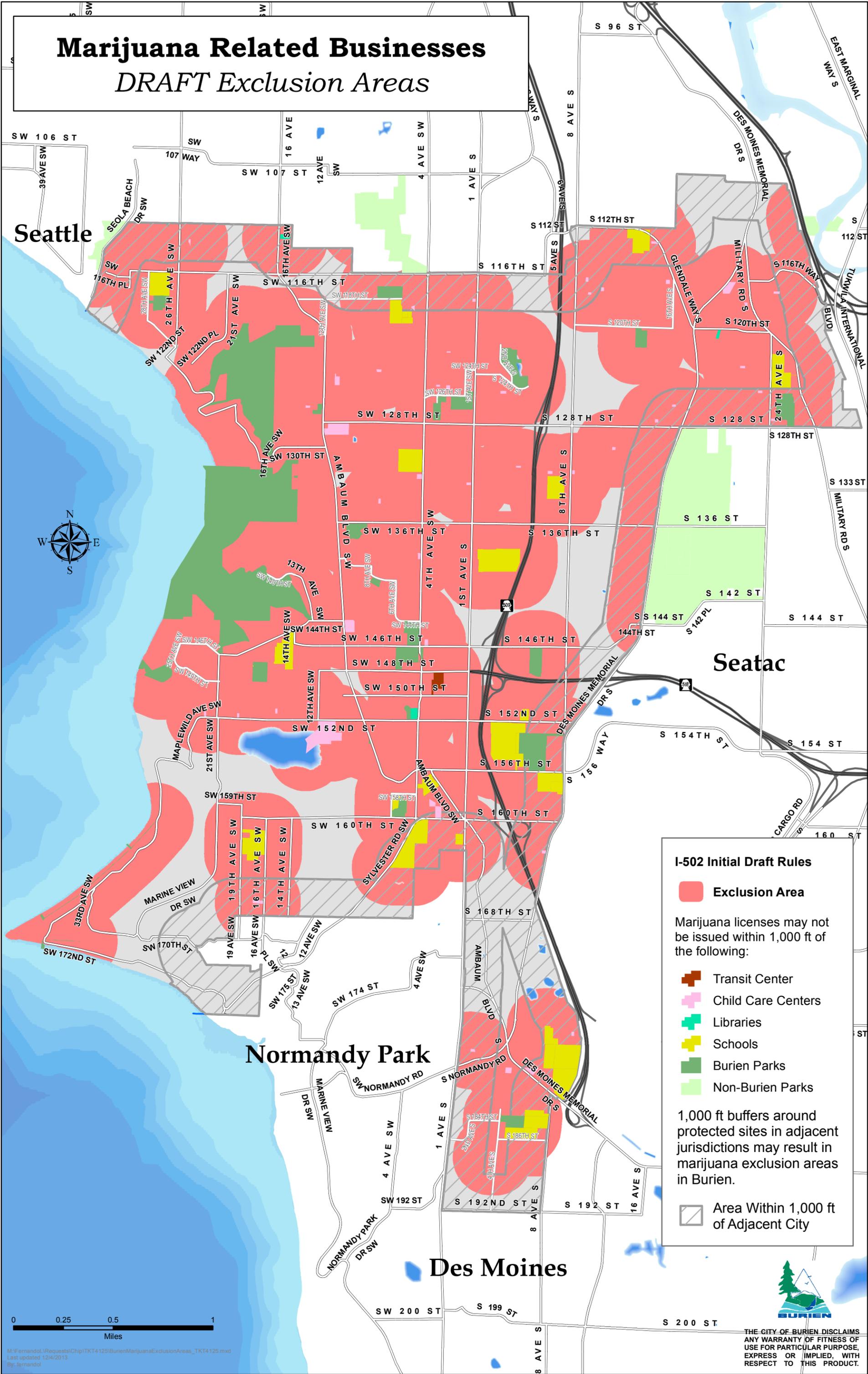


THE CITY OF BURIEN DISCLAIMS ANY WARRANTY OF FITNESS OF USE FOR PARTICULAR PURPOSE, EXPRESS OR IMPLIED, WITH RESPECT TO THIS PRODUCT.

M:\Fernandol\Requests\Chip\TKT4125\BurienMarijuanaAllowableAreas_TKT4125.mxd
 Last updated 12/4/2013
 By: fernandol

Marijuana Related Businesses

DRAFT Exclusion Areas



I-502 Initial Draft Rules

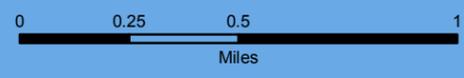
- Exclusion Area**

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



M:\Fernando\LR\requests\Chip\TKT4125\Burien\MarijuanaExclusionAreas_TKT4125.mxd
 Last updated 12/4/2013
 By: fernando



THE CITY OF BURIEN DISCLAIMS ANY WARRANTY OF FITNESS OF USE FOR PARTICULAR PURPOSE, EXPRESS OR IMPLIED, WITH RESPECT TO THIS PRODUCT.