

Attachment “B”
Proposed Amendments
to the Nuisance Code

8.30.045 Cannabis.

A. Relationship with other laws.

Producing, manufacturing, processing, delivering, distributing, possessing, and using cannabis are crimes under federal law and may be crimes under the municipal code and state law. This section is a civil remedy and does not affect any state or federal law governing the production, manufacture, processing, delivery, distribution, possession, researching or use of cannabis.

B. Definitions.

1. “Cannabis” or “Marijuana” means all parts of the plant Cannabis, commonly known as marijuana, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

~~2. “Cannabis garden” means any place, area, or garden where cannabis is produced or processed and either (a) the person producing or processing the cannabis is not a qualifying patient or designated provider or (b) a copy or copies of the valid documentation of the qualifying patient(s) who own or share responsibility for the garden is not available at all times on the premises or (c) the number of plants or useable cannabis on the premises exceeds the limits set forth in RCW 69.51A.040(1)(a), RCW 69.51A.040(1)(b), or RCW 69.51A.085, or the garden is not otherwise in full compliance with RCW 69.51A.040(1)(a), RCW 69.51A.040(1)(b), or RCW 69.51A.085. Cannabis garden does not include a state licensed marijuana producer, processor, or retailer as authorized by RCW 69.50 and operating in compliance therewith.~~

~~3. “Collective garden” means any place, area, or garden where qualifying patients (as defined in RCW 69.51A.010) share responsibility and engage in the production, processing, and delivery of cannabis for medical use as set forth in RCW 69.51A.085 and in full compliance with all limitations and requirements set forth in RCW 69.51A.085. “Collective garden” does not include any office, meeting place, or club associated with a collective garden which is not located within the same structure as the collective garden itself.~~

~~4. “Child care center” means an entity that regularly provides child day care and early learning services for a group of children for periods of less than 24 hours licensed by the Washington State Department of Early Learning under chapter 170-295 WAC.~~

~~5. “Dispensary” means any place where cannabis is delivered, sold, or distributed or offered for delivery, sale, or distribution. Dispensary does not include a state licensed marijuana retail establishment as authorized by RCW 69.50 and operating in compliance therewith. Dispensary does not include a private residence where a designated provider delivers medical cannabis to his or her qualifying patient or a private residence where a member of a collective garden delivers medical cannabis to another member of the same collective garden. Dispensary does not include a collective garden, but does include any office, meeting place, club, or other place which is not located within the same structure as the collective garden itself where medical cannabis is delivered regardless of whether the delivery is made to another member of the collective garden.~~

~~6. “Drop in center for youth” means an establishment operated by a social service or charity organization that is designed to provide recreational, educational, or counseling services to youth.~~

~~7. “Drug rehabilitation facility, substance abuse facility, or detoxification center” means any facility licensed by the Washington State Department of Social and Health Services whose primary focus is treatment for a person with a chemical or drug dependency, whether on an outpatient or inpatient basis.~~

~~8. “Elementary school” means a school for early education that provides the first four to eight years of basic education and recognized by the Washington State Superintendent of Public Instruction.~~

~~9. “Game arcade” means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted.~~

~~10. “Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.~~

~~11. “Medical cannabis garden” means any place, area, or garden where a qualifying patient or designated provider (as defined in RCW 69.51A.010) produces or processes cannabis for medical use as set forth in RCW 69.51A.040 and in full compliance with all limitations and requirements set forth in RCW 69.51A.040.~~

~~12. "Perimeter" means a property line that encloses an area.~~

~~13. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.~~

~~14. "Processor" or "licensed processor" shall mean a marijuana processor licensed by the state pursuant to RCW 69.50.325(2).~~

~~15. "Producer" or "licensed producer" shall mean a marijuana producer licensed by the state pursuant to RCW 69.50.325 (1).~~

~~16. "Public park" or "park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.~~

~~17. "Public transit center" means a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge.~~

~~18. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under 21 years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.~~

~~19. "Retailer" or "licensed retailer" shall mean a marijuana retailer licensed by the state pursuant to RCW 69.50.325(3).~~

~~20. "Secondary school" means a high and/or middle school: a school for students who have completed their primary education, usually attended by children in grades 7 to 12 and recognized by the Washington State Superintendent of Public Instruction.~~

24. The definitions contained in Chapter 69.50 RCW, Chapter 69.51A RCW, and WAC 314-55 shall be used to define any term in this section not otherwise defined herein.

C. Nuisance defined.

The production, manufacture, processing, delivery, distribution, possession, or use of cannabis for medical purposes for which there is an affirmative defense under state law, or for other purposes as outlined and regulated in accordance with RCW 69.50, may be a nuisance by unreasonably annoying, injuring, or endangering the comfort, repose, health, or safety of others; by being unreasonably offensive to the senses; by being an unlawful act; by resulting in an attractive nuisance; or by otherwise violating the municipal code or state law.

The following specific acts, omissions, places, and conditions are declared to be a public nuisance, including, but not limited to, any one or more of the following:

1. Any place selling, distributing, or providing marijuana to others, except as properly licensed or registered by the Washington State Liquor and Cannabis Board, ~~cannabis garden~~ is a nuisance per se.

~~2. Any dispensary is a nuisance per se.~~

~~23. Any cannabis garden, collective garden, dispensary, medical cannabis garden, state licensed processor, producer, or licensed retailer where cannabis is directly visible from the adjacent public right-of-way displayed against or adjacent to exterior windows.~~

~~3. 4. Any cannabis garden, collective garden, dispensary, medical cannabis garden, state licensed processor, producer, or retailer, or state registered cooperative -where the odor of cannabis can be smelled or detected from the adjacent public right-of-way.~~

4. A marijuana club is a nuisance per se.

~~5. Any collective garden located within 600 feet of the perimeter of any of the following, whether in or out of the City:~~

~~a. Public or private elementary or secondary school;~~

~~b. Daycare, nursery, preschool, or child care center;~~

~~e. Public park;~~

~~d. Library;~~

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

~~f. Drop-in center for youth.~~

~~g. The distance shall be measured as the shortest straight line from the closest parcel line in which the collective garden is located to the closest parcel line of any of the uses in this subsection.~~

~~6. Any collective garden where any person under the age of 18 years is present or is permitted to be present.~~

~~7. Any collective garden or medical cannabis garden that is not fully enclosed within a structure.~~

~~8. Any parcel containing more than one collective garden, medical cannabis garden, or combination of collective garden and medical cannabis garden.~~

~~9. Any collective garden or cannabis garden where any violation of Chapter 69.50 RCW occurs and for which the affirmative defense created by Chapter 69.51A RCW would not apply.~~

~~10. Any place bearing a sign or placard advertising cannabis for sale or delivery, except that a state licensed marijuana retailer is permitted to display a single sign no larger than 1,600 square inches identifying the retail outlet by the licensee's business or trade name. No state licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:~~

~~a. Within 1,000 feet of the perimeter of an elementary or secondary school, playground, recreation center or facility, child care center, public park, library, public transit center, court house, correctional facility, drug rehabilitation facility, substance abuse facility, or detoxification center or any game arcade where admission to which is not restricted to persons aged 21 years or older;~~

~~b. On or in a public transit vehicle or public transit shelter; or~~

~~e. On or in a publicly owned or operated property.~~

~~544. Any place where any production, manufacture, processing, delivery, distribution, possession, or use of cannabis occurs for which there is no affirmative defense under state law, or except as expressly authorized by Chapter 69.50 RCW.~~

~~6.12. Any place other than a private residence where cannabis is smoked or ingested.~~

~~13. Any marijuana uses as provided in RCW 69.50.331 and WAC 314-55-050, located within 1,000 feet of elementary schools, secondary schools, or playgrounds. For the purposes of this section, these uses are defined in WAC 314-55, state licensed cannabis retailer, processor, or producer located within 1,000 feet of the perimeter of any of the following, whether in or out of the City:~~

~~a. Playground, recreation center, or facility;~~

~~b. Child care center;~~

~~e. Public park;~~

~~d. Public transit center;~~

~~e. Library;~~

~~f. Game arcade where admission to which is not restricted to persons aged 21 years or older;~~

~~g. Elementary or secondary school;~~

~~h. Any state licensed retailer~~

~~14. Any marijuana uses located within 1,000/500 feet of the perimeter of a court house, correctional facility, drug rehabilitation facility, substance abuse facility, or detoxification center.~~

~~15. Marijuana retail uses located within 500 feet of public parks, recreation centers or facilities, libraries, child care centers, schools, game arcades, and public transit centers. For the purposes of this section, these uses are as defined in WAC 314.55.~~

~~16. Marijuana retail uses located within 500 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.~~

~~17. Any marijuana producer, processor, or researcher located within 1000 feet of public parks, recreation centers or facilities, libraries, child care centers, schools, game arcades and public transit centers. For the purposes of this section, these uses are as defined in WAC 314.55.~~

~~i. The distance shall be measured as the shortest straight line from the closest parcel line in which the state licensed cannabis retailer, processor, or producer is located to the closest parcel line of any of the uses in this subsection.~~

~~744. Any state-licensed cannabis retailer, processor, or producer where any person under the age of 21 years is present or is permitted to be present, unless permitted by state law.~~

~~8.15. Any state-licensed retailers selling products or services other than useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of useable marijuana or marijuana-infused products.~~

~~16. Any state licensed retailers selling useable marijuana, marijuana infused products, or paraphernalia between 12 a.m. and 8 a.m.~~

~~947. Any unlicensed marijuana retailer, producer, researcher, or processor operating within City limits.~~

~~108. Any state licensed producer whose production activities are not within a fully enclosed, secure facility or greenhouse with rigid walls, a roof and doors, or whose outdoor production activities are not enclosed by a sight obscured wall or fence at least eight feet high.~~

(Ord. 28183 Ex. A; passed Nov. 5, 2013; Ord. 28083 Ex. A; passed Jul. 31, 2012)