



# RECREATIONAL MARIJUANA PERMANENT REGULATIONS

Planning Commission Public Review Draft – November 20, 2014

## PLANNING COMMISSION PUBLIC HEARING

Wednesday, December 3, 2014 5:00 p.m. City Council Chambers  
Tacoma Municipal Building, 747 Market Street, 1<sup>st</sup> Floor

### WHAT IS BEING CONSIDERED?

The Planning Commission is seeking public comment on proposed amendments to Tacoma's land use regulations concerning the production, processing, and retail uses of recreational marijuana. The proposed amendments to Tacoma Municipal Code, Chapter 13.06 – Zoning, **Section 13.06.565 Marijuana Businesses** (and potentially other sections for consistency) would replace the existing interim code, effective through May 2015, with permanent regulations. The proposal would retain the current requirements of the interim code, and make four key additions and modifications.

### WHAT IS THE PROPOSAL INTENDED TO ACHIEVE?

The proposal is intended to provide regulatory guidance to facilitate the City's review of marijuana license applications forwarded from the Washington State Liquor Control Board (WSLCB). In response to the voter approved Initiative 502, the City Council enacted the Recreational Marijuana Interim Regulations in November 2013, effective for one year, from November 17, 2013 to November 16, 2014, then extended the interim regulations, effective through May 16, 2015, to further evaluate the operations and impacts of licensed recreational marijuana businesses. The proposal would make the regulations permanent as well as address community input to date in regards to the location and operation of marijuana businesses.

### CURRENT (INTERIM) MARIJUANA BUSINESSES REGULATIONS SUMMARY:

The provisions of the interim code are proposed to be retained in the permanent code, with the modifications and additions summarized in the following section.

#### Key Provisions:

- Adopts state standards per RCW 69.50 and WAC 314-55
  - State licenses required
  - Limits on statewide production
  - Limits on individual production operation size
  - Limits the number of retail outlets (maximum 8 in Tacoma)
  - Retail may not be open between midnight and 8:00 am
  - Detailed security and tracking systems
  - Quality control/testing and labeling provisions
  - State-level excise taxes (25% at each of the three levels)
- Location Requirements
  - Marijuana Retailers: Allowed in most Commercial and Mixed-Use Districts, some Industrial Districts (M-1 and M-2), and in all Downtown Districts
  - Marijuana Processors and Producers: Allowed in Heavy Industrial Districts (M-2 and PMI)
  - Prohibited 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

- Retail marijuana uses prohibited within 1,000 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, or detoxification centers
- Marijuana businesses prohibited in nonconforming use sites
- Development standards
  - Must prevent odors from travelling off-site
  - No drive-through, exterior, off-site sales, or display of marijuana paraphernalia

**PROPOSED MODIFICATIONS AND ADDITIONS:**

The following proposed changes would seek to provide more certainty in regards to the applicability of City standards to marijuana businesses; prevent impacts from the concentration and from late night sale of marijuana on neighborhoods and business districts; enhance the City’s ability to appropriately regulate and monitor proposed marijuana businesses; and, provide for public notification of proposed retail marijuana businesses. NOTE: *The Planning Commission has provided this draft for the purpose of soliciting public comments, but has not necessarily determined whether to recommend these proposals to the City Council.*

1. Clarify that all new marijuana businesses must comply with City requirements.
2. 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.
3. Prohibit new marijuana retail uses within 1,000 feet of any existing marijuana retail use(s).
4. 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.

**TENTATIVE PUBLIC REVIEW SCHEDULE:**

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 – <i>Comments due by Dec. 5<sup>th</sup> at 5:00 p.m.</i>
December 17, 2014	Planning Commission recommendation to City Council
January 6, 2015	City Council Public Hearing
January 13, 2015	City Council – First Reading
January 20, 2015	City Council – Final Reading
February 1, 2015	Effective date of the permanent regulations

**ATTACHMENTS:** Draft Code, Marijuana Business Maps

**ADDITIONAL INFORMATION:**

Web: [www.cityoftacoma.org/Planning](http://www.cityoftacoma.org/Planning), click on “Recreational Marijuana Permanent Regulations”  
 Contact: Elliott Barnett, Associate Planner, (253) 591-5389, [elliott.barnett@cityoftacoma.org](mailto:elliott.barnett@cityoftacoma.org)



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

DRAFT LAND USE REGULATORY CODE CHANGES

November 20, 2014

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

### Chapter 13.06 – Zoning

#### 13.05.565 – 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~~.

*\* Certain provisions, as indicated herein, could ultimately be contained within a different TMC title (e.g., Title 6B License Code).*

#### 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 marijuana businesses licensed by the City after (effective date) must 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.

3. Marijuana uses are subject to the location standards of 13.06.565.C.9 which are in place at the time of appropriate City review, unless they change their location. Specifically, for marijuana uses established prior to (effective date), the City's issuance of comments stating no objections to the Washington State Liquor Control Board's issuance of a marijuana license, per WAC 314-55-160, constitutes appropriate City review; for marijuana uses established subsequent to the adoption of this section, the date of submittal of a complete application for a City Certificate of Approval constitutes appropriate City review.

### 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.~~ Marijuana retail uses shall not be open to the public between the hours of 9 p.m. and 10 a.m. Sunday through Thursday, or 10 p.m. and 10 a.m. on Fridays and Saturdays.

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. Marijuana retail uses shall be a minimum distance of 1,000 feet from any existing state-licensed marijuana retail use(s).

~~d.~~ The methodology for measuring the buffers outlined above in subsections 9.a., ~~and 9.b. and 9.c.~~ shall be as provided in WAC 314-55.

~~e.~~ 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. and 9.c.~~

fe. 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.

*\* NOTE: The following provisions could be contained with TMC 13.06.565, or could be combined with similar provisions in another chapter of the TMC (e.g., TMC 6B License Code).*

#### 10. Certificate of Approval.

a. It is unlawful for any person to engage in a marijuana business without first obtaining a Certificate of Approval from the City, the purpose of which is to ensure marijuana businesses are operated consistent with all applicable State and City requirements. To initiate this process, a complete application for a Certificate of Approval shall be submitted to the Department for City review, along with the application fee. The Department shall prescribe the form and content for a complete application.

1. Marijuana uses which received the City licenses and approvals required at the time they were established, and before (effective date), shall be required to obtain a Certificate of Approval by (6 months from effective date). However, the process for approval shall not include the public notification procedures of 13.06.565.C.10.c.

b. Criteria. A Certificate of Approval for a marijuana business shall only be approved upon finding that the applicant has provided sufficient information to demonstrate consistency with the following criteria:

1. The applicant has an approved, active marijuana license from the State.

2. The applicant has demonstrated consistency with all applicable provisions of TMC Title 13, and any other applicable TMC requirements.

3. The applicant has obtained and fully complied with all applicable City development or other permits, and has procured a City business license.

4. The applicant does not have a consistent pattern of non-compliance with City code provisions in the development and operation of any commercial enterprise(s) located within the City of Tacoma.

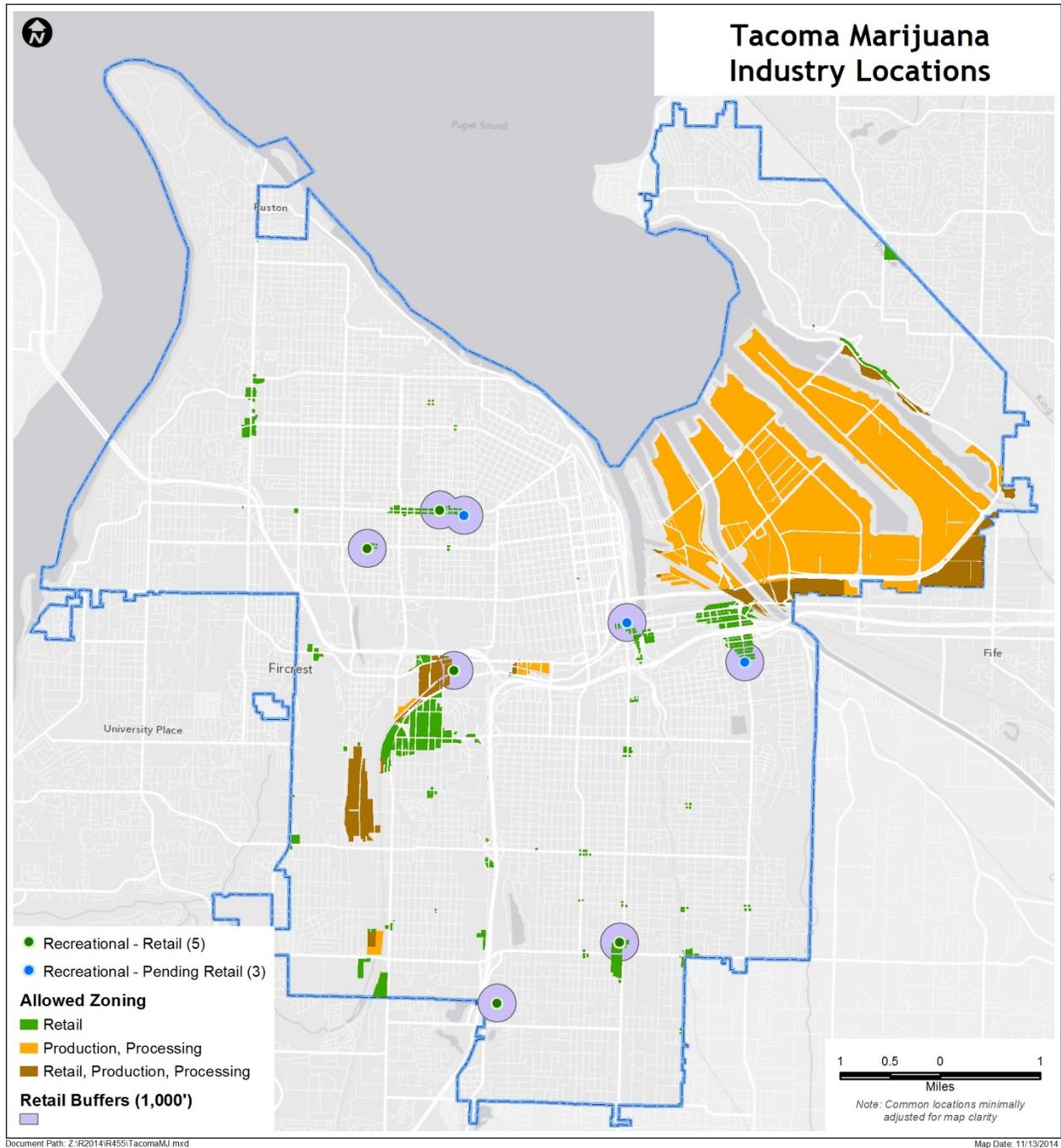
c. Notification. For retail marijuana business applications, public notification shall be issued to property owners within 400 feet of the proposed marijuana retail business location, to the applicable Neighborhood Council, and to any business district or other identified stakeholder within 400 feet of the site. The purpose of this notification shall be to inform neighbors of the application, to provide the neighbors information about the standards by which such application will be reviewed, and to solicit input. Parties receiving notice of application shall be given 14 days from the date of mailing to provide comments on the proposed project to the Department.

d. Decision. Based on the criteria outlined above, the Director shall issue a decision on the proposed Certificate of Approval within 30 days of submittal of a complete application. The decision shall include any conditions of approval, and may require recertification on an annual or other basis, along with an applicable fee. The Director's decision on a Certificate of Approval will be mailed to the applicant and the property owner, if different than the applicant, by first class mail, and provided to any person who submits written comments during the comment period.

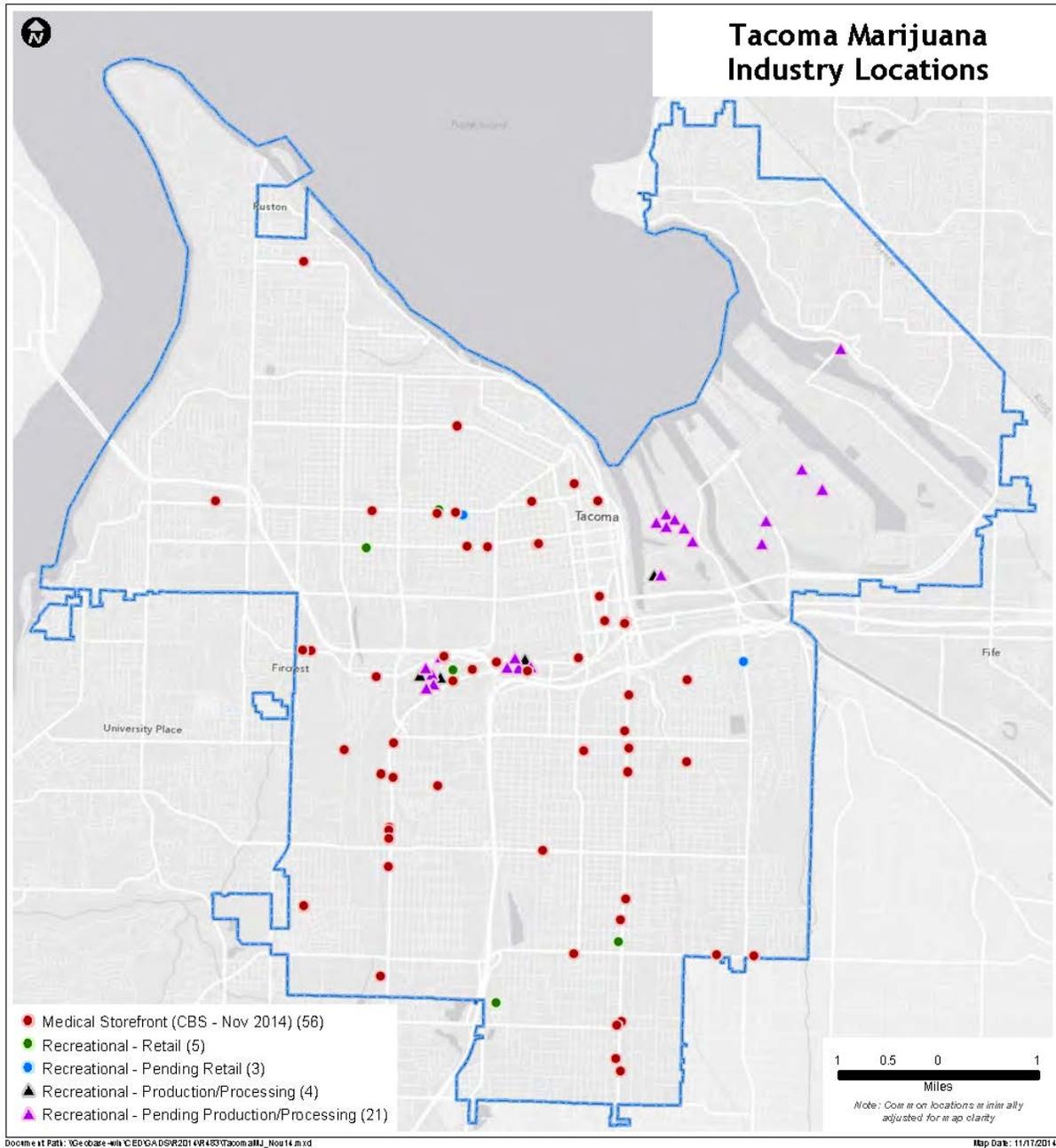
e. This Certificate of Approval shall be processed as an Administrative Determination, subject to the specific provisions outlined herein and the applicable procedural requirements contained in Chapter 13.05, including appeals, enforcement, revocation and other administrative provisions. The Director shall have the authority to suspend and/or revoke a Certificate of Approval in cases where the business is not operated consistent with the standards of this section or the operator does not maintain their required State and City licenses in good standing.

# Recreational Marijuana Permanent Regulations

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This map depicts areas where marijuana businesses may be permitted; the locations of the eight marijuana retail business license applications selected by state lottery; and, a proposed 1,000 foot distribution requirement between retail marijuana businesses. NOTE: *The Planning Commission has indicated interest in considering other potential retail marijuana business distribution distances.*



This map depicts the locations of all marijuana business license applications, and all known medical marijuana storefronts within the City of Tacoma. *NOTE: Medical storefronts are not licensed or permitted by the City of Tacoma.*