



SUBSTITUTE ORDINANCE NO. 28182

1 BY REQUEST OF COUNCIL MEMBER BOE

2 AN ORDINANCE relating to land use regulations associated with Initiative 502;
3 adopting interim land use regulations concerning the production,
4 processing, and retail sale of recreational marijuana; and amending Title 13
5 of the Tacoma Municipal Code by amending Chapters 13.06, "Zoning";
6 13.06.A, "Downtown Tacoma"; and 13.10, "Shoreline Management."

7 WHEREAS Initiative 502 ("I-502"), approved by Washington voters in
8 November 2012, provides a framework for licensing and regulating the production,
9 processing, and retail sale of recreational marijuana, and

10 WHEREAS the Washington State Liquor Control Board ("WSLCB") is
11 tasked with establishing rules and procedures to implement I-502 and determining
12 a "maximum number of retail outlets that may be licensed in each county," and

13 WHEREAS, according to the WSLCB's current timeline, the rules will
14 become effective on November 16, 2013, and the state will begin accepting
15 applications for all license types on November 18, 2013, and

16 WHEREAS, while the impacts of I-502 are largely unknown, in light of the
17 rules and schedule currently proposed by the WSLCB, it is in the best interest of
18 the City to pursue land use and zoning options to provide policy and regulatory
19 guidance to facilitate the review, in a proactive and timely manner, of marijuana
20 license applications within City limits that are expected to come forward in
21 November 2013, and

22 WHEREAS, at its Study Session of October 22, 2013, the City Council
23 reviewed the Planning Commission's recommendation and draft regulations, and a
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1 hearing was held at the City Council meeting that same day to receive public
2 testimony on the proposed interim land use regulations, and

3 WHEREAS, at its Study Session of October 29, 2013, the City Council
4 reviewed the testimony received at the October 22, 2013, public hearing, and

5 WHEREAS the interim land use regulations will adopt marijuana-specific
6 uses (Marijuana Production, Marijuana Processing, and Marijuana Retail); provide
7 zoning and development standards concerning each of these three new uses; and
8 add Urban Horticulture as a new use category, and

9 WHEREAS the Planning Commission has recommended that the Interim
10 Land Use Regulatory Code Amendments set forth in the attached Exhibit "A"
11 should be put in effect for a one year period in order to allow time for (a) the
12 WSLCB licensing program to be fully implemented, (b) licensed businesses to
13 become operational, (c) the City to better assess the functionality of the interim
14 regulations, and (d) state medical marijuana regulations to be clarified; Now,
15
16 Therefore,

17
18 BE IT ORDAINED BY THE CITY OF TACOMA:

19 Section 1. That the City Council hereby adopts the Interim Land Use
20 Regulatory Code Amendments as set forth in the attached Exhibit "A" to be
21 effective for a period of one year from the effective date of this Ordinance.
22

23 Section 2. That Title 13 of the Tacoma Municipal Code is hereby amended
24 by amending Chapters 13.06, "Zoning"; 13.06.A, "Downtown Tacoma"; and
25 13.10, "Shoreline Management," thereof, as set forth in the attached Exhibit "A."
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Section 3. That the Planning Commission is hereby directed to develop a
1 work plan relating to the Interim Land Use Regulatory Code Amendments hereby
2 enacted in compliance with RCW 35.63.200.
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4 Passed _____
5

6 _____
7 Mayor

8 Attest:
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10 _____
11 City Clerk

12 Approved as to form:
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14 _____
15 Deputy City Attorney
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RECREATIONAL MARIJUANA USES

INTERIM LAND USE REGULATORY CODE AMENDMENTS *October 31, 2013*

Chapter 13.06 – Zoning

- 13.06.100 – Residential Districts
- 13.06.200 – Commercial Districts
- 13.06.300 – Mixed-Use Center Districts
- 13.06.400 – Industrial Districts
- 13.06.565 – Marijuana Businesses (*New Section*)
- 13.06.700 – Definitions and Illustrations

Chapter 13.06A – Downtown Tacoma

- 13.06A.050 – Additional Use regulations

Chapter 13.10 – Shoreline Management

- Section 7.2 – Prohibited Uses

Note – These amendments show all of the changes to the *existing* land use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that is deleted is shown in ~~striketrough~~. Specific modifications included in this version (from the previous, October 29th draft) are also highlighted.

Chapter 13.06 Zoning

13.06.100 Residential Districts

C. Land Use Requirements

4. District use table.

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Uses	R-1	R-2	R-2SRD	HMR-SRD	R-3	R-4-L	R-4	R-5	Additional Regulations ¹
* * *									
Lodging house	N	P	P	P	P	P	P/CU	P/CU	For R-2, R-2SRD, and HMR-SRD lodging is limited to one guest room only, provided such use shall not be in connection with a foster home for children or foster home for adults which may otherwise be authorized. For R-3 and R-4-L, lodging is limited to two guest rooms, provided such use shall not be in connection with a foster home for children, a foster home for adults, or lodging which may otherwise be authorized. For R-4 and R-5, lodging is limited to two guest rooms, provided that lodging with for more than two guest rooms may be allowed subject to the approval of a conditional use permit.
Marijuana processor	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Marijuana producer	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Marijuana retailer	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Master plans for any conditional use	CU	CU	CU	CU	CU	CU	CU	CU	The purpose of this process is to allow an applicant to seek approval for a development program which occupies a large site with multiple-buildings, a complex program, and a detailed plan developed by the applicant which would be implemented in phases and which would extend beyond the normal expiration date, to be reviewed after a ten-year period for those portions of the plan which have not yet been developed.
* * *									
Transportation/ freight terminal	N	N	N	N	N	N	N	N	
Urban Horticulture	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Utilities	CU	CU	CU	CU	CU	CU	CU	CU	
* * *									

13.06.200 Commercial districts

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C. Land use requirements.

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4. District use table.

Uses	T	C-1	C-2 ¹	HM	PDB	Additional Regulations ^{2,3} (also see footnotes at bottom of table)
* * *						
Juvenile community facility	N	N	N	N	N	Prohibited except as provided for in Section 13.06.530.
Lodging house	P	P	P	P	P	
Marijuana processor	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Marijuana producer	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Marijuana retailer	<u>N</u>	<u>P</u>	<u>P</u>	<u>P*</u>	<u>P*</u>	*Limited to 7,000 square feet of floor area, per business, in the HM and PDB Districts. See additional requirements contained in Section 13.06.565
Master plans for any conditional use	CU	CU	CU	CU	CU	The purpose of this process is to allow an applicant to seek approval for a development program which occupies a large site with multiple-buildings, a complex program, and a detailed plan developed by the applicant which would be implemented in phases and which would extend beyond the normal expiration date, to be reviewed after a ten-year period for those portions of the plan which have not yet been developed.
* * *						
Transportation/ freight terminal	N	N	P	P	P	
Urban Horticulture	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Utilities	CU	CU	CU	CU	CU	
* * *						

13.06.300 Mixed-Use Center Districts

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D. Land use requirements

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4. District Use Table

Uses	NCX	CCX	UCX	UCX-TD	RCX ¹	CIX	HMX	URX	NRX	Additional Regulations ^{3,4,5} (also see footnotes at bottom of table)
* * *										
Lodging house	P	P	P	P	P	P	P	P	CU	Prohibited at street level along frontage of designated core pedestrian streets in NCX and CCX Districts. ²
Marijuana processor	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Marijuana producer	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Marijuana retailer	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>P</u>	<u>P*</u>	<u>N</u>	<u>N</u>	<u>*Limited to 7,000 square feet of floor area, per business, in the HMX District. See additional requirements contained in Section 13.06.565</u>
Master plan for any conditional use	CU	CU	CU	CU	CU	CU	CU	CU	CU	The purpose of this process is to allow an applicant to seek approval for a development program which occupies a large site with multiple-buildings, a complex program, and a detailed plan developed by the applicant which would be implemented in phases and which would extend beyond the normal expiration date, to be reviewed after a ten-year period for those portions of the plan which have not yet been developed.
* * *										
Transportation/freight terminal	P	P	P	P	N	P	P	N	N	
Urban Horticulture	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	
Utilities	CU	CU	CU	CU	CU	CU	CU	CU	CU	
* * *										

13.06.400 Industrial Districts

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C. Land use requirements.

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4. District use table.

Uses	M-1	M-2	PMI	Additional Regulations ¹
* * *				
Lodging House	P/N*	N	N	In M-1 districts, permitted only within residential or institutional buildings in existence on December 31, 2008, the effective date of adoption of this provision, or when located within a mixed-use building where a minimum of 1/3 of the building is devoted to industrial or commercial use. *Not permitted within the South Tacoma M/IC Overlay District.
Marijuana processor	<u>N</u>	<u>P</u>	<u>P</u>	See additional requirements contained in Section 13.06.565
Marijuana producer	<u>N</u>	<u>P</u>	<u>P</u>	See additional requirements contained in Section 13.06.565
Marijuana retailer	<u>P~</u>	<u>P~</u>	<u>N</u>	~Within the South Tacoma M/IC Overlay District, limited to 10,000 square feet of floor area per development site in the M-2 district and 15,000 square feet in the M-1 district. See additional requirements contained in Section 13.06.565
Master plan for any conditional use	CU	CU	CU	The purpose of this process is to allow an applicant to seek approval for a development program which occupies a large site with multiple-buildings, a complex program, and a detailed plan developed by the applicant which would be implemented in phases and which would extend beyond the normal expiration date, to be reviewed after a ten-year period for those portions of the plan which have not yet been developed.
* * *				
Transportation/freight terminal	P	P	P	
Urban Horticulture	<u>N</u>	<u>P</u>	<u>P</u>	
Utilities	P	P	P	
* * *				

13.06.565 Marijuana Businesses (New Section)

A. Intent. In November 2012, Washington voters passed Initiative 502, which establishes precedent for the production, processing and retail sale of marijuana for recreational purposes. Pursuant to RCW 69.50, the State has adopted rules establishing a state-wide regulatory and licensing program for marijuana uses (WAC 314-55). It is therefore necessary for the City to establish local regulations to address such uses.

It is the intent of these regulations to ensure that such state-licensed uses are located and developed in a manner that is consistent with the desired character and standards of this community and its neighborhoods, minimizes potential incompatibilities and impacts, and protects the public health, safety and general welfare of the citizens of Tacoma. Recognizing the voter-approved right to establish certain types of marijuana businesses, it is also the intent of these regulations to provide reasonable access to mitigate the illicit marijuana market and the legal and personal risks and community impacts associated with it.

B. Applicability. The provisions of this Section shall apply city-wide. The specific development standards provided in this Section shall be in addition to the zoning and development standards generally applicable to the proposed use and the relevant zoning district.

1. No use that purports to be a marijuana producer, processor or retailer, as defined and regulated herein and in WAC 314-55, that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use or entitled to claim legal non-conforming status.

2. For purposes of this Section and the standards applicable to state-licensed recreational marijuana uses, the terms and definitions provided in WAC 314-55 shall generally apply unless the context clearly indicates otherwise.

C. Standards.

1. Marijuana uses (marijuana producer, marijuana processor, and marijuana retailer) shall only be permitted as allowed under RCW 69.50 and WAC 314-55.

2. Marijuana uses shall only be allowed within the City of Tacoma if appropriately licensed by the State of Washington and the City of Tacoma, and operated consistent with the requirements of the State and all applicable City ordinances, rules, requirements and standards.

3. Marijuana uses shall only be allowed in those zoning districts where it is specifically identified as an allowed use (see the zoning district use tables, Sections 13.06.100, -.200, -.300, and -.400 and Chapter 13.06A).

4. Marijuana uses shall be designed to include controls and features to prevent odors from travelling off-site and being detected from a public place, the public right-of-way, or properties owned or leased by another person or entity.

5. Marijuana retail uses shall not include drive-throughs, exterior, or off-site sales.

6. In accordance with WAC 314-55-147, marijuana retail uses shall not be open to the public between the hours of 12 a.m. and 8 a.m.

7. Signage and advertising shall be allowed only in accordance with the standards set forth in TMC Sections 13.06.520 - .522, the additional standards set forth in WAC 314-55, and any other applicable standards or requirements.

8. Displays against or adjacent to exterior windows shall not include marijuana or marijuana paraphernalia.

9. Location requirements.

a. As provided in RCW 69.50.331 and WAC 314-55-050, marijuana uses shall not be allowed to locate within 1,000 feet of public parks, playgrounds, recreation/community centers, libraries, child care centers, schools, game arcades, and public transit centers. For purposes of this standard, these uses are as defined in WAC 314-55.

b. Marijuana retail uses shall not be allowed to locate within 1,000 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.

c. The methodology for measuring the buffers outlined above in subsections 8.a and 8.b. shall be as provided in WAC 314-55.

c. It shall be the responsibility of the owner or operator of the proposed state-licensed marijuana use to demonstrate and ensure that a proposed location is not within one of the buffers outlined above in subsections 8.a and 8.b.

d. An existing nonconforming use located within a zoning district that would otherwise not permit marijuana uses, such as an old convenience store in a residential district, shall not be allowed to convert to a marijuana use.

13.06.700 Definitions and illustrations

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13.06.700 M

Main building and principal use.

1. Building. The primary building or other structure on a lot designed or used to accommodate the principal use to which the premises are devoted. Where a principal use involves more than one building or structure designed or used for the principal use, as in the case of group dwellings, each such permitted building or structure on a lot defined by this chapter shall be construed as comprising a main building or structure.

2. Use. The main or primary purpose for which a building, other structure, and/or lot is designed, arranged, or intended, or for which they may be lawfully used, occupied, or maintained under this chapter.

Mansard roof. A roof with two slopes or pitches on each of the four sides, the lower slopes steeper than the upper.

Marijuana. As defined in RCW 69.50.101 and provided herein for reference. 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. As defined in RCW 69.50.101 and provided here for reference. 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. As defined in RCW 69.50.101 and provided here for reference. A person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers

Marijuana-infused products. As defined in RCW 69.50.101 and provided here for reference. Products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include useable marijuana.

Marijuana retailer. As defined in RCW 69.50.101 and provided here for reference. A person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

Microbrewery/winery. An establishment primarily engaged in the production and distribution of beer, ale, or other malt beverages, or wine, and which may include accessory uses such as tours of the microbrewery/winery, retail sales, and/or on-site consumption, e.g., “taproom.” This classification allows a microbrewery to sell beer/wine at retail and/or act as wholesaler for beer/wine of its own production for off-site consumption with appropriate state licenses.

Mixed-rate housing. Includes both affordable and market-rate housing units in the same housing or mixed-use development.

* * *

13.06.700 U

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Upper story setback. See “modulation, horizontal.”

Urban Horticulture. A use in which plants are grown or produced indoors for the sale of the plants or their products or for use in any business, including such things as fruits, vegetables, and other crops, flowers, ornamental plants or trees.

Use. The purpose land, building, or structure now serves or for which it is occupied, maintained, arranged, designed, or intended.

* * *

Chapter 13.06A Downtown Tacoma

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13.06A.050 Additional use regulations

A. Use Categories.

1. Preferred. Preferred uses are expected to be the predominant use in each district.
2. Allowable. Named uses and any other uses, except those expressly prohibited, are allowed.
3. Prohibited. Prohibited uses are disallowed uses (no administrative variances).

B. The following uses are prohibited in all of the above districts, unless otherwise specifically allowed:

1. Adult retail and entertainment.
2. Heliports.
3. Work release facilities.
4. Jails and correctional facilities.
5. Billboards.

C. Special needs housing shall be allowed in all downtown districts in accordance with the provisions of Section 13.06.535.

D. Marijuana uses (marijuana producer, marijuana processor, and marijuana retailer). Marijuana retailers shall be allowed in all downtown districts, subject to the additional requirements contained in Section 13.06.565. Marijuana producers and marijuana processors shall be prohibited in all downtown districts.

* * *

Chapter 13.10 Shoreline Management

* * *

Chapter 7 General Use Policies and Regulations

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Section 7.2 Prohibited Uses

The following uses are prohibited in all shoreline environments:

1. Agriculture;
2. Forest Practices; ~~and~~
3. Mining; ~~and~~
4. Marijuana uses (marijuana producer, marijuana processor, and marijuana retailer).

* * *