



City of Tacoma
Planning Commission

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April 11, 2016

The Honorable Mayor and City Council
City of Tacoma
747 Market Street, Suite 1200
Tacoma, WA 98402

RE: Proposed Amendments to the Marijuana Regulations

Honorable Mayor Strickland and Members of the City Council,

On behalf of the Tacoma Planning Commission, I am forwarding our recommendations on the Proposed Amendments to the Marijuana Regulations contained in the Land Use Regulatory Code. Enclosed is the "*Planning Commission's Findings and Recommendations Report, April 11, 2016*" that summarizes the proposed amendments, the public review process, and the Planning Commission's deliberations.

The Planning Commission's recommendations were developed in response to Substitute Ordinance No. 28343 adopted by the City Council on January 12, 2016, that enacted an immediate temporary moratorium on new marijuana retail uses and the establishment of marijuana cooperatives for a period of six months or until earlier terminated if the City's marijuana-related regulations are updated. We recommend that the City Council amend the Marijuana Regulations to reflect changes to State law as well as to respond to community and business concerns and changing market conditions. The following items are discussed further in the *Findings and Recommendations Report*, but warrant attention from the City Council as these were the most deliberated and contentious items:

- Allowing or banning cooperatives
- Local cap on the number of retail stores
- Medical endorsement requirements for retail stores
- Buffers from sensitive uses
- Retail store dispersion (to limit concentrations)

These proposed recommendations are the result of intensive analyses, thorough research, and rigorous deliberations performed by the Planning Commission and City staff over the past five months. Extensive outreach efforts have been conducted to engage stakeholders, interested parties and concerned citizens, and to ensure early and continuous public participation in the review process.

The proposal is intended to ensure the regulations are consistent with State law and address issues raised through community discussions, public comments and the recent Planning Commission public hearing on March 2, 2016. The recommendation also takes into account the need for medical access, both through the retail market and cooperative gardens; the Commission takes very seriously the need for medical access for qualified, legitimate patients who use marijuana for what are often times debilitating illnesses. The proposed regulatory structure in the draft code being

forwarded to you will best represent the city's policy regarding medical accessibility and will ensure safe, convenient access to those in need. It is important to state however that the Commission believes that the unlawful "collective garden" storefront market, which has been in place for many years in Tacoma, should be addressed by the City Council in a manner that will allow for the complete integration of the legal retail storefronts with the medical endorsement process.

Tacoma is and should continue to be a leader in providing access to both medical and recreational marijuana to its citizens, while also protecting the citizenry, and especially young children, from potential adverse impacts and unintended consequences of efforts to normalize the legal use of marijuana. It is important to note that while the majority of the jurisdictions surrounding Tacoma, including Lakewood, Gig Harbor, University Place, Fircrest, Pierce County and others, currently have directly or indirectly banned marijuana land uses from their communities, Tacoma has provided a flexible market in which to operate. With this recommendation, Tacoma will continue to provide ample and adequate commercial and industrial land for these uses, while supporting the continuing transition away from the black and gray markets and providing reasonable controls for its citizenry.

The Planning Commission believes the proposed Marijuana Regulations will help achieve the City's strategic goals for strengthening and supporting a safe city with healthy residents. We respectfully request the City Council adopt the above-mentioned recommendations of the Planning Commission.

Sincerely,



CHRIS BEALE, AICP
Chair, Tacoma Planning Commission

Enclosure



**MARIJUANA USES
PROPOSED LAND USE CODE AMENDMENTS**

**TACOMA PLANNING COMMISSION
FINDINGS OF FACT AND RECOMMENDATIONS
APRIL 6, 2016**

A. SUBJECT:

Proposed Land Use Code Amendments regarding Marijuana Uses.

B. SUMMARY OF PROPOSED AMENDMENT:

The Proposed Marijuana Regulations, as shown in Exhibit “A”, would amend the Tacoma Municipal Code (*TMC*), Chapter 13.06 – Zoning (mainly, Section 13.06.565 Marijuana Uses) and Chapter 13.06A – Downtown Tacoma. The proposal would retain most of the provisions of the existing code, and make several additions and modifications.

Specifically, the following provisions of the existing code would be retained and incorporated in the permanent regulations contained in *TMC 13.06.565*:

- Prohibits all marijuana production, processing, and retail uses in residential and shoreline districts;
- Allows marijuana producers and processors outright in intensive industrial zones, with applicable standards and requirements;
- Allows marijuana retailers outright in most commercial, mixed-use, industrial, and downtown zoning districts, with applicable standards and requirements;
- Prohibits marijuana uses from locating within 1,000 feet of playgrounds, secondary and elementary schools, pursuant to Washington Administrative Code (*WAC*) 314-55;
- Requires marijuana uses to comply with additional development standards concerning odor controls, drive-throughs, size and hours of operation, signage and advertisement, off-site and outdoor sales, product visibility, and other applicable standards; and,

In addition to retaining the above provisions, the proposed regulations would incorporate the following modifications:

- Prohibits marijuana uses from locating within 500 feet of public parks, recreation centers or facilities, libraries, child care centers, game arcades, correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers, and from locating within 100 feet of public transit centers;
- Requires all retail marijuana stores to have a State medical endorsement;
- Allows marijuana cooperatives within dwellings in all districts, but only if they are at least 1-mile from marijuana retailers and 100 feet from elementary schools, secondary schools, playgrounds, child care centers, game arcades, libraries, public parks, public transit centers, and recreation centers or facilities, and subject to limitations regarding external visibility and impacts; and
- Adds “marijuana researcher” to the list of definitions in accordance with the respective terms, as defined in Revised Code of Washington (*RCW*) 69.50.101, and allows

marijuana researchers outright in intensive industrial zones, with applicable standards and requirements.

C. BACKGROUND:

In November 2012, Washington voters passed Initiative 502, which establishes precedent for the production, processing and retail sale of marijuana for recreational purposes. In April 2015, the State passed two new laws concerning marijuana uses: 2SSB 5052 and 2E2SHB 2136. The laws establish regulations for the formerly unregulated medical aspects of the marijuana system, align these with the existing recreational system, and establish a “medical marijuana endorsement” that allows licensed marijuana retailers to sell medicinal marijuana to qualifying patients and designated providers. The statutes regarding “collective gardens” were repealed, effective July 1, 2016, and instead the state will provide for Washington State Liquor and Cannabis Board (LCB)-certified “cooperatives” with a maximum of four patients or designated providers.

The State cap on licensed marijuana retailers for Tacoma was originally eight; however, in January 2016, the State raised Tacoma’s cap to sixteen. Tacoma currently has nine licensed marijuana retailers and anticipates that seven more will open after completing the state and local licensing process.

The City Council enacted a moratorium on new licensed marijuana retailers and cooperatives in January 2016 after the State issued a license to a ninth retail store in Tacoma, before the Council had the opportunity to establish new regulations in concert with the community’s desires.

Since November 2015, the Planning Commission has been presented with background information, comparable approaches of other jurisdictions in Washington State, various draft regulatory options for discussion and the Commission has also heard from various medical patients and providers, business and property owners and both recreational and medical marijuana advocates. On March 2, 2016, the Planning Commission held a public hearing on this matter.

D. FINDINGS OF FACT:

1. Initiative 502 (I-502) was passed by the voters of the State of Washington in November 2012, providing a framework under which marijuana producers, processors and retailers can become licensed by the State of Washington.
2. Under I-502, the Washington State Liquor and Cannabis Board (LCB) is tasked with the responsibility to adopt rules governing the licensing and operation of marijuana producers, processors, and retailers. *Chapter 314-55 Marijuana Licenses, Application, Process, Requirements, and Reporting* of the Washington Administrative Code (WAC) was finalized and became effective on November 16, 2013.
3. The State passed two new laws in April 2015, 2SSB 5052 and 2E2SHB 2136. These laws establish regulations for the formerly unregulated aspects of the marijuana system and establish a “medical marijuana endorsement” that allows licensed marijuana retailers to sell medicinal marijuana to qualifying patients and designated providers. The statutes regarding “collective gardens” were repealed, effective July 1, 2016 and instead the legislation now

provides for LCB-certified “cooperatives” with a maximum of four patients or designated providers.

4. Part of the State legislation is designed to meet the concerns of the federal government as expressed in the “Cole memo,” and to move toward an integrated marijuana industry in the state with uniform regulations and accountability. As a result of this legislation, there will be an increase in the number of licensed retail stores, and it is very likely that this increase will decrease the amount of unregulated and untaxed marijuana being sold in the state. As the marijuana industry matures there will be fluctuations in the supply and demand, but the retail price of licensed marijuana product should move lower and be more competitive with prices offered by illegal street dealers.
5. The LCB has set the total number of marijuana retail outlets as limited to 556 statewide and the allocation per county is proportionate to the respective population and marijuana consumption level. The Pierce County allocation is 39, including 16 in the City of Tacoma, 6 in other specific jurisdictions and 17 at-large.
6. It is, however, important to note that while the City of Tacoma’s allocation was raised from 8 to 16 in order to accommodate increased recreational demand and the integration of the medical market the allocations for other jurisdictions in Pierce County was not similarly raised as the state chose to not increase the allocations in jurisdictions currently banning these uses. (See Exhibit “D”)
7. Local land use and zoning regulations apply to the siting of marijuana production, processing, research and retail locations. All producers, processors, researchers and retailers of marijuana are required to obtain a license issued by the LCB. Under WAC 314-55-160, cities have the ability to object to the granting of a proposed license, based on specific, limited criteria laid out in the state’s rules.
8. It is noted that federal law still identifies marijuana as a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides sources of revenue to large-scale criminal enterprises, gangs, and cartels. Washington State residents involved in marijuana production/retailing or marijuana users could still be subject to federal prosecution. However, President Obama has indicated that prosecution of recreational users will not be a priority. The U.S. Department of Justice issued a Memorandum for All United States Attorneys on August 29, 2013 providing “Guidance Regarding Marijuana Enforcement” and indicating that federal prosecutors are not going to interfere with those operating marijuana businesses or using marijuana in accordance with state law (the “Cole memo”).
9. RCW 35.63.220 and Tacoma Municipal Code (*TMC*) 13.02.055 permit the establishment of moratoria or interim zoning when it is found to be necessary as a protective measure.
10. The City Council adopted Substitute Ordinance No. 28343 on January 12, 2016, enacting an immediate temporary moratorium on new marijuana retail uses and the establishment of marijuana cooperatives for a period of six months or until earlier terminated if the City’s marijuana-related regulations are updated.
11. Pursuant to *TMC* 13.02.055, the City Council referred the moratorium to the Planning Commission to develop findings of fact and recommendations, including the need for and duration of the proposed temporary moratorium. As part of its findings of fact and

recommendation, the Planning Commission acknowledged the facts, background information and rationale for the enactment of the moratorium and noted that, in order to protect the legitimacy and viability of the City's legislative process, the moratorium is necessary and warranted and the adopted duration is appropriate for the City to accomplish the update of the marijuana-related regulations.

12. Before the moratorium was enacted, in November 2016, the Commission had already begun the process of reviewing the Land Use Regulatory Code in response to the Cannabis Patient Protection Act and the associated State rules. The Commission's goal was to ensure reasonable access to both recreational and medical marijuana in a responsible way that balances the community's multiple goals and encouraged the ongoing, critical shift from access through the grey and black markets towards access through licensed, regulated operations.
13. The Planning Commission continued its review of background information associated with I-502, draft Rules proposed by the LCB and presentations by City staff, Association of Washington Cities staff, and medical and business advocacy groups at meetings on December 16, 2015 and January 20, February 3 and February 17, 2016.
14. Staff of the Planning and Development Services Department has and continues to outreach to stakeholders and has received inquiries from numerous interested parties and prospective/potential marijuana license applicants. It is clear from this outreach, as well as input from public hearings, Planning Commission meetings and the City Council, that this community is concerned both about the potential negative impacts from this industry and these types of uses, and interested in respecting the desires of Washington voters in a manner that is consistent with this community's overall goals and interests.
15. To support the Commission's process, staff conducted policy analysis, benchmarking of other jurisdictions' regulations, consulted with the LCB, conducted site visits, and engaged with staff from multiple City departments, identified stakeholders, business and community groups, and interested members of the community.
16. Based on the State laws adopted in April 2015, the draft Rules proposed by the LCB, research and analysis, review of other City codes and standards, initial community outreach, previous discussions with the City Council, and community comments received at Planning Commission meetings and public hearing, staff developed a staff report and recommendation for amending the Land Use Regulations.
17. On February 17, 2016 the Commission authorized the distribution of a public review draft proposal and set a public hearing date of March 2, 2016 with written comments due by March 7, 2016.
18. The Planning Commission public review draft contained the following potential regulatory alternatives to the existing code provisions (including *TMC* Chapters 13.06 – Zoning and 13.06A – Downtown Tacoma, and potentially other sections for consistency including *TMC* Chapter 6B – License Code and *TMC* 8.30 – Nuisance Code), with the following provisions:
 - Set a 100-foot minimum buffer between retail marijuana stores and child care centers, game arcades, libraries, public parks, public transit centers, or recreation centers or facilities;

- Set a 300-foot minimum buffer between retail marijuana stores and correctional facilities, court houses, drug rehabilitation centers, or detoxification centers;
 - Maintain a 1,000-foot minimum buffer between retail marijuana stores and properties containing elementary schools, secondary schools, or playgrounds
 - Require all retail stores to have a State medical endorsement;
 - Require retail marijuana stores to be located no closer than 300 feet from each other in the downtown area and 500 feet in the rest of the City (measured by property lines); and
 - Allow cooperatives as per State law but with sensitive buffers reduced from 1,000 feet to 100 feet from child care centers, game arcades, libraries, public parks, public transit centers, recreation centers or facilities;
 - Allow cooperatives with additional standards to ensure they are conducted in a manner that is clearly secondary and incidental to the primary use of the property as a residence and do not significantly alter the exterior of the property or affect the residential character of the neighborhood; and
 - Allow cooperatives under the condition they will not displace or limit the location of retail stores.
19. More than 300 notices announcing the public hearing were mailed on February 19, 2016 to interested parties including state agencies, neighborhood councils and business district representatives, adjacent jurisdictions, civic groups and agencies, major employers in the Tacoma area, the news media, and City of Tacoma internal staff. An e-mail notice was sent on February 19, 2016 to more than 500 recipients that include marijuana interested parties, those on the Planning Commission's distribution list, state agencies, and community activists. An advertisement on the public hearing was published in the Tacoma News Tribune on February 22, 2016. A legal notice regarding the environmental determination was published in the Tacoma Dailey Index on February 22, 2016. A "Notice of Intent to Adopt Amendment 60 Days Prior to Adoption" was sent on February 22, 2016 to the State Department of Commerce (per RCW 36.70A.106). A 60-day notice was sent on February 19, 2016 to Joint Base Lewis-McChord soliciting their comments (per RCW 36.70A.530 (4)). The Tacoma Main Library was notified on February 19, 2016 of the public hearing and asked to distribute a copy of the notice to each of the eight branches for posting on their bulletin boards. The City's website was updated to provide information associated with the public hearing (including the hearing notice, the public review document and the DNS/SEPA) at www.cityotacoma.org/planning (and click on "Marijuana Regulations"). In addition, in March 2016, staff presented information on the proposal to the Cross District Association and Community Council.
20. Environmental Review – Pursuant to WAC 197-11-340(2) and the City's SEPA procedures, a Preliminary Determination of Environmental Nonsignificance (DNS) for the Proposed Marijuana Regulations was issued on February 19, 2016 (SEPA File Number LU16-0028), based upon a review of an environmental checklist. The DNS and the environmental checklist have been provided or made available to appropriate entities that had received the City Council's public hearing notice, and a legal notice announcing the availability for review was placed in the City's official newspaper, the Tacoma Daily Index, on February 22, 2016. Comments were required by March 7, 2016. The determination became final on March 14, 2016.

21. On March 2, 2016 the Planning Commission held a public hearing on the draft proposal. The Commission received a total of thirteen (13) oral and written comments by March 7th. The comments reflect a broad range of strongly held perspectives on all sides of the issues associated with marijuana.
22. On March 16, 2016 the Planning Commission reviewed a Public Comments and Staff Responses Report which summarized the key issues raised in public testimony and provided staff analysis. Copies of all written comments were included in the report. The Commission also reviewed a Staff Recommendation Report that articulated staff's recommended approaches, and the associated thought process, for addressing key regulatory issues.
23. On March 16, 2016 and April 6, 2016 the Planning Commission deliberated and provided direction on changes to the proposal to reflect public input and additional Commission deliberations. The final recommended code changes proposed include:
 - Prohibits marijuana uses from locating within 500 feet of public parks, recreation centers or facilities, libraries, child care centers, game arcades, correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers, and from locating within 100 feet of public transit centers;
 - Requires all retail marijuana stores to have a State medical endorsement;
 - Allows marijuana cooperatives strictly within dwellings in all districts, but only if they are at least 1-mile from marijuana retailers, 1,000 feet from elementary schools, secondary schools, and playgrounds, and 100 feet from child care centers, game arcades, libraries, public parks, public transit centers, and recreation centers or facilities, and subject to limitations regarding external visibility and impacts; and
 - Adds "marijuana researcher" to the list of definitions in accordance with the respective terms, as defined in RCW 69.50.101, and allows marijuana researchers outright in intensive industrial zones, with applicable standards and requirements.
24. The proposed amended regulations would continue to allow marijuana producers and marijuana processors outright in intensive industrial zones; continue to allow marijuana retailers outright in most commercial, mixed-use, industrial, and downtown zoning districts; allow marijuana researchers outright in intensive industrial zones; and reduce retailer buffering standards from certain sensitive uses.
25. The State's original cap for stores in Tacoma was eight (8) (to accommodate the recreational marketplace); the State's new cap on retail stores for Tacoma is sixteen (16) (to accommodate both the recreational and medical marketplaces).
26. This cap is determined by the LCB and the board can change this cap, or eliminate it, at any time by adopting new rules; in fact, the LCB originally proposed eliminating the caps statewide but decided to instead increase them after getting significant pushback from stakeholders, including Tacoma.
27. The State's cap was based on a December 2015 study that evaluated market demand and revenue (prepared by BOTEK Analysis Corp.).
28. In addition to the State's allocation of sixteen (16) retail licenses to the City of Tacoma, the State has allocated an additional nine (9) retail licenses to the jurisdictions near and adjacent to Tacoma, including Federal Way (3), Bonney Lake (1), Lakewood (2), Puyallup (2), and University Place (1).

29. The State has allocated seventeen (17) "at large" retail licenses to the Pierce County. The "at large" stores are retail stores that will be issued licenses for locations within a county, but not within a listed city. The "at large" stores could be located in unincorporated areas of the county or in an incorporated city or town that is not listed.
30. Tacoma has been serving a wider market since surrounding jurisdictions, including Pierce County and those cities mentioned above have either banned or prohibited by moratorium marijuana land uses from their communities.
31. Tacoma currently has nine (9) State licensed retail marijuana stores and approximately thirty (30) unlawful "collective garden" storefronts.
32. The LCB has issued four (4) additional retail licenses for locations in the City of Tacoma, and one-hundred and twenty (120) licenses are "pending" for locations in Pierce County in close proximity to or in Tacoma.
33. As of March 31, 2016, the LCB has stopped taking retail license applications for Tacoma.
34. In order for more retail licenses to be issued to Tacoma locations, the State would have to raise their cap.
35. If the City had previously put a cap in place, it is likely that the recent Council-adopted emergency moratorium would not have been necessary.
36. The proposed amended regulations would reduce, as allowed pursuant to WAC 314-55, the required 1,000-foot buffer to 500 feet from retailers to public parks, recreation centers or facilities, libraries, child care centers, game arcades, in order to expand areas for operations while also protecting the public health, safety and welfare of the citizens of Tacoma.
37. The proposed amended regulations would reduce, as allowed pursuant to WAC 314-55, the required 1,000-foot buffer to 100 feet from retailers to public transit centers, to help ensure that access to stores via multiple transportation modes is available.
38. The proposed amended regulations would also reduce the required 1,000-foot buffer to 500 feet from retailers to correctional facilities, court houses, and drug rehabilitation facilities, substance abuse facilities, and detoxification centers, in order to expand areas for operations while still protecting the public health, safety and welfare of the citizens of Tacoma.
39. The recommended buffer reductions are a reasonable and prudent way to provide equitable retail space while still maintaining buffer areas called for by voters, the State legislature, and the Council at a level that has some effect on separating marijuana retail uses from sensitive uses. The proposed buffers are shown on Exhibit "B," the Preliminary Map of Potential Marijuana Business Locations.
40. Neither State nor Tacoma laws currently regulate how close licensed marijuana retailers can be to each other.
41. Over-concentration and inequity (of both access and potential impact) have been a concern expressed by some community members and City Council members.
42. Some members of the community have expressed concern about the number, location and clustering of licensed marijuana retailers.

43. Dispersion is a common zoning tool used to separate uses for which the community has concerns about the impacts of an over-concentration (both perceived and real); the City has numerous uses for which dispersion is required. At the same time, excessive dispersion could result in a significant reduction in the allowable areas for retail stores.
44. The Commission examined the issue of dispersion previously (see recommendation letter from Planning Commission to City Council, January 2015) and found at that time that dispersing marijuana uses from each other would be inconsistent with the manner in which the City treats uses that sell and dispense alcohol and tobacco.
45. There is significant community concern over ensuring adequate access to medical marijuana, as evidenced by constituent discussions with the City Council as well as comments at Planning Commission meetings and public hearings.
46. The proposed amended regulations would require all retail stores to have a State medical endorsement. This is intended to encourage retail store owners to serve individuals needing medical marijuana and to prioritize access to medical marijuana as an important policy implemented into the City's marijuana regulations.
47. While requiring medical endorsements can help to ensure medical access, it cannot guarantee that the stores carry all of the different varieties of medical products and/or provide them at reasonable cost, which is a particularly significant issue considering that medical marijuana is not generally covered by medical insurance.
48. Concerning medical marijuana access, according to new State laws qualifying patients or designated providers could obtain medicinal marijuana from retailers that carry a state-issued medical endorsement; qualifying patients or designated providers could grow six (6) plants for their own use, or up to fifteen (15) plants with the authorization of a health care professional; qualifying patients who choose not to register with the State medical database can have up to four (4) plants; qualifying patients or designated providers could participate in a medical marijuana cooperative; and medical marijuana is exempt from State retail sales taxes.
49. "Collective gardens" have been instrumental in providing medical marijuana and will be prohibited by State law effective July 1, 2016.
50. Cooperatives are regulated by RCW 69.51A.250. Cooperatives may be formed by qualifying patients or designated providers in order to share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative.
51. Cooperatives, with a maximum of four patients or designated providers, may be authorized and certified by the LCB.
52. Cooperatives can have up to four (4) qualifying patients and/or designated providers, may grow up to sixty (60) plants and members must share responsibility for production and processing. Cooperatives must be in a domicile of one of the participants; must be registered with the LCB; must be at least one-mile from existing retailers and 1,000 feet from sensitive uses (unless reduced by the local jurisdiction); must wait 60 days before a new member may fill a vacancy; may produce marijuana only for the medical use of members; and minors cannot participate.

53. The City of Tacoma has had numerous issues with the “collective gardens” and Planning Commissioners and staff, including Tacoma Police Department and nuisance enforcement officers, are concerned about potential impacts of “cooperatives.”
54. Issues with home-based growing, and concerns about potential issues with the proposed “cooperatives,” have included unpermitted and substandard work especially in single family dwellings; health risks associated with mold and mildew from poor ventilation; the use of cooking products to extract oils; smoke odor; improper discarding of materials; storage and handling of butane, hexane, propane and other chemicals and gases in a residential setting; and hazards to abutting property owners. Other concerns include increased foot traffic in residential areas; sixty (60) plants being a significant number in a residential setting; risks to children in the homes; and smoke and odor complaints being difficult to enforce.
55. The Tacoma Police Department expressed concerns over health hazards related to grow operations as some grow rooms are poorly ventilated, causing mold and mildew to present health hazard risks for officers responsible for responding to and investigating such operations.
56. Grow and processing operations can be fire hazards, and in the last year at least two homes caught fire due to efforts to extract oil using butane.
57. Due to healthcare privacy laws, such as the Health Insurance Portability and Accountability Act of 1996 (HIPPA), the City will likely not be notified of cooperative locations.
58. Cooperatives are regulated and controlled by the State; per the State’s draft rules, cooperatives will be required to register with the State and there is no clear involvement or notice to local jurisdictions or the community. The City will likely have to rely on the LCB to enforce cooperatives.
59. The regulations associated with cooperatives will likely be a challenge to enforce, particularly at the local level, and City staff has little confidence that the State will take an active role in enforcement.
60. If the City were given power by the LCB to enforce cooperatives, it might be difficult due to right-of-entry limitations and limited staff resources.
61. Cooperatives are much smaller and quite different from “collective gardens.” See findings #50, 51 and 52.
62. Reasonable patient access to medical marijuana is critical.
63. The cooperative concept was designed to help ensure access where there is likely to be limited access to licensed stores. Cooperatives can fill a potential void in medical access to marijuana. See findings #50, 51 and 52.
64. Since there is no licensed medical production and sales yet, the cost of retail medical marijuana is highly uncertain and is likely that it will take some time to stabilize.
65. While it is unclear whether all stores will provide all medical products there is already fairly good distribution of stores in Tacoma and that will be improved as the additional stores come on-line.
66. The fact that stores are fairly well distributed throughout the City means that it will be difficult for residents and City staff to have a clear understanding of where cooperatives are

- allowed and where they aren't, and this allowed area will shift as the store locations shift (including when stores are opened or closed in neighboring jurisdictions).
67. Cooperatives are meant to provide a small-scale medical option, which was the intent behind the previous "collectives" concept that was completely abused by the creation of unlawful storefront "dispensaries," which facilitated creation/expansion of the "grey" market, and created significant impacts on this and other communities.
 68. Given those concerns, along with the uncertainty of medical marijuana access once collective gardens are no longer allowed, and recognizing that medical marijuana access is important to Tacoma's citizenry, preserving the option for cooperatives is important but only with a careful and measured approach.
 69. The state's locational standards provide that cooperatives are not allowed within 1-mile of a licensed store. This buffer cannot be modified.
 70. The state's rules also indicate that cooperatives are not allowed within 1,000-feet of sensitive uses, but these buffers can be modified by local jurisdictions, with limitations, similar to the retail stores.
 71. The existing distribution of stores already significantly limits the areas that would be available for cooperatives based on the State's required 1-mile separation from retail stores, and this available area will be further limited as the additional stores are licensed. Due to these restrictions, there are limited locations in Tacoma where cooperatives could be allowed.
 72. The proposed amended regulations would allow cooperatives in dwellings in all districts if at least 1-mile from marijuana retailers and 1,000 feet from elementary schools, secondary schools and playgrounds, and reduce, as allowed pursuant to WAC 314-55, the required 1,000-foot buffer to 100 feet from cooperatives to child care centers, game arcades, libraries, public parks, public transit centers, and recreation centers or facilities. See "Potential Marijuana Cooperative Locations" map (Exhibit "C").
 73. The proposed regulatory allowances for cooperative residential grow operations will help ensure that this model can provide another key tool to address the wide-range of issues related to medical marijuana access, including the cost burden to medical patients, while still protecting the public health, safety and welfare of the citizens of Tacoma.
 74. Tacoma currently has twenty-one (21) State licensed marijuana production and processing facilities and zero (0) State licensed marijuana researchers.
 75. The LCB has not issued any researcher licenses for City of Tacoma locations.
 76. The proposed amended regulations would not change the regulations for producers and processors but would allow marijuana researchers, which also involves production and processing, in the same industrial zones as these uses.
 77. In addition to land use code changes, the Planning Commission is recommending that the nuisance regulations in *TMC* Title 8 be amended to provide consistency with the proposed amended regulations and to ensure adequate tools to support abatement of nuisances.
 78. On April 6, 2016 the Planning Commission finalized their recommendations and forwarded them to the City Council for consideration. The tentative dates for Council action are as follows:

- April 26, 2016 – Council Study Session and public hearing
- May 3, 2016 – Council Study Session and first reading of adopting ordinance
- May 10, 2016 – Council final reading of adopting ordinance
- May 22, 2016 – Effective date of amended regulations

79. Throughout the Planning Commission’s review and deliberation process, various options for addressing the key issues relating to retail caps, buffers, dispersion, medical endorsements, and medical cooperatives were contemplated. These options as well as the Commission’s decision-making on the final recommendations are summarized in Table 1 below:

Table 1. Comparison of Options Deliberated					
	Existing Regulations	Public Review Draft (3-2-16)	Staff Recommendation (3-16-16)	PC Discussion (3-16-16)	PC Rec’d (4-6-16)
Cap	No cap	No cap	Cap at 16	Option 1 – Cap at 16; Option 2 – Cap at more than 16	No Cap <i>(The vote was 5 to 4. There was a potential option for a cap of 16 or higher, e.g., 21., if the Commission were to have recommended a cap)</i>
Buffer	1000’ for schools and playgrounds per State law; 1000’ for child care, transit centers, etc; 1000’ for rehab centers, correctional facilities, etc. (retail uses only)	1000’ schools; 100’ child care; 300’ rehab ctr.	1000’ schools; 500’ downtown; 1000’ elsewhere	1000’ schools; 500’ all others	1000’ schools; 500’ all others; 100’ transit ctr. <i>(By consensus)</i>
Dispersion	Not required	300’ downtown; 500’ elsewhere	500’ downtown; 1000’ elsewhere	300’ downtown; 1000’ elsewhere	Not required <i>(The vote was 5 to 4. There was noticeable support for dispersion, e.g., 300’ downtown, and 1000’ elsewhere.)</i>
Medical Endorsement	N/A	Require 100% retailers to have medical endorsement	50%	Option 1 – 100% Option 2 – none	100% <i>(By consensus)</i>
Cooperatives	Allowed, with 1-mile buffer from retailers and 100’ to 1000’ buffer from sensitive uses (State law)	Allowed, with 1-mile buffer from retailers, but 100’ buffer from sensitive uses	Allowed, with 1-mile buffer from retailers and 1000’ buffer from sensitive uses	Option 1 – Allowed, with buffer TBD; Option 2 – Not allowed	Allowed, with 1-mile buffer from retailers <i>(The vote was 6 to 3)</i> Buffer – reduce to 100’ from sensitive uses that can be reduced <i>(The vote was 5 to 4, with 4 votes for 1000’.)</i>

E. CONCLUSIONS:

The Planning Commission concludes that:

- (a) Given the provisions of State law allowing for production, processing, researching and retailing of recreational marijuana under voter-approved I-502 and recent changes to State laws regulating marijuana, there is need to adopt amended regulations for marijuana-related land uses.
- (b) The Proposed Marijuana Regulations support the City's strategic goals for a safe, clean, attractive, and environmentally sustainable city and foster economic diversity; and,
- (c) The Proposed Marijuana Regulations will benefit the City as a whole, will not adversely affect the City's public facilities and services, and are in the best interests of the public health, safety and welfare of the citizens of Tacoma.

E. RECOMMENDATIONS:

The Planning Commission recommends that the City Council adopt the proposed amendments to *TMC* Chapters 13.06 and 13.06A as set forth in Exhibit "A." The Planning Commission also recommends that the nuisance regulations in *TMC* Title 8 be amended to provide consistency with the proposed land use regulations and to ensure adequate tools to support abatement of nuisances.

F. EXHIBITS:

- Exhibit A: Proposed Amendments to the Marijuana Regulations (*TMC* Chapters 13.06 and 13.06A)
- Exhibit B: Preliminary Map of Potential Marijuana Business Locations
- Exhibit C: Preliminary Map of Potential Marijuana Cooperative Locations
- Exhibit D: State Retail Marijuana Allocations



Marijuana Land Use Regulations

DRAFT LAND USE REGULATORY CODE CHANGES
As Recommended by the Planning Commission, April 6, 2016

Note: These amendments show all of the changes to 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 has been deleted is shown as ~~strikethrough~~.

Chapter 13.06 Zoning and Chapter 13.06A Downtown Tacoma

13.06.565 Marijuana Uses ~~Businesses~~

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. In April 2015, the state Legislature enacted two laws, 2SSB 5052 and 2E2SHB 2136. The new laws establish regulations for the formerly unregulated aspects of the marijuana system, align these with the existing recreational system, and establish a "medical marijuana endorsement" that allows licensed marijuana retailers to sell medicinal marijuana to qualifying patients and designated providers, and attempt to align these changes with the existing recreational system.

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. All licensed marijuana uses are required to fully comply with the provisions of this Section.

1. No Marijuana 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 existed prior to the enactment of Ord. 28182 Ex. A on Nov. 5, 2013 this ordinance shall be deemed to have been a legally established use or entitled to claim legal non-conforming status.

2. As of July 1, 2016, in accordance with 2SSB 5052 and as regulated and defined in RCW 69.51A with state law, collective gardens are prohibited.

~~32.~~ 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, marijuana researcher 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 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 or, 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. Marijuana cooperatives, as defined in RCW 69.51A.250 and WAC 314-55-410, are allowed in accordance with State law requirements and the following additional standards:

a. Marijuana cooperatives must be conducted in a manner that is clearly secondary and incidental to the primary use of the property as a residence and do not significantly alter the exterior of the property or affect the residential character of the neighborhood.

b. No outdoor display or storage of marijuana growing, processing or producing materials, goods, supplies, or equipment is allowed.

c. No change in the outside appearance of the building or premises, or other visible evidence that the residence is being used for a cooperative is permitted.

d. The cooperative shall not generate nuisances such as traffic, on-street parking, noise, vibration, glare, odors, fumes, electrical interference, or hazards.

10. All Marijuana retail uses must have a State license and medical endorsement in accordance with RCW 69.50 and WAC 314-55 in order to obtain a City business license.

11. 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 elementary schools, secondary schools, or playgrounds ~~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 500 feet of public parks, recreation centers or facilities, libraries, child care centers, schools, and game arcades, and shall not be allowed to locate within 100 feet of public transit centers. For purposes of this standard, these uses are as defined in WAC 314-55.

cb. Marijuana retail uses shall not be allowed to locate within ~~1,000~~500 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.

d. Marijuana producer, processor and researcher uses shall not be allowed to locate within 1,000 feet of public parks, recreation centers or facilities, 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.

e. Marijuana cooperatives shall not be allowed to locate within one-mile of a marijuana retailer; within 1,000 feet of primary and secondary schools, and playgrounds; or within 100 feet of public parks, recreation centers or facilities, 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.

f. Marijuana cooperatives shall not be allowed to locate within 100 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.

eg. The methodology for measuring the buffers-distances outlined above in subsections 9.a and 9.b.11.a through f shall be the shortest straight line from the closest parcel line in which the state licensed marijuana retailer, processor, producer, researcher or cooperative is located to the closest parcel line of any of the uses in these subsections, as provided in WAC 314-55.

dh. It shall be the responsibility of the owner or operator of the proposed state-licensed marijuana use or cooperative to demonstrate and ensure that a proposed location is not within one of the buffers outlined above in subsections 9.a and 9.b.11.a through f.

ei. 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.

* * *

Drug rehabilitation facility, or substance abuse facility. Any facility licensed by the Washington State Department of Social and Health Services whose primary focus is treatment for a person with a chemical or drug dependency, whether on an outpatient or inpatient basis.

Substance abuse facility. (See “Drug rehabilitation facility”).

Marijuana Cooperative (or Cooperative). As regulated by RCW 69.51A.250 and provided herein by reference, qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative.

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 researcher. As defined in RCW 69.50.101 and provided here for reference. A person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

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 ~~and cannabis control~~ board to sell ~~useable~~ marijuana ~~concentrates, and useable marijuana, and~~ marijuana-infused products in a retail outlet.

* * *

13.06.200 Commercial Districts.

3. Use table abbreviations.

P = Permitted use in this district.
CU = Conditional use in this district. Requires conditional use permit, consistent with the criteria and procedures of Section 13.06.640.
TU = Temporary Uses allowed in this district subject to specified provisions and consistent with the criteria and procedures of Section 13.06.635.
N = Prohibited use in this district.

4. District use table.

Uses	T	C-1	C-2	PDB	Additional Regulations ^{2,3} (also see footnotes)
Marijuana processor, producer and researcher	N	N	N	N	
Marijuana producer	N	N	N	N	
Marijuana retailer	N	P	P	P*	*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

* * *

13.06.300 Mixed-Use Center Districts.

3. District use table.

Uses	NCX	CCX	UCX	RCX	CIX	HMX	URX	NRX	Additional Regulations ^{2,3} (also see footnotes)
Marijuana processor, producer and researcher	N	N	N	N	P	N	N	N	See additional requirements contained in Section 13.06.565
Marijuana producer	N	N	N	N	P	N	N	N	See additional requirements contained in Section 13.06.565
Marijuana retailer	P	P	P	N	P	P*	N	N	*Limited to 7,000 square feet of floor area, per business, in the HMX District. See additional requirements contained in Section 13.06.565

* * *

13.06.400 Industrial Districts.

4. District use table.

Uses	M-1	M-2	PMI	Additional Regulations ¹
Marijuana processor, <u>producer and researcher</u>	P	P	P	See additional requirements contained in Section 13.06.565
<u>Marijuana producer</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>See additional requirements contained in Section 13.06.565</u>
Marijuana retailer	P~	P~	N	~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

* * *

13.06A Downtown Tacoma

* * *

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
6. Drive-throughs not located entirely within a building.

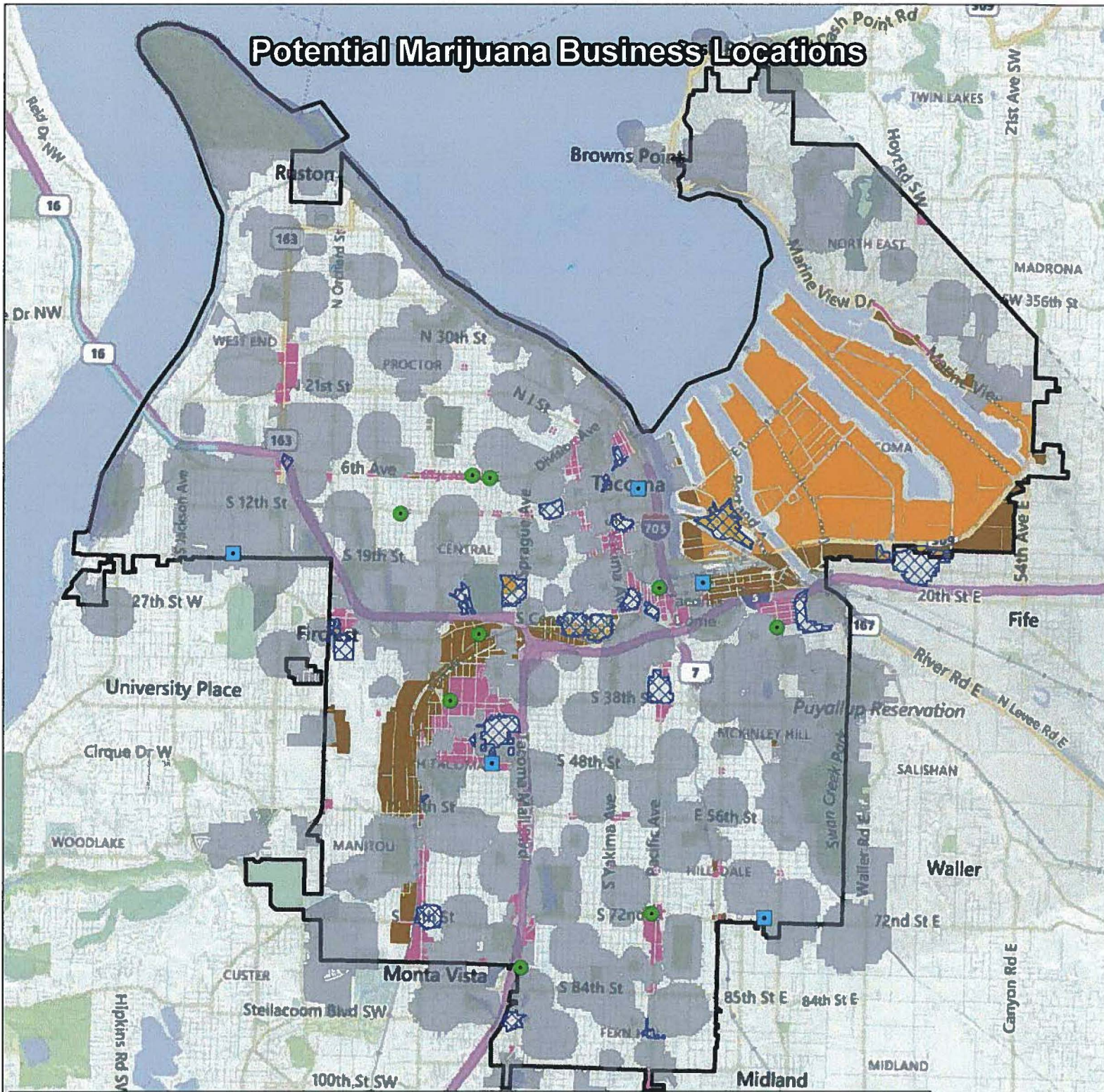
C. Special needs housing shall be allowed in all downtown districts in accordance with the provisions of Section 13.06.535.

D. Live/work and work/live uses shall be allowed in all downtown districts, subject to the requirements contained in Section 13.06.570.

E. Marijuana uses (marijuana producer, marijuana processor, marijuana researcher 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 and marijuana researchers shall be prohibited in all downtown districts.

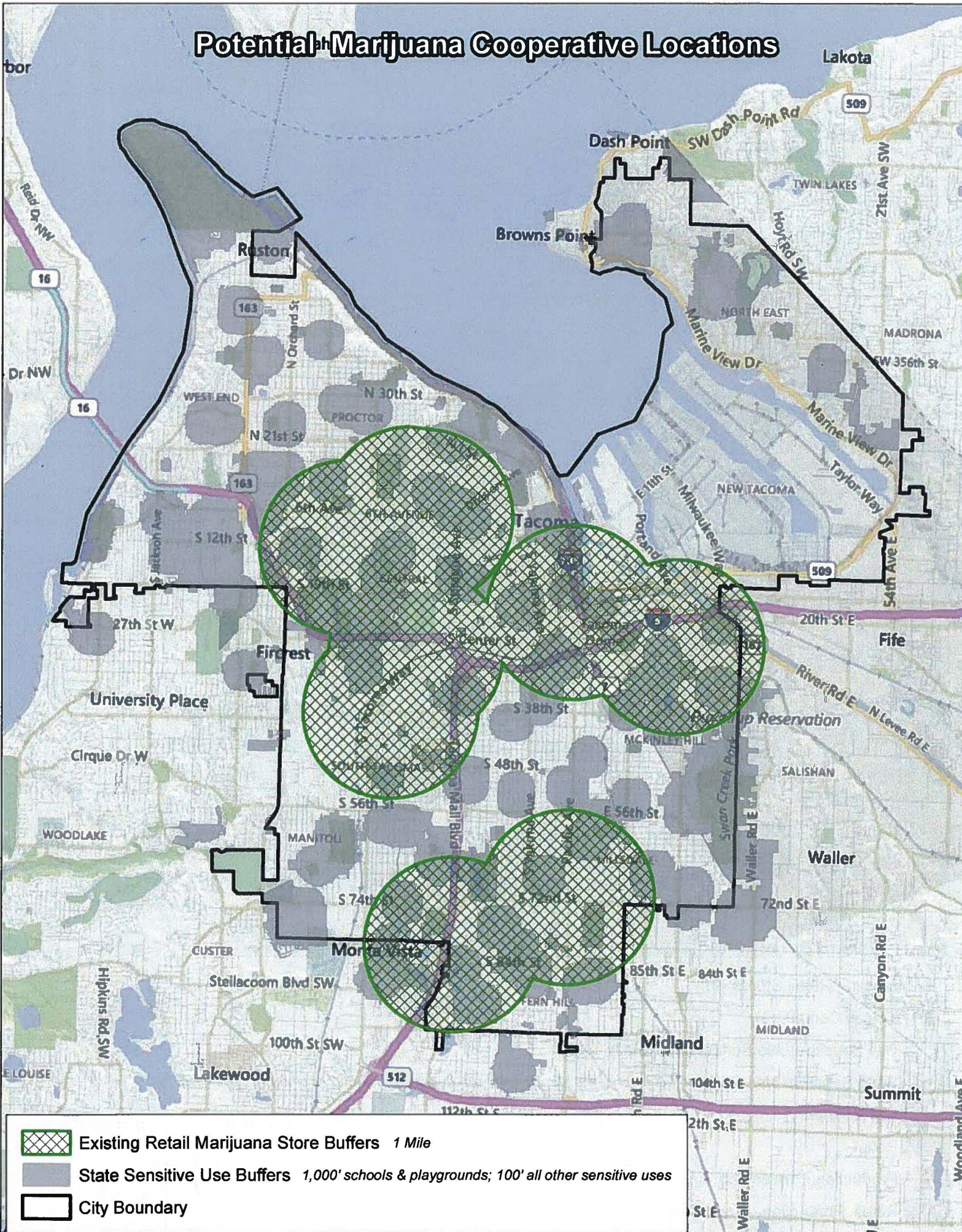
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Potential Marijuana Business Locations



- Existing Retail Stores (9)
- Transit Centers (5)
- City Sensitive Use Buffers (No Retail) 500'
- State Sensitive Use Buffers 1,000' schools & playgrounds; 100' transit centers; 500' all other sensitive uses
- City Boundary
- Retail
- Production, Processing
- Retail, Production, Processing

Potential Marijuana Cooperative Locations



-  Existing Retail Marijuana Store Buffers 1 Mile
-  State Sensitive Use Buffers 1,000' schools & playgrounds; 100' all other sensitive uses
-  City Boundary



**Washington State
Liquor and Cannabis Board**

Legend

Counties increased by 75%	
Counties increased 100%	
Ban or Moratorium	

Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Adams County					
At Large	2	0	1	3	
Asotin County					
At Large	2	2	1	3	
Benton County					
At Large	2	2	0	2	Moratorium
Kennewick	4	1	0	4	Ban
Richland	3	0	0	3	Ban
West Richland	1	1	0	1	Ban
Chelan County					
At Large	3	3	0	3	Moratorium
Wenatchee	3	2	2	5	
Clallam County					
At Large	3	3	2	5	
Port Angeles	2	2	1	3	
Sequim	1	1	1	2	
Clark County					
At Large	6	5	0	6	Ban
Battle Ground	1	1	1	2	
Camas	1	1	0	1	Ban
Vancouver	6	6	6	12	
Washougal	1	1	0	1	Ban

Columbia County					
At Large	1	0	0	1	Ban

Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Cowlitz County					
At Large	3	3	3	6	
Kelso	1	0	1	2	
Longview	3	3	3	6	
Douglas County					
At Large	2	3	0	2	Moratorium
East Wenatchee	1	1	1	2	
Ferry County					
At Large	1	1	1	2	
Franklin County					
At Large	1	0	0	1	Ban
Pasco	4	3	0	4	Ban
Garfield County					
At Large	1	0	0	1	Ban
Grant County					
At Large	3	2	2	5	
Ephrata	1	1	1	2	
Moses Lake	2	2	1	3	
Quincy	1	0	0	1	Ban
Grays Harbor County					
At Large	3	3	2	5	
Aberdeen	1	2	1	2	
Hoquiam	1	1	1	2	
Ocean Shores	1	1	1	2	
Island County					
At Large	3	3	2	5	
Oak Harbor	1	1	1	2	

Jefferson County					
At Large	3	3	2	5	
Port Townsend	1	1	1	2	
Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
King County					
At Large	11	11	11	22	
Auburn (part)	2	2	2	4	
Bellevue	4	4	4	8	
Burien	1	0	1	2	
Des Moines	1	1	1	2	
Federal Way	3	4	0	3	Moratorium
Issaquah	1	1	1	2	
Kent	3	3	0	3	Ban
Kirkland	2	2	2	4	
Maple Valley	1	0	1	2	
Mercer Island	1	0	1	2	
Redmond	2	2	2	4	
Renton	3	3	3	6	
Sammamish	1	0	0	1	Ban
SeaTac	1	1	0	1	Ban
Seattle	21	27	21	42	
Shoreline	2	2	2	4	
Tukwila	1	0	1	2	
Kitsap County					
At Large	7	7	7	14	
Bainbridge Island	1	1	1	2	
Bremerton	2	3	2	4	
Kittitas County					
At Large	2	2	1	3	
Ellensburg	2	2	1	3	
Klickitat County					
At Large	3	2	2	5	
Goldendale	1	1	0	1	Ban

Lewis County					
At Large	4	3	3	7	
Centralia	2	2	1	3	
Chehalis	1	1	1	2	
Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Lincoln County					
At Large	2	0	1	3	
Mason County					
At Large	4	4	3	7	
Shelton	1	1	1	2	
Okanogan County					
At Large	4	3	3	7	
Omak	1	1	0	1	Ban
Pacific County					
At Large	2	2	1	3	
Pend Oreille County					
At Large	2	1	1	3	
Pierce County					
At Large	17	17	0	17	Ban
Bonney Lake	1	1	0	1	Ban
Lakewood	2	2	0	2	Ban
Puyallup	2	2	0	2	Ban
Tacoma	8	9	8	16	
University Place	1	0	0	1	Ban
San Juan County					
At Large	0	0	0	0	
San Juan Island	1	1	1	2	
Lopez Island	1	1	1	2	
Orcas Island	1	1	1	2	

Skagit County					
At Large	4	4	4	8	
Anacortes	1	1	1	2	
Burlington	1	1	1	2	
Mount Vernon	3	3	3	6	
Sedro-Woolley	1	1	1	2	
Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Skamania County					
At Large	2	2	1	3	
Snohomish County					
At Large	16	16	16	32	
Arlington	1	1	1	2	
Bothell (part)	1	1	1	2	
Edmonds	2	1	2	4	
Everett	5	5	5	10	
Lake Stevens	1	1	1	2	
Lynnwood	2	2	2	4	
Marysville	3	3	0	3	Ban
Mill Creek	1	1	0	1	Ban
Monroe	1	0	1	2	
Mountlake Terrace	1	1	1	2	
Mukilteo	1	0	1	2	
Spokane County					
At Large	7	7	7	14	
Spokane	8	8	8	16	
Spokane Valley	3	3	0	3	Moratorium
Stevens County					
At Large	4	3	3	7	
Thurston County					
At Large	6	6	6	12	
Lacey	2	2	2	4	
Olympia	2	2	2	4	
Tumwater	1	1	1	2	

Wahkiakum County					
At Large	1	0	1	2	
Walla Walla County					
At Large	2	2	0	2	Ban
Walla Walla	2	2	1	3	
Jurisdiction	Allotments	Current or pending license	Proposed Additional Allotment	Total Proposed Allotment	Ban or Moratorium
Whatcom County					
At Large	7	6	7	14	
Bellingham	6	6	6	12	
Ferndale	1	1	1	2	
Lynden	1	0	0	1	Ban
Whitman County					
At Large	1	0	1	2	
Pullman	3	3	2	5	
Yakima County					
At Large	6	5	0	6	Ban
Grandview	1	0	0	1	Ban
Selah	1	0	0	1	Ban
Sunnyside	1	1	0	1	Ban
Yakima	5	5	0	5	Moratorium
Total	334	305	222	556	35

Attachment "B"
**Proposed Amendments
to the Nuisance Code**

8.30.045 Cannabis.

A. Relationship with other laws.

Producing, manufacturing, processing, delivering, distributing, possessing, and using cannabis are crimes under federal law and may be crimes under the municipal code and state law. This section is a civil remedy and does not affect any state or federal law governing the production, manufacture, processing, delivery, distribution, possession, researching or use of cannabis.

B. Definitions.

1. "Cannabis" or "Marijuana" means all parts of the plant Cannabis, commonly known as marijuana, whether growing or not; 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.
- ~~2. "Cannabis garden" means any place, area, or garden where cannabis is produced or processed and either (a) the person producing or processing the cannabis is not a qualifying patient or designated provider or (b) a copy or copies of the valid documentation of the qualifying patient(s) who own or share responsibility for the garden is not available at all times on the premises or (c) the number of plants or useable cannabis on the premises exceeds the limits set forth in RCW 69.51A.040(1)(a), RCW 69.51A.040(1)(b), or RCW 69.51A.085, or the garden is not otherwise in full compliance with RCW 69.51A.040(1)(a), RCW 69.51A.040(1)(b), or RCW 69.51A.085. Cannabis garden does not include a state-licensed marijuana producer, processor, or retailer as authorized by RCW 69.50 and operating in compliance therewith.~~
- ~~3. "Collective garden" means any place, area, or garden where qualifying patients (as defined in RCW 69.51A.010) share responsibility and engage in the production, processing, and delivery of cannabis for medical use as set forth in RCW 69.51A.085 and in full compliance with all limitations and requirements set forth in RCW 69.51A.085. "Collective garden" does not include any office, meeting place, or club associated with a collective garden which is not located within the same structure as the collective garden itself.~~
- ~~4. "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 24 hours licensed by the Washington State Department of Early Learning under chapter 170-295 WAC.~~
- ~~5. "Dispensary" means any place where cannabis is delivered, sold, or distributed or offered for delivery, sale, or distribution. Dispensary does not include a state-licensed marijuana retail establishment as authorized by RCW 69.50 and operating in compliance therewith. Dispensary does not include a private residence where a designated provider delivers medical cannabis to his or her qualifying patient or a private residence where a member of a collective garden delivers medical cannabis to another member of the same collective garden. Dispensary does not include a collective garden, but does include any office, meeting place, club, or other place which is not located within the same structure as the collective garden itself where medical cannabis is delivered regardless of whether the delivery is made to another member of the collective garden.~~
- ~~6. "Drop-in center for youth" means an establishment operated by a social service or charity organization that is designed to provide recreational, educational, or counseling services to youth.~~
- ~~7. "Drug rehabilitation facility, substance abuse facility, or detoxification center" means any facility licensed by the Washington State Department of Social and Health Services whose primary focus is treatment for a person with a chemical or drug dependency, whether on an outpatient or inpatient basis.~~
- ~~8. "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington State Superintendent of Public Instruction.~~
- ~~9. "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted.~~
- ~~10. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.~~
- ~~11. "Medical cannabis garden" means any place, area, or garden where a qualifying patient or designated provider (as defined in RCW 69.51A.010) produces or processes cannabis for medical use as set forth in RCW 69.51A.040 and in full compliance with all limitations and requirements set forth in RCW 69.51A.040.~~

12. ~~“Perimeter” means a property line that encloses an area.~~

13. ~~“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.~~

14. ~~“Processor” or “licensed processor” shall mean a marijuana processor licensed by the state pursuant to RCW 69.50.325(2).~~

15. ~~“Producer” or “licensed producer” shall mean a marijuana producer licensed by the state pursuant to RCW 69.50.325 (1).~~

16. ~~“Public park” or “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.~~

17. ~~“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.~~

18. ~~“Recreation center or facility” means a supervised center that provides a broad range of activities and events intended primarily for use by persons under 21 years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.~~

19. ~~“Retailer” or “licensed retailer” shall mean a marijuana retailer licensed by the state pursuant to RCW 69.50.325(3).~~

20. ~~“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 7 to 12 and recognized by the Washington State Superintendent of Public Instruction.~~

21. The definitions contained in Chapter 69.50 RCW, Chapter 69.51A RCW, and WAC 314-55 shall be used to define any term in this section not otherwise defined herein.

C. Nuisance defined.

The production, manufacture, processing, delivery, distribution, possession, or use of cannabis for medical purposes for which there is an affirmative defense under state law, or for other purposes as outlined and regulated in accordance with RCW 69.50, may be a nuisance by unreasonably annoying, injuring, or endangering the comfort, repose, health, or safety of others; by being unreasonably offensive to the senses; by being an unlawful act; by resulting in an attractive nuisance; or by otherwise violating the municipal code or state law.

The following specific acts, omissions, places, and conditions are declared to be a public nuisance, including, but not limited to, any one or more of the following:

1. ~~Any place selling, distributing, or providing marijuana to others, except as properly licensed or registered by the Washington State Liquor and Cannabis Board. cannabis garden is a nuisance per se.~~

2. ~~Any dispensary is a nuisance per se.~~

3. ~~Any cannabis garden, collective garden, dispensary, medical cannabis garden, state licensed processor, producer, or licensed retailer where cannabis is directly visible from the adjacent public right-of-way.~~

3.4. ~~Any cannabis garden, collective garden, dispensary, medical cannabis garden, state licensed processor, producer, or retailer, or state registered cooperative where the odor of cannabis can be smelled or detected from the adjacent public right-of-way.~~

4. ~~A marijuana club is a nuisance per se.~~

5. ~~Any collective garden located within 600 feet of the perimeter of any of the following, whether in or out of the City:~~

a. ~~Public or private elementary or secondary school;~~

b. ~~Daycare, nursery, preschool, or child care center;~~

e. ~~Public park;~~

d. Library;

e. Drug rehabilitation facility, substance abuse facility, or detoxification center; or

f. Drop-in center for youth.

g. The distance shall be measured as the shortest straight line from the closest parcel line in which the collective garden is located to the closest parcel line of any of the uses in this subsection.

6. Any collective garden where any person under the age of 18 years is present or is permitted to be present.

7. Any collective garden or medical cannabis garden that is not fully enclosed within a structure.

8. Any parcel containing more than one collective garden, medical cannabis garden, or combination of collective garden and medical cannabis garden.

9. Any collective garden or cannabis garden where any violation of Chapter 69.50 RCW occurs and for which the affirmative defense created by Chapter 69.51A RCW would not apply.

10. Any place bearing a sign or placard advertising cannabis for sale or delivery, except that a state licensed marijuana retailer is permitted to display a single sign no larger than 1,600 square inches identifying the retail outlet by the licensee's business or trade name. No state licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

a. Within 1,000 feet of the perimeter of an elementary or secondary school, playground, recreation center or facility, child care center, public park, library, public transit center, court house, correctional facility, drug rehabilitation facility, substance abuse facility, or detoxification center or any game arcade where admission to which is not restricted to persons aged 21 years or older;

b. On or in a public transit vehicle or public transit shelter; or

e. On or in a publicly owned or operated property.

~~5.11. Any place where any production, manufacture, processing, delivery, distribution, possession, or use of cannabis occurs for which there is no affirmative defense under state law, or except as expressly authorized by Chapter 69.50 RCW.~~

~~6.12. Any place other than a private residence where cannabis is smoked or ingested.~~

~~13. Any marijuana uses as provided in RCW 69.50.331 and WAC 314.55.050, located within 1,000 feet of elementary schools, secondary schools, or playgrounds. For the purposes of this section, these uses are defined in WAC 314.55: state licensed cannabis retailer, processor, or producer located within 1,000 feet of the perimeter of any of the following, whether in or out of the City:~~

~~a. Playground, recreation center, or facility;~~

~~b. Child care center;~~

~~c. Public park;~~

~~d. Public transit center;~~

~~e. Library;~~

~~f. Game arcade where admission to which is not restricted to persons aged 21 years or older;~~

~~g. Elementary or secondary school;~~

~~h. Any state licensed retailer~~

~~14. Any marijuana uses located within 1,000/500 feet of the perimeter of a court house, correctional facility, drug rehabilitation facility, substance abuse facility, or detoxification center.~~

~~15. Marijuana retail uses located within 500 feet of public parks, recreation centers or facilities, libraries, child care centers, schools, game arcades, and public transit centers. For the purposes of this section, these uses are as defined in WAC 314.55.~~

~~16. Marijuana retail uses located within 500 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.~~

~~17. Any marijuana producer, processor, or researcher located within 1000 feet of public parks, recreation centers or facilities, libraries, child care centers, schools, game arcades and public transit centers. For the purposes of this section, these uses are as defined in WAC 314-55.~~

~~i. The distance shall be measured as the shortest straight line from the closest parcel line in which the state licensed cannabis retailer, processor, or producer is located to the closest parcel line of any of the uses in this subsection.~~

~~714. Any state-licensed cannabis retailer, processor, or producer where any person under the age of 21 years is present or is permitted to be present, unless permitted by state law.~~

~~815. Any state-licensed retailers selling products or services other than useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of useable marijuana or marijuana-infused products.~~

~~16. Any state-licensed retailers selling useable marijuana, marijuana-infused products, or paraphernalia between 12 a.m. and 8 a.m.~~

~~917. Any unlicensed marijuana retailer, producer, or processor operating within City limits.~~

~~108. Any state licensed producer whose production activities are not within a fully enclosed, secure facility or greenhouse with rigid walls, a roof and doors, or whose outdoor production activities are not enclosed by a sight obscured wall or fence at least eight feet high.~~

(Ord. 28183 Ex. A; passed Nov. 5, 2013; Ord. 28083 Ex. A; passed Jul. 31, 2012)