



SUBSTITUTE ORDINANCE NO. 28183

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AN ORDINANCE relating to public nuisances; amending Chapter 8.30 of the Tacoma Municipal Code by amending Section 8.30.045 thereof to identify nuisance activities related to recreational cannabis.

WHEREAS, pursuant to Substitute Ordinance No. 28083, passed July 31, 2012, the City Council amended Chapter 8.30 of the Tacoma Municipal Code ("TMC") relating to medical cannabis as a public nuisance, and

WHEREAS, with the passage of I-502 in November 2012, relating to recreational cannabis, the state adopted rules and regulations which are required to be in place by December 1, 2013, and

WHEREAS it is necessary to amend the TMC to ensure that any potential secondary impacts arising from the operation of state-licensed recreational cannabis activities can be adequately regulated; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That Chapter 8.30 of the Tacoma Municipal Code is hereby amended by amending Section 8.30.045 thereof, as set forth in the attached Exhibit "A."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

Chapter 8.30
PUBLIC NUISANCES

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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, ~~and federal law. Washington state law, Chapter 69.51A RCW, provides an affirmative defense for certain cannabis related crimes. There is no affirmative defense under federal law.~~ This section is a civil remedy and does not ~~alter or~~ affect any ~~state or federal criminal~~ law governing the production, manufacture, processing, delivery, distribution, possession, or use of cannabis.

~~The production, manufacture, processing, delivery, distribution, possession, or use of cannabis for medical purposes for which there is an affirmative defense under state law 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.~~

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. "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/or 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.

2. "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.

23. "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. "Dispensary" means any place where cannabis is delivered, sold, or distributed or offered for delivery, sale, or distribution. 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.

45. “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. “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.

45. “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, squares, golf courses, zoos and beaches, owned and/or managed by a city, county, state, federal government, or metropolitan park district, and includes all parks such as squares, docks, piers, moorage buoys and floats, golf courses, zoos, and beaches, playgrounds, and recreation areas and facilities, either developed or undeveloped, owned by the Metropolitan Park District of Tacoma or the City of Tacoma or under the management and control of the Metropolitan Park District of Tacoma or the City of Tacoma. 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, ~~and~~ 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 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 ~~place where~~ cannabis is directly visible ~~to from~~ the adjacent public right-of-way, or is visible from property owned or leased by another person or entity. This includes smoking cannabis in a manner that it is visible from public property or from property owned or leased by another person or entity.
4. Any cannabis garden, collective garden, dispensary, medical cannabis garden, state licensed processor, producer, or retailer where ~~place that~~ cannabis can be smelled from ~~a the~~ adjacent public right-of-way, ~~place or from a property owned or leased by another person or entity.~~
5. Any collective garden located within 600 feet of the perimeter ~~closer than the distance noted below to~~ of any of the following, whether in or out of the City:
 - a. ~~Within 600 feet of any p~~Public or private elementary or secondary school;
 - b. ~~Within 600 feet of any d~~Daycare, nursery, ~~or~~ preschool, or child care center;
 - c. ~~Within 600 feet of any Public~~ park;
 - d. ~~Within 600 feet of any H~~library;
 - e. ~~Within 600 feet of any d~~Drug rehabilitation facility, substance abuse facility, or detoxification center; or
 - f. ~~Within 600 feet of any d~~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. ~~The separation required between the collective garden and other uses identified in this subsection shall be measured from the nearest edge or corner of the property of each use.~~



6. Any collective garden where any person under the age of ~~eighteen~~ 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

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

11. Any place where any production, manufacture, processing, delivery, distribution, possession, or use of cannabis occurs for which there is ~~not an~~ affirmative defense under state law, or except as expressly authorized by Chapter 69.50 RCW.

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

13. Any 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 within 1,000 feet of the perimeter of a c~~Court house, ~~;~~

~~;~~ ~~c~~Correctional facility, ~~;~~

~~;~~ ~~d~~Drug rehabilitation facility, substance abuse facility, or detoxification center.

~~;~~ ~~ik~~. 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.

14. 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.

15. 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.

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

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18. 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.

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