



City of Tacoma
Planning and Development Services

**Agenda Item
D-1**

To: Planning Commission
From: Elliott Barnett, Planning Services Division
Subject: **Final Recommendations – Marijuana Regulations (Permanent)**
Meeting Date: January 7, 2015
Memo Date: December 30, 2014

At the next meeting on January 7, 2015, the Planning Commission will discuss finalizing its recommendations to the City Council regarding permanent recreational marijuana regulations.

The proposed permanent regulations would replace the current interim regulations that were initially enacted in November 2013 in response to the voter approved Initiative 502. The one-year interim regulations were recently extended through May 2015 to allow additional time for the City to evaluate the operations and impacts of the new licensed marijuana businesses. The City Council also expressed the imminent need and desire to replace the interim regulations with enhanced, permanent regulatory provisions.

Attached is a draft Letter of Recommendation, draft Findings and Recommendations Report, draft code changes, and a draft Marijuana Zoning Map. Staff will seek direction to finalize and forward these documents to the City Council.

In addition, the Planning Commission requested analysis regarding any potential conflicts between state regulations prohibiting the display of marijuana products and City regulations requiring building transparency along street frontages. Staff will provide an overview on these issues but are not recommending code changes at this time.

If you have any questions, please contact me at 591-5389 or elliott.barnett@cityoftacoma.org.

Attachments:

Draft Letter of Recommendation
Draft Findings and Recommendations Report
Draft code changes
Draft Marijuana Zoning Map

c: Peter Huffman, Director



City of Tacoma
Planning Commission

January 7, 2015 – DRAFT

HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL,

On behalf of the Planning Commission, I am forwarding our recommendations regarding the proposed Permanent Land Use Regulations for Recreational Marijuana Uses, as outlined in the *Planning Commission's Findings of Fact and Recommendations Report, January 7, 2015* (attached).

Over the past three months, the Commission has conducted an expedited public process regarding recreational marijuana in Tacoma, benchmarked the work of other jurisdictions wrestling with these issues, developed and vetted policy approaches, and engaged with stakeholders and the public. On November 20, 2014, the Commission released a public review draft proposal, and held a public hearing on December 3rd. The public review proposal generated significant interest, including a total of fifty comments on the record. The Commission has now considered those comments and formulated our final proposal for the Council's consideration (attached).

Though the Council directed the Commission to focus specifically on recreational marijuana, the discussion has been overshadowed by the ongoing uncertainty and community concerns regarding the status of "medical" marijuana operations. City staff research indicates that there are 56 "medical" marijuana storefronts (and likely more) operating in apparent conflict with state law. These operations are largely unregulated, untaxed, and have become concentrated in certain locations. While the matter ultimately requires clarification at the state level, the Commission applauds the City Council's initiative to take more proactive enforcement actions. The proliferation of these unlicensed storefronts not only complicates and confuses the discussion of recreational marijuana businesses, it also undercuts the potential to bring marijuana into the open marketplace as called for by I-502. On the other hand, the Commission notes that access for legitimate medical marijuana users is also a high priority and heard significant concerns from the community about whether or not the recreational facilities can realistically, affordably and sensitively meet the needs of the medical community. We sincerely hope that action during the upcoming session by the State Legislature regarding medical marijuana, recreational marijuana, or both will soon resolve these issues in a reasonable and balanced manner.

The Commission's starting point in this effort was Tacoma's existing interim marijuana businesses code, which has been in effect for just over one year. The Commission feels that the interim code has largely met its intent, providing reasonable regulatory oversight and predictability for licensed marijuana businesses as well as the public. The interim code has now overseen the licensing and commencement of operations of five recreational marijuana retail stores and four production and processing facilities. The Commission notes that while the City has received numerous concerns regarding medical storefronts, to date there have been no official complaints or code violations for these new recreational marijuana facilities.

The public comments received demonstrate that the topic of marijuana generates strongly held perspectives on all sides of the issue. The Commission recognizes concerns held by some members of our community, particularly in regards to potential neighborhood impacts and access to marijuana by

children. At the same time, there is substantial support for steps toward normalizing this new industry as a method to reflect the will of the voters, and as a more desirable alternative to the grey and black markets. Ultimately, the Commission's recommendations are informed primarily by the latter perspective, as well as by the belief that the state and City regulatory approaches will reasonably limit negative impacts on our community.

The Planning Commission's final permanent regulations proposal includes the following components:

- Retain the interim provisions of the City's Marijuana Business code and make them permanent;
- Clarify that all licensed marijuana businesses must comply with the provisions of the City's Marijuana Businesses regulations. This clarification is intended to lay the groundwork to consistently regulate any future categories of marijuana business licenses that may be created by the State Legislature; and,
- Expand the areas where recreational marijuana production and processing, as well as Urban Horticulture, is allowed, to include the M-1 Light Industrial District and the CIX Commercial Industrial Mixed-Use Districts (this is in addition to the heavy industrial districts where it currently allowed). This change would make the City's approach to marijuana production and processing more consistent with similar land uses which are already permitted in these zones, as well as provide additional potential space for growth.

The Commission also considered, but does not recommend, potential updates including the following:

- Creating a distribution requirement between retail marijuana stores;
- Adding new uses to the list of required buffers;
- Further limiting retail marijuana store hours of operation;
- Additional standards for parking; and,
- Creating a formal City marijuana business certification process.

The Commission would like to emphasize that we have thoroughly evaluated and discussed the likely effects of these potential actions. After careful consideration, the Commission feels they would be overly restrictive, inconsistent with the City's approach to similar land uses, inconsistent with the intent of I-502, and would needlessly hamper the development of this new industry. The Commission feels strongly that retail distribution or new buffering requirements, new limitations on hours, or new standards should not be added to the City's recreational marijuana regulations.

In regards to the proposal to create a new City review process, staff have indicated the objectives can be accomplished administratively through the development of Standard Operating Procedures for review of proposed marijuana businesses, including the provision of informal public notification for retail license applications. We concur that this approach can accomplish the objectives of enhanced City review coordination and public notification in a more straightforward manner.

The Planning Commission understands that land use regulations are only one component of the comprehensive regulatory, taxing and enforcement strategy to address the issues associated with I-502. We anticipate other, non-regulatory actions may also be called for in the future. For example, the City should consider working with marijuana retail businesses and the public art community to beautify storefronts where visibility may be limited to meet state regulations. Finally, the City should collaborate

with other jurisdictions to advocate for state level actions on revenue sharing with local jurisdictions, changes in taxation to reduce the cost of marijuana purchased for medical use, and the development of state-level guidance on medical marijuana operations, along with monitoring and enforcement actions.

With the adoption of the code amendments proposed here, along with the non-regulatory actions discussed, the City of Tacoma will be well positioned to responsibly regulate marijuana businesses, as well as to react and anticipate the potential for action at the state level. Furthermore, the proposed permanent regulations support the City's strategic goals for a safe, clean, attractive, and environmentally sustainable city and foster economic diversity.

It is with that understanding and intent that the Planning Commission respectfully requests the City Council adopt the proposed permanent marijuana regulations, as recommended.

Sincerely,

CHRIS BEALE
Chair

Enclosure



RECREATIONAL MARIJUANA USES PERMANENT LAND USE REGULATIONS

TACOMA PLANNING COMMISSION FINDINGS OF FACT AND RECOMMENDATIONS JANUARY 7, 2015

A. SUBJECT:

Proposed Permanent Land Use Regulations regarding Recreational Marijuana Uses.

B. SUMMARY OF PROPOSED AMENDMENT:

The Proposed Marijuana Permanent Regulations, as shown in Exhibit “A”, would amend the Tacoma Municipal Code, Chapters 13.06 – Zoning, by replacing the current interim regulations contained in *TMC 13.06.565 Marijuana Businesses* with permanent regulations. The proposal would retain the provisions of the interim code, and make several additions and modifications.

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

- Defines marijuana uses (marijuana producer, marijuana processor, and marijuana retailer) in accordance with the respective terms as defined in RCW 69.50.101;
- Prohibits all marijuana uses in residential and shoreline districts;
- Allows marijuana producers and marijuana 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 public parks, playgrounds, recreation/community centers, libraries, child care centers, schools, game arcades, and public transit centers, pursuant to WAC 314-55;
- Prohibits marijuana retail uses from locating within 1,000 feet of correctional facilities, court houses, or drug rehabilitation facilities, substance abuse facilities, or detoxification centers;
- 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,
- As part of the development of the interim code the Council also established Urban Horticulture as a land use in which plants, other than marijuana, are grown or produced indoors for the sale of plants or their products.

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

- Clarify that all licensed marijuana uses must comply with City requirements; and,
- Expand the areas where Marijuana Production and Processing, as well as Urban Horticulture, are permitted to include the M-1 Light Industrial and the CIX Commercial Industrial Mixed-Use Districts.

Finally, the Planning Commission is forwarding recommendations to the City Council to refine the City's administrative process for reviewing marijuana business applications forwarded to the City by the Washington State Liquor Control Board (WSLCB). The recommendations include establishing Standard Operating Procedures to coordinate the review of marijuana license applications, as well as provision of notification of proposed marijuana business retail locations to nearby property owners and community stakeholders. These actions do not require a code change.

C. BACKGROUND:

Initiative 502, approved by Washington voters in November 2012, provides a framework for licensing and regulating the production, processing, and retail sale of recreational marijuana. The Washington State Liquor Control Board ("WSLCB") was tasked with establishing rules and procedures to implement Initiative 502, including determining the maximum number of retail outlets that may be licensed in each county. The WSLCB rules became effective on November 16, 2013. In Tacoma, a maximum of eight retail marijuana businesses may be licensed per WSLCB rules.

On November 5th, 2013, the City Council enacted the interim land use regulations in order to provide policy and regulatory guidance to facilitate the review, in a proactive and timely manner, of those marijuana license applications within the City limits that were expected to come forward starting December 2013. The interim regulations were also intended to provide adequate time for the City to evaluate the operations and impacts of the licensed marijuana businesses and allow the state to rectify the outstanding problems with the existing, largely unregulated medical marijuana system before deliberating on a permanent local regulatory resolution.

The WSLCB began issuing marijuana production and processing licenses in March 2014, and marijuana retail licenses in July 2014. The state legislature deliberated regarding potential changes to the legislation to address the medical marijuana industry in 2014, but has not as yet adopted any changes. Given the fledgling nature of recreational marijuana licensing and operation within the City, the unresolved issues with medical marijuana at the state level, and the unresolved conflict between I-502 and federal law, the Council determined it is in the City's best interest to retain the interim regulations through May 16, 2015. The Council further directed staff and the Planning Commission to develop recommendations for permanent marijuana regulations to replace the interim regulations, prior to their expiration on May 16, 2015.

Pursuant to the City Council’s direction, from October through December of 2014 the Planning Commission conducted an expedited public process to develop recommendations to update the City’s marijuana regulations. The proposed code amendments would make the regulations permanent as well as address issues raised through community discussions and consideration of the newly licensed and operating marijuana businesses.

D. FINDINGS OF FACT:

1. Initiative 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 Initiative 502, the Washington State Liquor Control Board (WSLCB) 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 was finalized and became effective on November 16, 2013.
3. The WSLCB has set the total number of marijuana retail outlets as limited to 334 statewide and the allocation per county is proportionate to the respective population and marijuana consumption level. The Pierce County allocation is 31, including 8 in the City of Tacoma, 6 in other specific jurisdictions and 17 at-large.
4. Local land use and zoning regulations apply to the siting of marijuana production, processing, and retail locations. All producers, processors, and retailers of marijuana are required to obtain a license issued by the WSLCB. Under WAC 314-55-160, cities have the ability to object to the granting of a proposed license.
5. 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.
6. Staff of the Planning and Development Services Department have and continue to outreach to stakeholders and have received inquiries from numerous interested parties and prospective/potential marijuana license applicants. It is clear from this outreach, as well as input from the City Council, that this community is concerned both about the potential negative impacts from this new 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 goals and interests.
7. In response to these community issues, the City Council indicated their intent to impose interim regulations in early November 2013 to provide policy and regulatory guidance to facilitate the review, in a proactive and timely manner, of those marijuana license

applications within the City limits expected to come forward from the WSLCB in November-December 2013.

8. On November 5th, 2013, the City Council enacted the interim land use regulations in order to provide policy and regulatory guidance to facilitate the review, in a proactive and timely manner, of those marijuana license applications within the City limits that were expected to come forward starting December 2013. The interim regulations were also intended to provide adequate time for the City to evaluate the operations and impacts of the licensed marijuana businesses and allow the state to rectify the outstanding problems with the existing, largely unregulated medical marijuana system before deliberating on a permanent local regulatory resolution.
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. Interim zoning regulations will help provide a temporary, but proactive approach to regulating these types of uses in a manner that reflects this community's desires and unique character and will help maintain regulatory certainty, ensure customer service, and support economic development.
10. The City Council adopted Resolution No. 38743 on October 1, 2013, initiating the process for imposing interim zoning controls regarding recreational marijuana uses and setting October 22, 2013 as the date for a public hearing on the proposed interim regulations.
11. Pursuant to TMC 13.02.055, the City Council-initiated interim zoning was referred to the Planning Commission for findings of fact and a recommendation prior to adopting the interim zoning. As part of its findings of fact and recommendation, the Planning Commission addressed the appropriate duration and scope of the interim zoning and note if a study is expected to develop a permanent solution and the time period by which that study would be concluded.
12. With regards to the duration of the interim regulations, TMC 13.02.055 provides: "Moratoria or interim zoning may be effective for a period of not longer than six months, but may be effective for up to one year if a work plan is developed for related studies requiring such longer period." In this case the Commission found that a six month duration would not be sufficient time to evaluate the impacts of this brand new industry and untested regulatory scheme, both at the state-wide and local levels. 12-months would be a more reasonable timeline for the City to monitor the effects of these new marijuana uses within the City, in coordination with other affected jurisdictions as appropriate. Additionally, a 12-month timeframe will better ensure that any permanent regulations are coordinated with the pending rules for medical marijuana, which the State Legislature is expected to address in this next legislative session.
13. The City Council's Committee of the Whole reviewed background information associated with Initiative 502 and the draft Rules proposed by the Washington State Liquor Control Board ("WSLCB") during July-September 2013. The Committee contemplated various response measures, including the approach of imposing interim regulations, and generally concurred with the framework for the potential interim regulations as enunciated in Resolution No. 38743.

14. The Planning Commission also reviewed background information associated with Initiative 502, draft Rules proposed by the WSLCB, and the framework for the potential interim regulations at previous meetings on August 7 and September 18, 2013.
15. Based on the adopted Initiative, the draft Rules proposed by the WSLCB, research and analysis, review of other City codes and standards, initial community outreach, previous discussions with the City Council, and the framework outlined in Resolution No. 38743, staff developed a preliminary draft of the Interim Land Use Regulations.
16. The proposed interim regulations would allow marijuana producers and marijuana processors outright in intensive industrial zones, allow marijuana retailers outright in most commercial, mixed-use, industrial, and downtown zoning districts, further limit their location based on buffering standards from certain sensitive uses, and require them to operate consistent with certain development standards.
17. In addition to the 1,000-foot buffering requirements applicable for certain sensitive uses in accordance with WAC 314-55, the Proposed Marijuana Interim Regulations also applied the 1,000-foot buffering to correctional facilities, court houses, and drug rehabilitation facilities, substance abuse facilities, and detoxification centers.
18. On November 5, 2013, the City Council adopted Substitute Ordinance No. 28182, and enacted the interim land use regulations concerning the production, processing, and retail sale of recreational marijuana, effective for one year from November 17, 2013, to November 16, 2014. These regulations have been codified as *Tacoma Municipal Code 13.06.565 Marijuana Businesses*.
19. The WSLCB did not begin issuing marijuana production and processing licenses until March 2014, and marijuana retailing licenses until July 2014, and as of December 2014 four production/processing licenses and five retail licenses within Tacoma have been issued.
20. The state legislature deliberated regarding potential changes to address the medical marijuana industry in 2014, but has not as yet adopted any changes.
21. On September 30, 2014, the City Council adopted Ordinance No. 28250 extending the interim recreational marijuana land use regulations for a six-month term, until May 16, 2015.
22. As part of the September 30, 2014 Council discussion, the Council directed staff to engage the Planning Commission to develop recommendations for permanent recreational marijuana land use regulations to replace the interim regulations, on an accelerated schedule. The permanent regulations would address issues raised through community discussions, and consider any lessons learned through the newly licensed and operating marijuana businesses.
23. The Planning Commission began its review on October 1, 2014, when it developed a draft schedule for review of the proposal, and has discussed the topic at four regular Planning Commission meetings to date.
24. To support the Commission's process, staff conducted policy analysis, benchmarking of other jurisdictions' regulations, consulted with the WSLCB, conducted site visits, and engaged with staff from multiple City departments, identified stakeholders, business and community groups, and interested members of the community.

25. On November 19, 2014 the Commission authorized the distribution of a public review draft proposal and set a public hearing date of December 3, 2014 with written comments due by December 5, 2014.
26. The Planning Commission public review draft contained the following proposals:
- Reaffirm the provisions of the interim regulations and make them permanent;
 - Clarify that all new marijuana businesses must comply with City requirements;
 - Further limit marijuana retail open hours: Closed between 9 p.m. and 10 a.m., Sunday-Thursday, and Closed between 10 p.m. and 10 a.m., Friday-Saturday;
 - Prohibit new marijuana retail uses within 1,000 feet of existing marijuana retail use(s); and,
 - Establish an administrative review process to coordinate city review; provide public notification of proposed retail marijuana uses; and, grant the City authority to deny an application based on noncompliance with City code.
27. More than 400 postcard notices announcing the public hearing were mailed on November 21, 2014 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 November 21, 2014 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 November 24, 2014. A legal notice regarding the environmental determination was published in the Tacoma Dailey Index on November 24, 2014. A “Notice of Intent to Adopt Amendment 60 Days Prior to Adoption” was sent on November 21, 2014 to the State Department of Commerce (per RCW 36.70A.106). A 60-day notice was sent on November 21, 2014 to the Joint Base Lewis-McChord soliciting their comments (per RCW 36.70A.530 (4)). The Tacoma Main Library was notified on November 21, 2014 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 “Recreational Marijuana Permanent Regulations”). In addition, staff has presented to the Cross District Association and Community Council.
28. 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 has been issued on November 20, 2014 (SEPA File Number SEP2014-40000235612), 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 November 24, 2014. Comments were required by December 5, 2014. The determination became final on December 12, 2014.

29. On December 3, 2014 the Planning Commission held a public hearing on the draft proposal. The Commission received a total of 50 oral and written comments by December 5th. The comments reflect a broad range of strongly held perspectives on all sides of the issues associated with marijuana.
30. On December 17, 2014 the Planning Commission reviewed a staff Comments and 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 and provided to the Planning Commission.
31. On December 17, 2014 the Planning Commission provided direction on changes to the proposal to reflect public input and additional Commission deliberations. The final recommended code changes proposed include:
- Reaffirm the provisions of the interim regulations and make them permanent;
 - Clarify that all new marijuana businesses must comply with City requirements; and,
 - Allow recreational marijuana production and processing, as well as Urban Horticulture, in the M-1 Light Industrial District and the CIX Commercial Industrial Mixed-Use Districts, in addition to heavy industrial districts as currently allowed. This change would make the City’s approach to marijuana production and processing more consistent with similar land uses which are already permitted in these zones, as well as provide additional potential space for growth.
32. In addition to code changes, the Planning Commission is recommending several additional actions, including:
- Development of Standard Operating Procedures for review of proposed marijuana businesses, including the provision of informal public notification for retail license applications;
 - Consideration of opportunities for collaboration between marijuana retail businesses and the public art community to beautify storefronts where visibility may be limited to meet state requirements;
 - Pursuit of a proactive enforcement strategy in regards to medical marijuana storefronts, while recognizing the needs of medical marijuana users; and,
 - Collaboration with other jurisdictions to advocate for state level actions on revenue sharing with local jurisdictions, changes in taxation to reduce the cost of marijuana purchased for medical use, and the development of state-level guidance on medical marijuana operations, along with monitoring and enforcement actions.
33. On January 7, 2015 the Planning Commission is scheduled to finalize their recommendations and forward them to the City Council for consideration. The tentative dates for Council action is as follows:
- January 13, 2015 – Council resolution to set public hearing date
 - February 3, 2015 – Council Study Session and Public Hearing

- February 10, 2015 – Council Study Session and first reading of adopting ordinance
- February 17, 2015 – Council final reading of adopting ordinance
- March 2, 2015 – Effective date of permanent regulations

34. On December 2, 2014, the Council Committee of the Whole discussed potential enforcement strategy options for non-licensed marijuana operations and provided direction to staff to further develop recommendations for a proactive enforcement approach.
35. Public Hearing Notice – the City Council public hearing on the enforcement strategy options for non-licensed marijuana operations has been scheduled for Tuesday, January 6, 2015 at approximately 5:30 pm in the City Council Chambers.
36. Modifications to the Shoreline Master Program, formulated as part of the 2013 interim code development, are not final until approved by the Department of Ecology. Ecology staff have indicated that this is an administrative requirement which should not be an issue when submitted as a minor SMP amendment, subsequent to final Council action on these proposals.

E. CONCLUSIONS:

The Planning Commission concludes that:

- (a) Given the provisions of state law allowing for production, processing, and retailing of recreational marijuana under voter-approved I-502, there is need to adopt permanent regulations for recreational marijuana-related land uses, thus eliminating the need to renew the interim regulations upon expiration every six months.
- (b) The Proposed Marijuana Permanent 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 Permanent Regulations are consistent with the Growth Management Act, 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 Tacoma Municipal Code, Chapters 13.06 as set forth in Exhibit “A”, as well as pursue the other recommendations summarized above.

F. EXHIBITS:

- “A”: Proposed Marijuana Interim Permanent Regulations
(Amendments to the Tacoma Municipal Code, Chapters 13.06)
- “B”: Preliminary Map of Allowed Zoning and Required Buffering for Marijuana Uses



Marijuana Businesses – Permanent Land Use Regulations
Replacement of Interim Marijuana Code

DRAFT LAND USE REGULATORY CODE CHANGES

January 7, 2015

These proposed amendments include modifications to the following section of **Title 13, Land Use Regulatory Code**:

Chapter 13.06 – Zoning

13.06.300 – Mixed-Use Center Districts

13.06.400 – Industrial Districts

13.06.565 – Marijuana Businesses

Note: These amendments show proposed 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~~.

13.06.300 Mixed-Use Center Districts.

B. Districts established. The following specific districts are established to implement the purposes of this section and the goals and policies of Tacoma's Comprehensive Plan:

5. CIX Commercial Industrial Mixed-Use District. To provide sites for a mix of commercial establishments and limited industrial activities, including light manufacturing, assembly, distribution, and storage of goods, but no raw materials processing or bulk handling. Larger scale buildings are appropriate. Residential uses are permitted.

D. Land use requirements.

1. Use requirements. The following use table designates all permitted, limited, and prohibited uses in the districts listed. Use classifications not listed in this section or provided for in Section 13.06.500 are prohibited, unless permitted via Section 13.05.030.E.

2. 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 use consistent with Section 13.06.635.
N	=	Prohibited use in this district.

3. District use table.

Uses	NCX	CCX	UCX	RCX ¹	CIX	HMX	URX	NRX	Additional Regulations ^{3, 4, 5} (also see footnotes at bottom of table)

Marijuana processor	N	N	N	N	N P	N	N	N	See additional requirements contained in Section 13.06.565
Marijuana producer	N	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

Urban Horticulture	N	N	N	N	N P	N	N	N	

13.06.400 Industrial Districts.

13.06.400.B Districts established.

- M-1 Light Industrial District
- M-2 Heavy Industrial District
- PMI Port Maritime & Industrial District

1. M-1 Light Industrial District. This district is intended as a buffer between heavy industrial uses and less intensive commercial and/or residential uses. M-1 districts may be established in new areas of the City. However, this classification is only appropriate inside Comprehensive Plan areas designated for medium and high intensity uses.

13.06.400.C Land use requirements.

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	M-1	M-2	PMI	Additional Regulations ¹

Marijuana processor	N P	P	P	See additional requirements contained in Section 13.06.565
Marijuana producer	N P	P	P	See additional requirements contained in Section 13.06.565
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

Urban Horticulture	N P	P	P	

13.06.565 Marijuana 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. 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 use that purports to be a marijuana producer, processor or retailer, as defined and regulated herein and in WAC 314-55, that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use or entitled to claim legal non-conforming status.

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

C. Standards.

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

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

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

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

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

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

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

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

9. Location requirements.

- a. As provided in RCW 69.50.331 and WAC 314-55-050, marijuana uses shall not be allowed to locate within 1,000 feet of public parks, playgrounds, recreation/community centers, libraries, child care centers, schools, game arcades, and public transit centers. For purposes of this standard, these uses are as defined in WAC 314-55.
- b. Marijuana retail uses shall not be allowed to locate within 1,000 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.
- c. The methodology for measuring the buffers outlined above in subsections 9.a and 9.b. shall be as provided in WAC 314-55.
- d. It shall be the responsibility of the owner or operator of the proposed state-licensed marijuana use to demonstrate and ensure that a proposed location is not within one of the buffers outlined above in subsections 9.a and 9.b.
- e. 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.

DEFINITIONS INCLUDED FOR REFERENCE:

13.06.700 Definitions and illustrations.

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

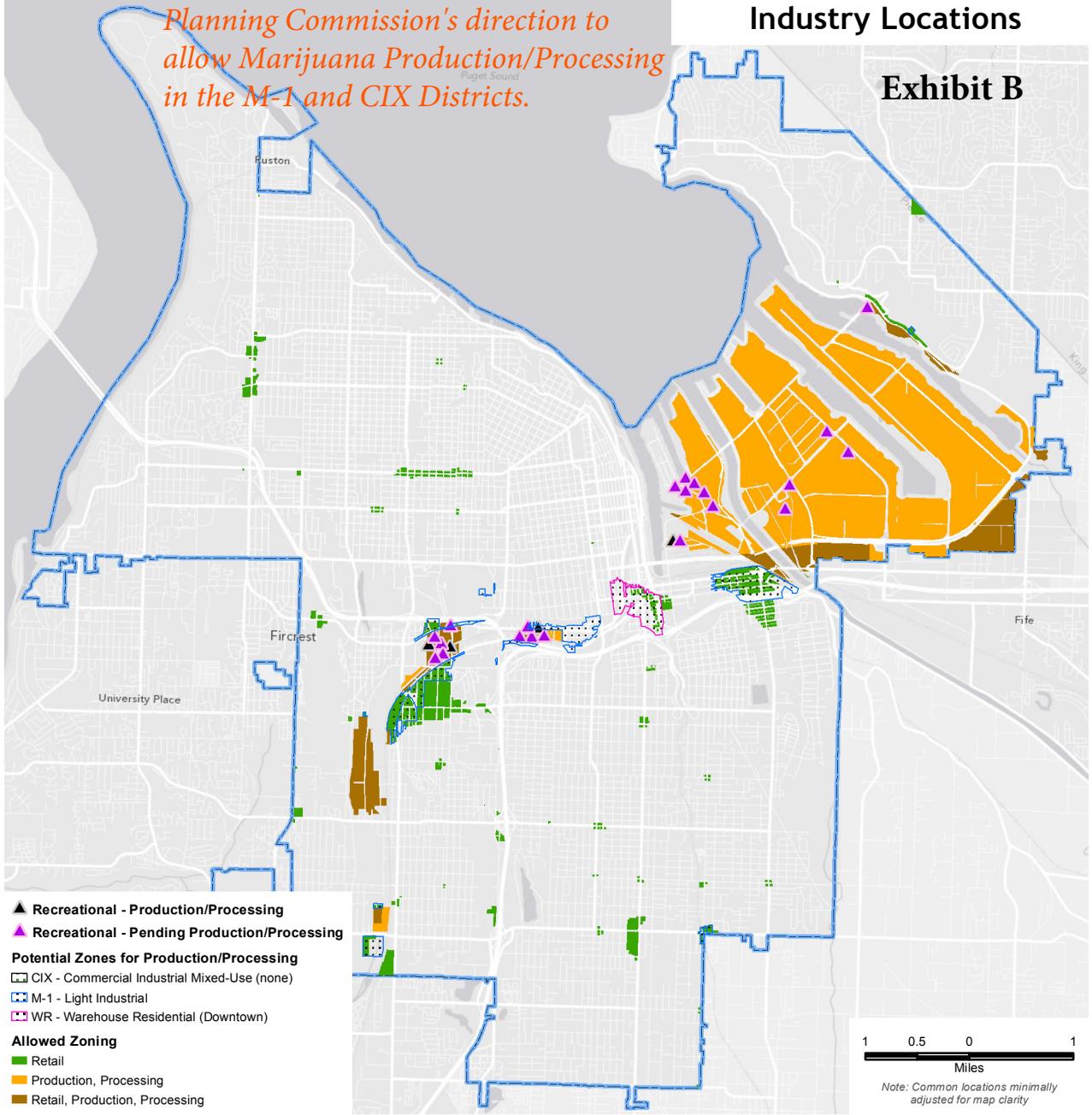
Urban Horticulture. A use in which plants are grown or produced indoors for the sale of the plants or their products or for use in any business, including such things as fruits, vegetables, and other crops, flowers, ornamental plants or trees.



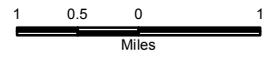
Map will be modified to reflect the Planning Commission's direction to allow Marijuana Production/Processing in the M-1 and CIX Districts.

Tacoma Marijuana Industry Locations

Exhibit B



- ▲ Recreational - Production/Processing
- ▲ Recreational - Pending Production/Processing
- Potential Zones for Production/Processing**
- CIX - Commercial Industrial Mixed-Use (none)
- M-1 - Light Industrial
- WR - Warehouse Residential (Downtown)
- Allowed Zoning**
- Retail
- Production, Processing
- Retail, Production, Processing



Note: Common locations minimally adjusted for map clarity