



City of Tacoma
Planning and Development Services

**Agenda Item
D-2**

To: Planning Commission
From: Elliott Barnett, Planning Services Division
Subject: **Marijuana Regulations (Permanent)**
Meeting Date: November 19, 2014
Memo Date: November 13, 2014

At the next meeting on November 19, 2014, the Planning Commission will review draft code for permanent land use regulations concerning the production, processing and retail sale of marijuana. The City Council has directed staff and the Planning Commission to develop recommendations to replace the existing interim regulations. The Commission will consider releasing the proposed changes for public review and setting a public hearing date of December 3, 2014.

The current interim regulations were enacted in November 2013, effective for one year through November 2014, in response to the voter approved Initiative 502. The intent of adopting interim regulations was to allow adequate time for the City to evaluate the operations and impacts of the licensed marijuana businesses and for the State to rectify the outstanding problems with the existing, largely unregulated medical marijuana system. However, the state has not addressed the medical marijuana facilities and the recreational marijuana system is still in its infancy. The City Council recently extended the interim regulations for six months, through May 2015 (per Ordinance No. 28250, adopted on September 30, 2014), but expressed the imminent need and desire to replace the interim regulations with enhanced, permanent regulatory provisions.

At the November 5th meeting, the Commission provided direction on a package of code changes to be included in a public review document. Attached are a summary of the changes proposed, and a draft of proposed code language. Staff will request direction on any refinements to this package to prepare it for public review.

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

Attachments

c: Peter Huffman, Director

Recreational Marijuana Land Use Regulations Summary of proposed code changes

November 19th, 2014

SCOPE OF WORK: Develop permanent land use regulations governing Recreational Marijuana uses.

CURRENT INTERIM REGULATIONS: Effective November 2013 to May 2015

Purposes, Key Provisions & Licensing Status: SEE OCTOBER 15TH PACKET

KEY ISSUES:

Through discussions to date, the Planning Commission has indicated the following:

- Most pressing issues relate to medical marijuana as opposed to recreational marijuana
- The Interim Marijuana Businesses code governing marijuana production, processing and retail generally achieves its intent as is
 - It is still early to identify substantial changes, given that the first marijuana facilities have only recently been licensed and begun to operate
 - Additional changes could be considered once any potential impacts or concerns are identified
- While recognizing that state law and prior Council actions direct that marijuana uses will be regulated in a specific manner, the Commission in general holds that it is the will of the voters to normalize marijuana-related uses, treating them generally consistently to other similar land uses
- It is important that the City's permanent regulations are in place and are well-founded, in preparation for potential state action on medical marijuana activities
- Several issues have been identified through public discussions to date which could be addressed through code changes, including:
 - Clarifying that City code applies to all new marijuana businesses
 - Addressing potential neighborhood impacts by further limiting the hours of operation of retail marijuana businesses
 - Preventing the concentration of multiple retail marijuana businesses within a single area through creation of a distribution requirement
 - Establishing a clear City review process for proposed marijuana businesses
 - Providing public notification to neighbors of proposed retail marijuana businesses
 - Providing the City with the authority to consider a pattern of noncompliance with City code when reviewing proposed marijuana business applications

SUMMARY OF PROPOSED CHANGES:

On November 5th the Planning Commission directed staff to prepare draft code changes intended to address those issues through the actions summarized below. These actions have been incorporated as proposed code language in Attachment 2:

1. Add language to further clarify that all new marijuana uses must comply with City requirements
2. Further limit retail hours of operation to those of former state-run liquor stores
3. Add a distribution requirement such that no new retail marijuana establishment would be allowed within 1,000 feet of an existing retail marijuana business
4. Create a new City administrative review process designed to coordinate the City's review of marijuana businesses and to clearly grant the City authority to regulate based on local standards
5. Require a 400 foot public notification of proposed retail marijuana businesses, allowing for public input on consistency with administrative standards
6. Add language clarifying City authority to deny a marijuana business application based on a pattern of noncompliance with City code

Note: Some of the proposed actions would establish an administrative process similar in character to a regulatory license process. They could potentially be added to either the Land Use Regulatory Code, or to the License Code.



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

DRAFT LAND USE REGULATORY CODE CHANGES

November 19, 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 (adoption 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.

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.

f. 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.

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 should 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.