



TO: Elizabeth Pauli, City Manager
FROM: Bill Fosbre, Acting City Attorney, City Attorney's Office *Bill Fosbre*
Peter Huffman, Director, Planning and Development Services
COPY: City Council and City Clerk
SUBJECT: Resolution directing the Planning Commission to consider interim regulations adding local definitions of "Playground" and "Recreation center or facilities" to TMC 13.06.565 B.3. –June 6, 2017
DATE: May 22, 2017

SUMMARY:

At the request of Deputy Mayor Thoms, the City Council requests that the Planning Commission consider amending TMC 13.06.565 B.3. on an interim basis by adding local definitions of "Playground" and "Recreation center or facilities," in order to protect Metro Parks Tacoma owned playgrounds and recreational centers and facilities to the level intended by the State, but currently not covered by State definitions.

COUNCIL SPONSORS:

Deputy Mayor Thoms

STRATEGIC POLICY PRIORITY:

- Strengthen and support a safe city with healthy residents.

BACKGROUND:

The City's recreational marijuana regulations, found at TMC 13.06.565, are barely a year old. The State's regulatory framework is also relatively new. In that newness, City staff has discovered a gap between the state's intent to require greater setback buffers for public playgrounds and recreational centers and facilities and the State's definitions for these sites found at Washington Administrative Code 314-55-010(10)-(11). This gap arises from the State's unintended omission of "metropolitan parks districts" from the ownership paradigm in the WAC definitions of "Playground" and "Recreation center or facilities." The City understands that the State will correct this omission in its definitions, but it may take some time to do so. In the meantime, the City can prevent conflicts from arising in local permitting, as has already happened, by fixing these two definitions in the TMC on an interim basis.

ISSUE:

Adding local definitions into the City's marijuana regulations for "Playground" and "Recreation center or facilities," that include ownership by a metropolitan parks district will alleviate the problems that have arisen in permitting marijuana uses that appear to conform with the State definitions, but not with the State's intent, until such time as the State corrects its own definitions.

ALTERNATIVES:

The alternative would be to simply leave TMC 13.06.565 B.3 as it is and wait for the State to revise its own definitions correcting the gap between the State's intent and its faulty definitions. This would leave the City open to local challenges on marijuana use permit applications.

RECOMMENDATION:

Planning staff and City legal counsel recommend amending TMC 13.06.565 B.3 by adding definitions of "Playground" and "Recreation center or facilities" that mirror the State definitions except for adding in "metropolitan parks districts" to the ownership element of these definitions on an interim basis, i.e. until



the State corrects the definitions in the Washington Administrative Code. An example of how this would be done is attached at Exhibit A.

FISCAL IMPACT:

There is no fiscal impact.



Exhibit A

13.06.565 Marijuana Uses.

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, 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 as regulated herein and in WAC 314-55, that existed prior to the enactment of Ordinance No. 28182 on November 5, 2013, 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 state law, collective gardens are prohibited.

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

(a) "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, or a metropolitan parks district.

(b) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government, or a metropolitan parks district.