



Preliminary Determination of Environmental Nonsignificance

City of Tacoma Recreational Marijuana Permanent Regulations Proposed Amendments to the Tacoma Municipal Code

SEPA File Number: SEP2014-40000235612

TO: All Departments and Agencies with Jurisdiction

SUBJECT: Preliminary Determination of Environmental Nonsignificance

In accordance with WAC 197-11-340, a copy of the Preliminary Determination of Environmental Nonsignificance for the project described below is transmitted:

Applicant: City of Tacoma
Planning and Development Services Department
747 Market Street, Room 345
Tacoma, WA 98402

Proposal:

The proposal would amend Tacoma Municipal Code, Chapter 13.06 – Zoning, *Section 13.06.565 Marijuana Businesses*, and potentially other TMC sections for consistency, in order to replace the existing interim regulations with permanent regulations. The permanent regulations are intended to provide policy and regulatory guidance to facilitate the City’s review, in a proactive and timely manner, of those marijuana license applications within the City limits that are forwarded to the City from the Washington State Liquor Control Board (WSLCB).

Specifically, the proposed permanent regulations would incorporate the following modifications and additions to the current interim regulations: Clarify that all new marijuana businesses must comply with City requirements; further limit marijuana retail uses permitted hours open to the public; prohibit new marijuana retail uses from locating within 1,000 feet of any existing marijuana retail uses; and, establish an administrative review process to coordinate City review of proposed marijuana businesses including public notification and consideration of prior code noncompliance issues.

A summary of the existing interim regulations that will be retained is provided in the attached SEPA Checklist. Copies of the complete text of the proposed permanent regulations are available from the Planning and Development Services Department at the below address and may also be viewed and downloaded at www.cityoftacoma.org/planning (click on “Recreational Marijuana Permanent Regulations”).

Location: City of Tacoma

Lead Agency: City of Tacoma

City Contact: Elliott Barnett
Planning and Development Services Department
747 Market Street, Room 345
Tacoma, WA 98402
(253) 591-5389

The lead agency for this proposal has made a preliminary determination that this project does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2) (c). This decision was made after review of an environmental checklist and other information on file with the lead agency. This information is available to the public upon request. This Preliminary Determination of Nonsignificance (DNS) is issued under WAC 197-11-340(2). **Comments must be submitted by 5:00 p.m. on December 5, 2014.** The Responsible Official will reconsider the DNS based on timely comments and may retain, modify, or, if significant adverse impacts are likely, withdraw the DNS. **Unless modified by the City, this determination will become final on December 12, 2014.** There is no administrative appeal for this determination. Appeals must be filed in conjunction with appeals of the adopted amendments to the Growth Management Hearings Board; appeals shall be taken in accordance with procedures and limitations set forth in RCW 43.21C.075 and WAC 242-02. In addition to Growth Management Hearings Board requirements, a copy of the appeal shall be filed with the Planning and Development Services Department, 747 Market Street, Room 345, Tacoma, Washington 98402.

The Puyallup Tribe is notified that this initiates the consultation process.

Responsible Official: Peter Huffman
Position/Title: Director, Planning and Development Services Department

Signature: _____

SEPA Officer Signature: _____

Issue Date: November 20, 2014
Comment Deadline: December 5, 2014, 5:00 p.m.

NOTE: The issuance of this Preliminary Determination of Nonsignificance does not constitute project approval. Future project applicants must comply with all other applicable requirements of the City of Tacoma and other agencies with jurisdiction prior to receiving development permits.

- c: via U.S. Mail:
Tacoma Public School District #10, Steve Murikami, 3223 South Union Ave., Tacoma, WA 98409
Nature and Environment Advisory Council, Terry Larson, 808 North Ainsworth Ave., Tacoma, WA 98403
Puyallup Tribe of Indians, Bill Sullivan, Natural Resources Director, 3009 E. Portland Ave., Tacoma, WA 98404
Puyallup Tribe of Indians, David Duenos, Building Official, 3009 E. Portland Ave., Tacoma, WA 98404
Puyallup Tribe of Indians, Brandon Reynon, Tribal Historian, 3009 E. Portland Ave., Tacoma, WA 98404
Puyallup Tribe of Indians, Jeffrey Thomas, TFW Program Director, 3009 E. Portland Ave., Tacoma, WA 98404
Puyallup Tribe of Indians, Peter Mill, Planning Director, 3009 E. Portland Ave., Tacoma, WA 98404
Puyallup Tribe of Indians, Lisa A. Brautigam, Environmental Attorney, 3009 E. Portland Ave., Tacoma, WA 98404
Puyallup Tribe of Indians, Russ Ladley, Tribal Attorney, 3009 E. Portland Ave., Tacoma, WA 98404
Puyallup Tribe of Indians, Shawn Villegas, 3009 E. Portland Ave., Tacoma, WA 98404
Puyallup Tribe of Indians, Andrew Stroebel, Land Use Manager, 3009 E. Portland Ave., Tacoma, WA 98404
- c: via E-mail:
Tacoma Planning and Development Services Department, Shirley Schultz, Shirley.schultz@cityoftacoma.org
Tacoma Planning and Development Services Department, Reuben McKnight, reuben.mcknight@cityoftacoma.org
Tacoma Pierce County Health Department, SEPA Review Team, sepa@tpchd.org
Port of Tacoma, Jason Jordan, jjordan@portoftacoma.com
Metro Parks, Doug Fraser, dougf@tacomaparks.com
Puget Sound Clean Air Agency, Steve Van Slyke, stevev@psc Cleanair.org
Department of Ecology, sepaunit@ecy.wa.gov
Department of Natural Resources, SEPA Center, PO Box 47015, Olympia, WA 98504-7015, sepacenter@dnr.wa.gov
Department of Transportation, Olympia Region Development Services Team, OR-SEPA-REVIEW@wsdot.wa.gov

File: Planning and Development Services

SEPA ENVIRONMENTAL CHECKLIST

SEPA File Number: SEP2014-40000235612

A. BACKGROUND

1. Name of proposed project, if applicable:

Permanent Regulations on Marijuana-Related Uses – Proposed Amendments to the Tacoma Municipal Code

2. Proponent/applicant:

City of Tacoma – Planning and Development Services Department

3. Contact:

Elliott Barnett
City of Tacoma
Planning and Development Services Department
747 Market Street, Room 345
Tacoma, WA 98402-3701
Phone: (253) 591-5389
E-mail: elliott.barnett@cityoftacoma.org

4. Date checklist prepared:

November 20, 2014

5. Agency requesting checklist:

City of Tacoma – Planning and Development Services Department

6. Proposed timing or schedule (including phasing, if applicable):

September 30, 2014	City Council extends the interim regulations until May 16, 2015
October-November 2014	Planning Commission review of draft permanent regulations
December 3, 2014	Planning Commission public hearing
December 17, 2014	Planning Commission recommendation to City Council
January 6, 2015	City Council public hearing
January 13, 2015	City Council first reading of adopting ordinance
January 20, 2015	City Council final reading of adopting ordinance
February 1, 2015	Effective date of the permanent regulations

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No additional changes related to permanent regulations of recreational-related marijuana use are anticipated at this time. However, through a separate public process, the City Council is considering potential actions relating to medical marijuana store-fronts and collective gardens.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

SEPA Determination of Nonsignificance and Environmental Checklist for Proposed City of Tacoma Interim Marijuana Businesses Regulations, issued October 3, 2013, modified and finalized February 12, 2014.

In addition, the following environmental documents are posted on the website of the Washington State Liquor Control Board (WSLCB) at <http://lcb.wa.gov/marijuana/l-502>:

- Environmental Risks and Opportunities in Cannabis Cultivation, a white paper prepared for the WSLCB by Michael O'Hare, BOTEC Analysis, UC Berkeley, Daniel L. Sanchez, UC Berkeley, and Peter Alstone, UC Berkeley, dated June 28, 2013.
- SEPA Environmental Checklist for the Proposed Rulemaking for WAC 314-55 Marijuana Licenses, Application Process, Requirements, and Reporting, prepared by the WSLCB on July 1, 2013.
- Determination of Nonsignificance (DNS) concerning the Proposed Rulemaking for WAC 314-55 Marijuana Licenses, Application Process, Requirements, and Reporting, issued on July 12, 2013.
- Revised DNS and Addendum to Environmental Checklist concerning the Proposed Rulemaking for WAC 314-55 Marijuana Licenses, Application Process, Requirements, and Reporting, issued on September 26, 2013

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

Yes. The permanent code if adopted would apply to all marijuana businesses within the City of Tacoma. The City currently reviews and provides comment on applications to the WSLCB for licenses for marijuana production, processing and retail businesses under the interim regulations. To date, five retail and four production/ processing licenses have been issued by the state within the City of Tacoma. Three retail licenses and twenty-one production/processing licenses are currently pending WSLCB decision.

10. List any government approvals or permits that will be needed for your proposal, if known.

The code modifications and additions – proposed amendments to the Tacoma Municipal Code – will be adopted by the City Council by ordinance, i.e. through the legislative process.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site.

The proposal would amend Tacoma Municipal Code, Chapter 13.06 – Zoning, **Section 13.06.565 Marijuana Businesses** (and potentially other TMC sections for consistency including Tacoma Municipal Code, Chapter 6B – License Code), in order to replace the existing interim regulations with permanent regulations. The permanent regulations are intended to provide policy and regulatory guidance to facilitate the City's review, in a proactive and timely manner, of those marijuana license applications within the City limits that are forwarded to the City from the WSLCB.

The proposal would retain the current requirements of the interim code, and make four key additions and modifications. Specifically, the following provisions of the interim code would be retained:

- 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;
- Allows marijuana retailers outright in most commercial, mixed-use, industrial, and downtown zoning districts;

- 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, and other applicable standards; and
- Adds Urban Horticulture as a new use category, to be allowed outright within intensive industrial districts.

The proposal would retain the provisions above, with the following modifications and additions:

- Clarify that all new marijuana businesses must comply with City requirements;
- Further limit marijuana retail uses permitted hours open to the public: Must be closed between the hours of 9 p.m. and 10 a.m. Sunday-Thursday, and closed between 10p.m. and 10 a.m., Friday-Saturday;
- Prohibit new marijuana retail uses from locating within 1,000 feet of any existing state-licensed marijuana retail use(s);
- Establish an administrative review process to coordinate City review of proposed marijuana businesses. This process would require public notification of proposed retail marijuana uses. As part of this review, the City would have the authority to deny an application based on a pattern of prior noncompliance with City code requirements on the part of the business owners or applicants.

12. Location of the Proposal: (Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any. If a proposal would occur over a range of area, provide the range or boundaries of the site(s).)

The proposed permanent regulations will apply citywide.

13. Assessor Parcel Number:

Affected parcels are located throughout the city and are too numerous to list.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Name of signee: Elliott Barnett
Position and Agency/Organization: Associate Planner, City of Tacoma
Date Submitted: November 20, 2014

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

It is noted that the majority of the responses to the questions below were originally compiled in November 2013 when the interim marijuana regulations were proposed. Those responses were compiled based on the information contained in the *SEPA Environmental Checklist for the Proposed Rulemaking for WAC 314-55 Marijuana Licenses, Applications Process, Requirements and Reporting*, prepared by the WSLCB on July 1, 2013. The WSLCB's checklist was compiled based on *Environmental Risks and Opportunities in Cannabis Cultivation*, a white paper prepared for the WSLCB by BOTECH Analysis Company. It is anticipated that the potential impacts identified in the WSLCB's checklist could be experienced to some degree in Tacoma.

The proposed changes (i.e., permanent regulations) would retain the provisions of the interim marijuana regulations, and make several relatively minor modifications and additions. These modifications and additions would not substantially change the impacts of marijuana businesses as previously analyzed. The responses to the questions below continue to be valid and applicable to the proposed permanent regulations. The proposed permanent regulations would clarify the City's administrative review process for marijuana businesses, as a method to ensure that impacts are adequately addressed. Additional notes associated with the proposed permanent regulations have been added where appropriate.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Water Quality – Current indoor cultivation often employs pesticides and herbicides. Water quality impacts can be associated with application drift and water (runoff and groundwater) pollution by these agricultural chemicals. Hydroponic pollution is also a concern for indoor cultivation. In addition to higher water demand, hydroponic systems produce more nutrient pollution than other growing methods.

Water Quantity – Indoor cultivation of cannabis is water-intensive, particularly when it is hydroponic. Mills estimates that one cultivation room (22 m²) requires 151 L/day (Mills 2012). This is equivalent to 2.5 m of water per year (98 in./yr.) of application.

Toxic Waste – Lighting materials used in indoor cannabis cultivation have environmental risks if not properly managed for disposal. High-intensity discharge (HID) bulbs are not recyclable; each bulb contains approximately 30 mg of mercury and other toxins. Mercury is a neurotoxin, and is recognized as extremely toxic, particularly in gaseous form. The Okanogan Cannabis Association estimates that indoor cultivation of cannabis could produce 46,000 HID bulbs each year in Washington (Moberg and Mazzetti 2013). According to the productivity assumptions in Mills, it is estimated that there is the potential for 30 mg of mercury pollution per kg of cannabis product if proper disposal is not practiced.

Proposed measures to avoid or reduce such increases are:

Under the WSLCB rules, all usable cannabis for sale must carry a warning that discloses all pesticides, herbicides, fungicides or other compounds used for pest control or plant disease in production or processing. In the future the WSLCB could require proper bulb recycling/disposal system for indoor cultivation.

Aesthetics – Cultivation of marijuana can also result in private or public nuisances. Whether grown indoors or outdoors, marijuana plants, particularly as they mature, produce a distinctive odor that is often detectable far beyond property boundaries. This strong, distinctive odor can interfere with neighboring owners' use and enjoyment of their property. In addition, this odor of growing or "green" marijuana may alert malefactors to the location where marijuana is grown and create the risk of burglary and robbery at that location.

Proposed measures to reduce or control aesthetic impacts, if any:

Marijuana production may take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof and doors. Outdoor production may take place in non-rigid green house, other structures, or an expanse of open or cleared ground enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high.

Proposed measures to reduce or control odor/emissions impacts, if any:

The proposed permanent regulations include specific requirements to ensure that new marijuana uses include controls and features to prevent odors from travelling off-site.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The following pests are commonly associated with hemp cultivation and could be an indication of the types of crop pests that could be introduced into the area:

- a. Pseudomonas syringae pv. cannabina (bacteriosis of hemp)
- b. Xanthomonas campestris pv. cannabis (leaf spot of hemp)
- c. Fusarium oxysporum f.sp. cannabis
- d. Pseudoperonospora cannabina (downy mildew of hemp)
- e. Orobanche spp. (broomrape)

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Proper use of pesticides, herbicides and chemicals

3. How would the proposal be likely to deplete energy or natural resources?

The BOTEK white paper reports an estimate that the indoor production of 186 thousand pounds of cannabis, one estimate of state production, would release about 0.4 million metric tons of CO₂. For comparison, Washington State's overall carbon emissions were 101 million metric tons CO₂-eq in 2008. The table below illustrates energy and climate intensity of different cultivation methods in kWh/kg product based on greenhouse gas emissions from electricity use in Washington State:

	Energy kWh/kg		GHG kgCO ₂ -eq/kg	
	Low	High	Low	High
Outdoor	(minimal)	(minimal)	(minimal)	(minimal)
Greenhouse	6	580	1	282
Indoor	4400	6100	590	3000

Proposed measures to protect or conserve energy and natural resources are:

Outdoor cultivation would be allowed in addition to greenhouse and indoor growing of marijuana.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The interim regulations currently in effect restrict a business from locating within a 1,000 feet of public parks, parks, playgrounds, recreation/community centers, libraries, child care centers, schools, game arcades, and public transit centers, as required by the WSLCB Rules. The interim regulations also apply the 1,000-foot buffering for retail marijuana uses to additional sensitive uses including correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities and detoxification centers.

This proposal would retain the above provisions, and also prohibit the concentration of retail marijuana businesses by prohibiting new marijuana retail businesses from locating within 1,000 feet of existing licensed marijuana retail businesses.

Proposed measures to protect such resources or to avoid or reduce impacts are:

The buffering requirements are intended to reduce the impacts to sensitive uses or areas. In addition, the proposed local zoning approach, which restricts marijuana uses to commercial, mixed-use and industrial areas and prohibits them from shoreline and residential areas, will reduce potential impacts as commercial, mixed-use and industrial areas within Tacoma generally contain fewer environmentally sensitive areas.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The permanent regulations have taken into account the concern of land use compatibility by allowing marijuana production and processing only in intensive industrial zones and allowing marijuana retail only in commercial, mixed-use, downtown and industrial zones. Marijuana related uses would not be allowed in shoreline districts.

Proposed measures to avoid or reduce shoreline and land use impacts are:

The existing interim provisions prohibiting marijuana businesses from locating in shoreline districts would be retained.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The licensed cultivation, processing and selling of marijuana will not have a probable adverse impact on transportation or utility services. Due to the high monetary value placed upon marijuana, areas may experience a number of home invasion robberies, thefts, and murders related to marijuana cultivation which impacts law enforcement/services. In addition, power and water utilities may need to be upgraded in some locations in order to support marijuana production and processing uses.

Proposed measures to reduce or respond to such demand(s) are:

Marijuana related uses would not be allowed in residential areas or shoreline districts where law enforcement access, without notice or cause, may be limited. In addition, the proposal includes the establishment of a new City administrative review process intended to coordinate the City's review and facilitate ongoing monitoring and enforcement, in order to better ensure that all pertinent issues, including demands on public infrastructure and services, are addressed.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The permanent regulations do not conflict with local, state, or federal laws, concerning the protection of the environment.