

Don Allen- Chair
Gary Robins- Member
Jeanne Wallace- Member



Stephen Zetz - Member
Michelle McCloud- Member
Stephanie Haug- Clerk Of The Board

PLANNING COMMISSION MEETING

Wednesday, March 30, 2016

AGENDA

Council Chambers

6:00 P.M.

TURN OFF ALL CELL PHONES & PAGERS-EMERGENCY PERSONNEL USE SILENT ALERT

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF MINUTES FOR FEBRUARY 24, 2016
5. ZONING TEXT AMENDMENT-MARIJUANA ESTABLISHMENT REGULATIONS
 - A. *STAFF REPORT*
 - B. *PUBLIC HEARING*
 - C. *FINDINGS OF FACT*
 - D. *RECOMMENDATION OF PLANNING COMMISSION*
6. UPDATE 2017-COMPREHENSIVE PLAN PERIODIC UPDATE – consultant
7. GENERAL COMMISSION COMMENTS
8. ADJOURNMENT



**City of Benton City
Planning Commission Board Meeting Minutes
February 24th, 2016**

CALL TO ORDER – (00:09:32*Audio recording begins) Commission Chair Allen called the February 24th, 2016 Planning Commission Board Meeting to order at 6:00 p.m.

ROLL CALL – (00:09:36*) **Commissioners Present:**
Commission Chair Don Allen
Commissioner Michelle McLeod
Commissioner Gary Robins
Commissioner Jeanne Wallace
Commissioner Steve Zetz

City Professionals Present:
Stephanie Haug, Clerk of Board

PLEDGE OF ALLEGIANCE TO THE FLAG/U.S. – Commission Chair Allen lead the Board and audience in the Pledge of Allegiance - (00:10:01*)

APPROVAL OF MINUTES FOR NOVEMBER 18TH, 2015 PLANNING COMMISSION BOARD MEETING (00:10:30*)

Commissioner Zetz: I read them. I make a motion that we approve the Minutes.

Commissioner McLeod: I second it.

MOTION #1 - Commissioner S. Zetz moved and Commissioner M. McLeod seconded to approve the Minutes of the November 18th, 2015 Planning Commission Board Meeting as presented.

VOICE VOTE #1 –C. D. Allen, C. G. Robins, C. S. Zetz, C. M. McLeod, C. J. Wallace
ALL YEAS. Motion carried.

DISCUSSION – 2017 COMPREHENSIVE PLAN PERIODIC UPDATE - RFP - (00:10:54*)

Ms. Haug – Explanation of status and process * **Council Discussion** *

GENERAL COMMISSION COMMENTS - (00:46:40*)

Ms. Haug – Next meeting tentatively scheduled for April 27th

Land Use Designations * **Council Discussion** *

ADJOURNMENT (01:10:07*)

Commission Chair Allen adjourned the February 24th, 2016 Planning Commission Board Meeting at 7:01 p.m.

Planning Commission Meeting ended at 7:01 p.m. (01:10:11*Audio recording ends)

Don Allen, Commission Chair
Planning Commission Board

Stephanie Haug
Clerk of the Board

Date: _____

**DRAFT REGULATIONS
AND
CORRESPONDING MAP**

**RECOMMENDED TO
CITY COUNCIL IN**

MARCH 2015

First Reading: _____

Second Reading: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, CREATING A NEW SECTION 5.12.050 "MARIJUANA BUSINESSES"; AMENDING SECTION 20.33.030 "CONDITIONAL USES" IN C-1 COMMERCIAL FOR RETAIL RECREATIONAL MARIJUANA; AND AMENDING SECTION 20.36.030 "CONDITIONAL USES" IN IL-INDUSTRIAL, LIGHT DISTRICT FOR MANUFACTURING AND PRODUCTION OF RECREATIONAL MARIJUANA; AND CREATING A NEW SECTION 20.60.290 "MARIJUANA CONTROL REGULATIONS"

WHEREAS, the Washington Voters approved Initiative 502 (I-502) in 2012, which "authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older"; and

WHEREAS, I-502 allows the Washington State Liquor Control Board to license marijuana producers "to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers" (I-502, Sec 4(1)); and

WHEREAS, I-502 allows the Washington State Liquor Control Board to license marijuana processors to "process, package and label useable marijuana and marijuana infused products for sale at wholesale to marijuana retailers" (I 502, Sec 4(2)); and

WHEREAS, I-502 allows the Washington State Liquor Control Board to license marijuana retailers to "sell useable marijuana and marijuana-infused products in retail outlets" (I-502, Sec 4(3)); and

WHEREAS, I-502 establishes certain siting limitations on the Washington State Liquor Control Board's issuance of such licenses for any premises that are within 1000 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 (I-502, Sec. 8); and

WHEREAS, on July 3, 2013 the Washington State Liquor Control Board filed final proposed rules (Chapter 314-55 Washington Administrative Code) with the Code Reviser (CR 102) for applying for, obtaining, and maintaining licenses for the production, processing, and retailing of recreational marijuana; and

WHEREAS, I-502 decriminalizes, for purposes of state law, the production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana, as long as such activities are in compliance with I-502; and

WHEREAS, RCW 69.51A.140 authorizes cities to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of marijuana or marijuana products within their jurisdiction; and

WHEREAS, on January 28, 2015, the Planning Commission conducted a public meeting to discuss the proposed amendments; and

WHEREAS, on February 25, 2015, after publication of legal notice in a newspaper of general circulation and posting the required notices, the Planning Commission conducted a public hearing on the proposed code amendment; and

WHEREAS, on March 25, 2015, after publication of legal notice in a newspaper of general circulation and posting the required notices, the Planning Commission conducted an additional public hearing on the proposed code amendment; and

WHEREAS, on that same evening and after deliberating and considering the recommendations of staff and carefully reviewing all information in the public record, the Planning Commission voted to recommend approval of the proposed code amendment; and

WHEREAS, in accordance with the provisions and procedures of the Benton City Municipal Code, the City Council has received the recommendation of the Benton City Planning Commission, who has scheduled and held a hearing on such recommendation, and having received all evidence and testimony therein, adopts the following findings; and

WHEREAS, the City Council finds and determines that such enactment is in the best interests of residents of the City of Benton City and will promote the general health, safety and welfare. NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, ordain as follows:

Section 1. That a new Section 5.12.050 entitled "Marijuana Businesses" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

5.12.050 **Marijuana Businesses.** Marijuana businesses must have a state license pursuant to either Chapter 69.50 RCW or Chapter 69.51A RCW, as well as a conditional use permit before being issued a business license to operate a marijuana business in the City of Benton City.

Section 2. That Section 20.33.030 entitled "Conditional Uses" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.33.030 **Conditional Uses.** The following uses are permitted subject to approval of a conditional use permit.

- A. Automobile service stations, drive-in eating and drinking establishments, and similar auto-oriented uses.
- B. Adult Entertainment Uses subject to compliance with the provisions and standards set forth in Section 20.60.260 of this Code.
- C. Congregate care center, residential care facilities and senior center.
- D. Any similar or compatible use not specifically permitted in this district.
- E. Mini storage and storage facilities.
- F. Outdoor theaters.

- G. Wireless communication facilities.
- H. Marijuana business uses subject to compliance with the provisions and standards set forth in Section 20.60.290 of this Code. (Ord. 765, September 2003; Ord. 716, October 2000.)

Section 3. That Section 20.36.030 entitled "Conditional Uses" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.36.030 Conditional Uses. The following uses are permitted subject to approval of a conditional use permit:

- A. Grain storage facility.
- B. Port facility.
- C. Petroleum products storage or distribution facility.
- D. Heliport.
- E. Milling, hot-mix asphalt plants and concrete mixing plants.
- F. Mining or extraction of rock, stone, gravel, sand, earth and other minerals.
- G. Any similar and compatible use not specifically permitted in this district.
- H. Marijuana production or processing. (Ord. 861, September 2009; Ord. 765, September 2003.)

Section 4. That a new Section 20.60.290 entitled "Marijuana Control Regulations" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

20.60.290 Marijuana Control Regulations.

- A. Authority. The provisions of Section 20.60.290 are implemented pursuant to Initiative-502 under the authority of RCW 69.51A.140.
- B. Purpose. The purpose of this section is to further clarify the provisions of Initiative-502 and RCW 69.51A.140 as it pertains to the use of land within the City, and to establish where recreational marijuana producers, processors and retail outlets may locate in the City, and to describe the restrictions upon such uses.
- C. Definitions. The definitions in this section apply throughout this Chapter, and the City also adopts the definitions in WAC 314-55-010 and RCW 69.50.101.
 - 1. "Child Care Center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under chapter 170-295 WAC.
 - 2. "Church" means a building that provides a place for public worship of God, or provides a place for a religious service.
 - 3. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

4. "Elementary School" means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington State Superintendent of Public Instruction.
5. "Game Arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
6. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
7. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
8. "Marijuana" 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. For the purposes of this Ordinance, "cannabis" or "marijuana" 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.
9. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.
10. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides and other playground equipment, owned and/or managed by a city, county, state or federal government.
11. "Process" means to handle or process cannabis in preparation for medical or recreational use.
12. "Produce or Production" means to manufacture, plant, grow or harvest cannabis or marijuana.
13. "Public Park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government or metropolitan park district. Public park does not include trails or plazas.
14. "Public Transit Center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit routes

converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

15. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.
16. "Retail, Marijuana" means the activity of selling usable marijuana and marijuana-infused products in a retail outlet.
17. "Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.
18. "Secondary School" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.
19. "Useable cannabis or usable marijuana" means dried flowers of the *Cannabis* plant. The term "usable cannabis or usable marijuana" does not include marijuana-infused products or cannabis products.

D. Marijuana Production.

1. The cultivation of marijuana is considered to be production of a product for resale. Production of marijuana is limited to the IL-industrial, light zoning districts wherein manufacturing uses are permitted.
2. All marijuana production shall occur within indoor facilities. Outdoor production as may be permitted by the State is expressly prohibited by this section.

E. Marijuana Processing. The processing of marijuana is considered to be a manufacturing activity. Processing of marijuana and marijuana products is limited to the IL-industrial, light zoning districts wherein manufacturing and industrial processing uses are permitted.

F. Retail Marijuana Sales. The sale of marijuana is a retail activity. Sale of marijuana is limited to the C-1 commercial zoning districts wherein retail uses are permitted.

G. Locational Criteria.

1. No recreational marijuana producer, processor or retail outlet may locate within one thousand (1,000) feet of any of the following:

a. ~~Elementary or secondary school;~~

b. Playground;

c. Recreation center or facility;

d. Child care center;

e. Public park;

f. Public transit center;

- g. Library;
 - h. Any game arcade (where admission is not restricted to persons age twenty-one or older;
 - i. Church; or
 - j. Any property zoned R-1, R-2, or R-3
2. The distances described above shall be computed as straight line measurements as conducted by the City utilizing the best available data in the City's Geographic Information System.
 3. The subsequent establishment of a use listed in Section 20.60.290.G within 1,000 feet of a legally established and licensed marijuana producer, processor, or retail outlet shall not render the marijuana producer, processor, or retail outlet non-conforming in regard to location under this ordinance.

H. No City Liability – Indemnification.

1. By accepting a permit issued pursuant to this Chapter, the licensee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.
2. By accepting a permit issued pursuant to this Chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana business that is the subject of the license.

I. Limitations.

1. Nothing in this code section is intended to be, nor should be considered to be, an allowance for less restricted activity that is permitted by State law and the rules and regulations of the Liquor Control Board.
2. Nothing in this code section is intended to be, nor should be considered to be, a limitation on the City from protesting the granting of a permit(s) or the renewal of a permit(s).
3. No part of this Ordinance is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. Nothing in this Ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not

authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this Ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein.

Section 5. Applicability. The revisions contained herein shall apply to future development and building permit applications.

Section 6. Severability. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. This Ordinance shall be effective five (5) days after passage, approval and publication as required by law.

PASSED by the City Council of the City of Benton City, Washington, and approved as provided by law this ____ day of _____, 2015.

Lloyd R. Carnahan, Mayor

Attest:

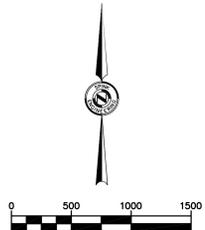
Approved as to Form:

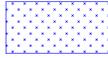
Stephanie Haug, CMC
City Clerk-Treasurer

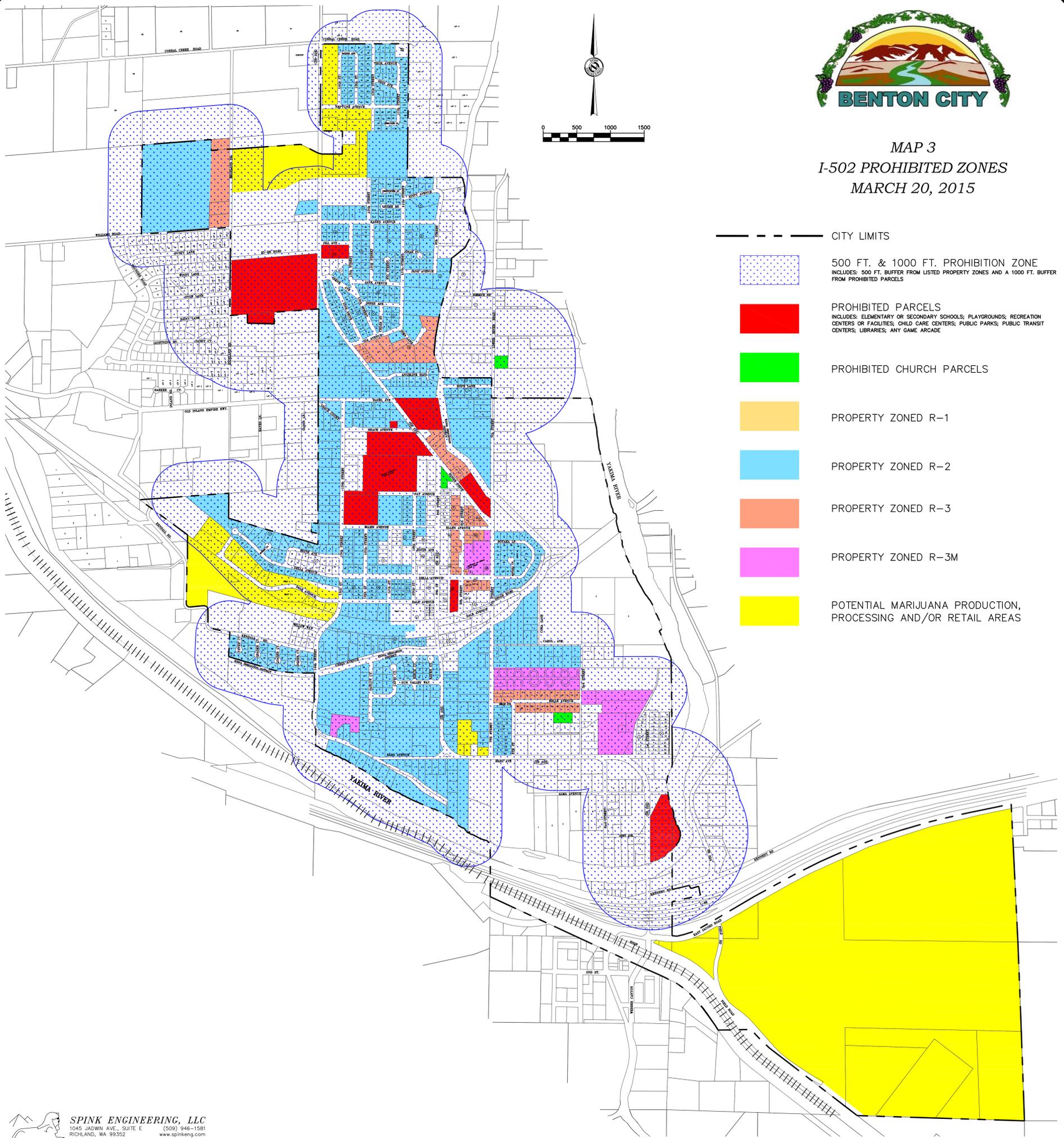
Kerr Law Group
City Attorney



MAP 3
I-502 PROHIBITED ZONES
MARCH 20, 2015



-  CITY LIMITS
-  500 FT. & 1000 FT. PROHIBITION ZONE
INCLUDES: 500 FT. BUFFER FROM LISTED PROPERTY ZONES AND A 1000 FT. BUFFER FROM PROHIBITED PARCELS
-  PROHIBITED PARCELS
INCLUDES: ELEMENTARY OR SECONDARY SCHOOLS; PLAYGROUNDS; RECREATION CENTERS OR FACILITIES; CHILD CARE CENTERS; PUBLIC PARKS; PUBLIC TRANSIT CENTERS; LIBRARIES; ANY GAME ARCADE
-  PROHIBITED CHURCH PARCELS
-  PROPERTY ZONED R-1
-  PROPERTY ZONED R-2
-  PROPERTY ZONED R-3
-  PROPERTY ZONED R-3M
-  POTENTIAL MARIJUANA PRODUCTION, PROCESSING AND/OR RETAIL AREAS



UPDATED

**DRAFT REGULATIONS
AND
CORRESPONDING MAP**

**FOR THE PLANNING COMMISSION'S
REVIEW & CONSIDERATION**

MARCH 2016

First Reading: _____

Second Reading: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, CREATING A NEW SECTION 5.12.050 "MARIJUANA BUSINESSES"; AMENDING SECTION 20.33.030 "CONDITIONAL USES" IN C-1 COMMERCIAL FOR RETAIL RECREATIONAL MARIJUANA; AND AMENDING SECTION 20.36.030 "CONDITIONAL USES" IN IL-INDUSTRIAL, LIGHT DISTRICT FOR MANUFACTURING AND PRODUCTION OF RECREATIONAL MARIJUANA; AND CREATING A NEW SECTION 20.60.290 "MARIJUANA CONTROL REGULATIONS"

WHEREAS, the Washington Voters approved Initiative 502 (I-502) in 2012, which "authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older"; and

WHEREAS, I-502 allows the Washington State Liquor and Cannabis Board to license marijuana producers "to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers" (I-502, Sec 4(1)); and

WHEREAS, I-502 allows the Washington State Liquor and Cannabis Board to license marijuana processors to "process, package and label useable marijuana and marijuana infused products for sale at wholesale to marijuana retailers" (I-502, Sec 4(2)); and

WHEREAS, I-502 allows the Washington State Liquor and Cannabis Board to license marijuana retailers to "sell useable marijuana and marijuana-infused products in retail outlets" (I-502, Sec 4(3)); and

WHEREAS, I-502 establishes certain siting limitations on the Washington State Liquor and Cannabis Board's issuance of such licenses for any premises that are within 1,000 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 (I-502, Sec. 8); and

WHEREAS, on July 3, 2013 the Washington State Liquor and Cannabis Board filed final proposed rules (Chapter 314-55 Washington Administrative Code) with the Code Reviser (CR 102) for applying for, obtaining, and maintaining licenses for the production, processing, and retailing of recreational marijuana; and

WHEREAS, I-502 decriminalizes, for purposes of state law, the production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana, as long as such activities are in compliance with I-502; and

WHEREAS, RCW 69.51A.140 authorizes cities to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of marijuana or marijuana products within their jurisdiction; and

WHEREAS, on January 28, 2015, the Planning Commission conducted a public meeting to discuss the proposed amendments; and

WHEREAS, on February 25, 2015, after publication of legal notice in a newspaper of general circulation and posting the required notices, the Planning Commission conducted a public hearing on the proposed code amendment; and

WHEREAS, on March 25, 2015, after publication of legal notice in a newspaper of general circulation and posting the required notices, the Planning Commission conducted an additional public hearing on the proposed code amendment; and

WHEREAS, on that same evening and after deliberating and considering the recommendations of staff and carefully reviewing all information in the public record, the Planning Commission voted to recommend approval of the proposed code amendment; and

WHEREAS, in accordance with the provisions and procedures of the Benton City Municipal Code, the City Council has received the recommendation of the Benton City Planning Commission, who has scheduled and held a hearing on such recommendation, and having received all evidence and testimony therein, adopts the following findings; and

WHEREAS, the City Council finds and determines that such enactment is in the best interests of residents of the City of Benton City and will promote the general health, safety and welfare. NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, ordain as follows:

Section 1. That a new Section 5.12.050 entitled "Marijuana Businesses" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

5.12.050 **Marijuana Businesses.** Marijuana businesses must have a state license pursuant to either Chapter 69.50 RCW or Chapter 69.51A RCW, as well as a conditional use permit before being issued a business license to operate a marijuana business in the City of Benton City.

Section 2. That Section 20.33.030 entitled "Conditional Uses" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.33.030 **Conditional Uses.** The following uses are permitted subject to approval of a conditional use permit.

- A. Automobile service stations, drive-in eating and drinking establishments, and similar auto-oriented uses.
- B. Adult Entertainment Uses subject to compliance with the provisions and standards set forth in Section 20.60.260 of this Code.
- C. Congregate care center, residential care facilities and senior center.
- D. Any similar or compatible use not specifically permitted in this district.
- E. Mini storage and storage facilities.
- F. Outdoor theaters.
- G. Wireless communication facilities.
- H. Marijuana business uses subject to compliance with the provisions and standards set forth in Section 20.60.290 of this Code. (Ord. 765, September 2003; Ord. 716, October 2000.)

Section 3. That Section 20.36.030 entitled "Conditional Uses" of the Benton City Municipal Code shall be and hereby is amended and shall read as follows:

20.36.030 **Conditional Uses.** The following uses are permitted subject to approval of a conditional use permit:

- A. Grain storage facility.
- B. Port facility.
- C. Petroleum products storage or distribution facility.
- D. Heliport.
- E. Milling, hot-mix asphalt plants and concrete mixing plants.
- F. ~~Mining or extraction of rock, stone, gravel, sand, earth and other minerals.~~
- G. Any similar and compatible use not specifically permitted in this district.
- H. Marijuana production or processing. (Ord. 861, September 2009; Ord. 765, September 2003.)

Section 4. That a new Section 20.60.290 entitled "Marijuana Control Regulations" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

20.60.290 Marijuana Control Regulations.

- A. Authority. The provisions of Section 20.60.290 are implemented pursuant to Initiative-502 under the authority of RCW 69.51A.140.

- B. Purpose. The purpose of this section is to further clarify the provisions of Initiative-502 and RCW 69.51A.140 as it pertains to the use of land within the City, and to establish where recreational marijuana producers, processors and retail outlets may locate in the City, and to describe the restrictions upon such uses.

- C. Definitions. The definitions in this section apply throughout this Chapter, and the City also adopts the definitions in WAC 314-55-010 and RCW 69.50.101.
 - 1. "Child Care Center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under chapter 170-295 WAC.
 - 2. "Church" means a building that provides a place for public worship of God, or provides a place for a religious service.
 - 3. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.
 - 4. "Elementary School" means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington State Superintendent of Public Instruction.
 - 5. "Game Arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
 - 6. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and

constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

7. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
8. "Marijuana" 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. For the purposes of this Ordinance, "cannabis" or "marijuana" 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.
9. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.
10. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides and other playground equipment, owned and/or managed by a city, county, state or federal government.
11. "Process" means to handle or process cannabis in preparation for medical or recreational use.
12. "Produce or Production" means to manufacture, plant, grow or harvest cannabis or marijuana.
13. "Public Park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government or metropolitan park district. Public park does not include trails or plazas.
14. "Public Transit Center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit

routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

15. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.
16. "Retail, Marijuana" means the activity of selling usable marijuana and marijuana-infused products in a retail outlet.
17. "Retail outlet" means a location licensed by the Washington State Liquor and Cannabis Board for the retail sale of useable marijuana and marijuana-infused products.
18. "Secondary School" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.
19. "Useable cannabis or usable marijuana" means dried flowers of the *Cannabis* plant. The term "usable cannabis or usable marijuana" does not include marijuana-infused products or cannabis products.

D. Marijuana Production.

1. The cultivation of marijuana is considered to be production of a product for resale. Production of marijuana is limited to the IL-industrial, light zoning districts wherein manufacturing uses are permitted.
2. All marijuana production shall occur within indoor facilities. Outdoor production as may be permitted by the State is expressly prohibited by this section.

E. Marijuana Processing. The processing of marijuana is considered to be a manufacturing activity. Processing of marijuana and marijuana products is limited to the IL-industrial, light zoning districts wherein manufacturing and industrial processing uses are permitted.

F. Retail Marijuana Sales. The sale of marijuana is a retail activity. Sale of marijuana is limited to the C-1 commercial zoning districts wherein retail uses are permitted.

G. Locational Criteria.

1. No recreational marijuana producer, processor or retail outlet may locate within one thousand (1,000) feet of any of the following:
 - a. Elementary or secondary school;
 - b. Playground;
 - c. Recreation center or facility;
 - d. Child care center;
 - e. Public park;
 - f. Public transit center;
 - g. Library;
 - h. Any game arcade (where admission is not restricted to persons age twenty-one or older;
 - i. Church; or
 - j. Any property zoned R-1, R-2, or R-3
 - k. Any other recreational marijuana producer, processor or retail outlet.
2. The distances described above shall be computed as straight line measurements as conducted by the City utilizing the best available data in the City's Geographic Information System.
3. The subsequent establishment of a use listed in Section 20.60.290.G within 1,000 feet of a legally established and licensed marijuana producer, processor, or retail outlet shall not render the marijuana producer, processor, or retail outlet non-conforming in regard to location under this ordinance.

H. No City Liability – Indemnification.

1. By accepting a permit issued pursuant to this Chapter, the licensee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or

customers for a violation of federal, state or local laws and regulations.

2. By accepting a permit issued pursuant to this Chapter, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana business that is the subject of the license.

I. Limitations.

1. Nothing in this code section is intended to be, nor should be considered to be, an allowance for less restricted activity that is permitted by State law and the rules and regulations of the Washington State Liquor and Cannabis Board.
2. Nothing in this code section is intended to be, nor should be considered to be, a limitation on the City from protesting the granting of a permit(s) or the renewal of a permit(s).
3. No part of this Ordinance is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. Nothing in this Ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this Ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein.

Section 5. Applicability. The revisions contained herein shall apply to future development and building permit applications.

Section 6. Severability. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. This Ordinance shall be effective five (5) days after passage, approval and publication as required by law.

PASSED by the City Council of the City of Benton City, Washington, and approved as provided by law this ____ day of _____, 2016.

Linda Lehman, Mayor

Attest:

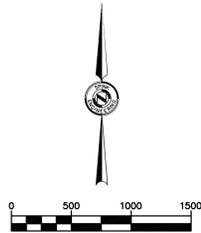
Approved as to Form:

Stephanie Haug, CMC
City Clerk-Treasurer

Kerr Law Group
City Attorney



MAP 1
I-502 PROHIBITED ZONES
MARCH 24, 2016



-  CITY LIMITS
-  PROHIBITION ZONE
INCLUDES: 100 FT. OR 1000 FT. BUFFER FROM PROHIBITED PARCELS
-  PROHIBITED PARCELS (1,000 FT. BUFFER)
INCLUDES: ELEMENTARY OR SECONDARY SCHOOLS; PLAYGROUNDS;
PUBLIC PARKS w/ PLAYGROUND
-  PROHIBITED PARCELS (100 FT. BUFFER)
INCLUDES: RECREATION CENTERS OR FACILITIES; CHILD CARE CENTERS;
PUBLIC PARKS w/OUT PLAYGROUNDS; PUBLIC TRANSIT CENTERS; LIBRARIES;
ANY GAME ARCADE
-  POTENTIAL MARIJUANA PRODUCTION,
PROCESSING AND/OR RETAIL AREAS

