



Marijuana Land Use Regulations

DRAFT LAND USE REGULATORY CODE CHANGES
As Recommended by the Planning Commission, April 6, 2016

Note: These amendments show all of the 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~~.

Chapter 13.06 Zoning and Chapter 13.06A Downtown Tacoma

13.06.565 Marijuana Uses ~~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. In April 2015, the state Legislature enacted two laws, 2SSB 5052 and 2E2SHB 2136. The new laws establish regulations for the formerly unregulated aspects of the marijuana system, align these with the existing recreational system, and establish a "medical marijuana endorsement" that allows licensed marijuana retailers to sell medicinal marijuana to qualifying patients and designated providers, and attempt to align these changes with the existing recreational system.

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 Marijuana 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~~existed prior to the enactment of Ord. 28182 Ex. A on Nov. 5, 2013 ~~this ordinance~~ shall be deemed to have been a legally established use or entitled to claim legal non-conforming status.

2. As of July 1, 2016, in accordance with 2SSB 5052 and as regulated and defined in RCW 69.51A with state law, collective gardens are prohibited.

~~3.~~ 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, marijuana researcher 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 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 or, 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. Marijuana cooperatives, as defined in RCW 69.51A.250 and WAC 314-55-410, are allowed in accordance with State law requirements and the following additional standards:

a. Marijuana cooperatives must be conducted in a manner that is clearly secondary and incidental to the primary use of the property as a residence and do not significantly alter the exterior of the property or affect the residential character of the neighborhood.

b. No outdoor display or storage of marijuana growing, processing or producing materials, goods, supplies, or equipment is allowed.

c. No change in the outside appearance of the building or premises, or other visible evidence that the residence is being used for a cooperative is permitted.

d. The cooperative shall not generate nuisances such as traffic, on-street parking, noise, vibration, glare, odors, fumes, electrical interference, or hazards.

10. All Marijuana retail uses must have a State license and medical endorsement in accordance with RCW 69.50 and WAC 314-55 in order to obtain a City business license.

911. 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 elementary schools, secondary schools, or playgrounds ~~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 500 feet of public parks, recreation centers or facilities, libraries, child care centers, schools, and game arcades, and shall not be allowed to locate within 100 feet of public transit centers. For purposes of this standard, these uses are as defined in WAC 314-55.

~~c~~b. Marijuana retail uses shall not be allowed to locate within ~~1,000~~500 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.

d. Marijuana producer, processor and researcher uses shall not be allowed to locate within 1,000 feet of public parks, recreation centers or facilities, 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.

e. Marijuana cooperatives shall not be allowed to locate within one-mile of a marijuana retailer; within 1,000 feet of primary and secondary schools, and playgrounds; or within 100 feet of public parks, recreation centers or facilities, 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.

f. Marijuana cooperatives shall not be allowed to locate within 100 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.

eg. The methodology for measuring the ~~buffers~~ distances outlined above in subsections ~~9.a and 9.b~~ 11.a through f shall be the shortest straight line from the closest parcel line in which the state licensed marijuana retailer, processor, producer, researcher or cooperative is located to the closest parcel line of any of the uses in these subsections. as provided in WAC 314.55.

dh. It shall be the responsibility of the owner or operator of the proposed state-licensed marijuana use ~~or cooperative~~ to demonstrate and ensure that a proposed location is not within one of the buffers outlined above in subsections ~~9.a and 9.b~~ 11.a through f.

ei. 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.

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13.06.700 Definitions and illustrations.

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Drug rehabilitation facility, or substance abuse facility. 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.

Substance abuse facility. (See “Drug rehabilitation facility”).

Marijuana Cooperative (or Cooperative). As regulated by RCW 69.51A.250 and provided herein by reference, qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative.

Marijuana. As defined in RCW 69.50.101 and provided herein for reference. All parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; 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. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

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 researcher. As defined in RCW 69.50.101 and provided here for reference. A person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

Marijuana-infused products. As defined in RCW 69.50.101 and provided here for reference. Products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include useable marijuana.

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

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13.06.200 Commercial Districts.

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	T	C-1	C-2	PDB	Additional Regulations ^{2,3} (also see footnotes)
Marijuana processor, <u>producer and researcher</u>	N	N	N	N	
Marijuana producer	N	N	N	N	
Marijuana retailer	N	P	P	P*	*Limited to 7,000 square feet of floor area, per business, in the HM and PDB Districts. See additional requirements contained in Section 13.06.565

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13.06.300 Mixed-Use Center Districts.

3. District use table.

Uses	NCX	CCX	UCX	RCX	CIX	HMX	URX	NRX	Additional Regulations ^{2,3} (also see footnotes)
Marijuana processor, <u>producer and researcher</u>	N	N	N	N	P	N	N	N	See additional requirements contained in Section 13.06.565
Marijuana producer	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

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13.06.400 Industrial Districts.

4. District use table.

Uses	M-1	M-2	PMI	Additional Regulations ¹
Marijuana processor, <u>producer and researcher</u>	P	P	P	See additional requirements contained in Section 13.06.565
Marijuana producer	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

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13.06A Downtown Tacoma

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13.06A.050 Additional use regulations.

A. Use Categories.

1. Preferred. Preferred uses are expected to be the predominant use in each district.
2. Allowable. Named uses and any other uses, except those expressly prohibited, are allowed.
3. Prohibited. Prohibited uses are disallowed uses (no administrative variances).

B. The following uses are prohibited in all of the above districts, unless otherwise specifically allowed:

1. Adult retail and entertainment.
2. Heliports.
3. Work release facilities.
4. Jails and correctional facilities.
5. Billboards
6. Drive-throughs not located entirely within a building.

C. Special needs housing shall be allowed in all downtown districts in accordance with the provisions of Section 13.06.535.

D. Live/work and work/live uses shall be allowed in all downtown districts, subject to the requirements contained in Section 13.06.570.

E. Marijuana uses (marijuana producer, marijuana processor, marijuana researcher and marijuana retailer). Marijuana retailers shall be allowed in all downtown districts, subject to the additional requirements contained in Section 13.06.565. Marijuana producers, ~~and~~ marijuana processors and marijuana researchers shall be prohibited in all downtown districts.

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