

Marijuana Regulations

Potential Amendments to the Tacoma Municipal Code



Public Review Document

Prepared for
Planning Commission Public Hearing
March 2, 2016

City of Tacoma
Planning & Development Services Department
Planning Services Division
747 Market Street, Room 345
Tacoma, WA 98402-3793
(253) 591-5030
www.cityoftacoma.org/planning



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Table of Contents

- I. Introduction and Summary----- 1
- II. Public Hearing Notice (March 2, 2016) ----- 3
- III. Text of Potential Amendments ----- 5
- IV. Determination of Environmental Nonsignificance
and Environmental Checklist ----- 13

INTRODUCTION AND SUMMARY

This Public Review Document is compiled for the purpose of public review in preparation for the Tacoma Planning Commission's public hearing on March 2, 2016, concerning the potential amendments to Tacoma's land use regulations on the production, processing, and retail and other uses of marijuana.

This document includes the notice for the Planning Commission's public hearing (which informs citizens how to provide comments), the complete text of the potential amendments, as well as the Determination of Nonsignificance and the Environmental Checklist associated with the proposal.

The proposed regulations would amend the Tacoma Municipal Code, Chapters 13.06 – Zoning and 13.06A – Downtown Tacoma, with the following provisions:

- Setting a 100-foot minimum buffer between retail marijuana stores and child care centers, game arcades, libraries, public parks, public transit centers, or recreation centers or facilities;
- Setting a 300-foot minimum buffer between retail marijuana stores and correctional facilities, court houses, drug rehabilitation centers, or detoxification centers;
- Maintaining a 1,000-foot minimum buffer between marijuana businesses and properties containing elementary schools, secondary schools, or playgrounds;
- Requiring all retail stores to have a State medical endorsement;
- Requiring retail marijuana stores to be located no closer than 300-feet in the downtown area and 500-feet for the rest of the City (measured by property lines); and
- Allowing cooperatives as per State law but with sensitive buffers reduced from 1,000-feet to 100-feet from child care centers, game arcades, libraries, public parks, public transit centers, recreation centers or facilities, correctional facilities, court houses, drug rehabilitation centers, or detoxification centers.

The proposal is intended to provide regulatory guidance to facilitate the City's review of marijuana license applications from the Washington State Liquor Control Board (WSLCB). 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 new laws that seek to align the medical marijuana system with the existing recreational system. The proposed code amendments would make the regulations consistent with State law and address issues raised through community discussions.

More information about this subject can be viewed at the Planning and Development Services Department's website at www.cityoftacoma.org/planning (click on "Marijuana Regulations").



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NOTICE OF PUBLIC HEARING MARIJUANA CODE AMENDMENTS

PLANNING COMMISSION PUBLIC HEARING
 Wednesday, March 2, 2016 5:00 p.m. City Council Chambers
 Tacoma Municipal Building, 747 Market Street, 1st Floor

WHAT IS BEING CONSIDERED?

The Planning Commission is seeking public comment on proposed amendments to Tacoma’s land use regulations on 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 amend the existing code.

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 from the Washington State Liquor Control Board (WSLCB). 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 new laws that seek to align the medical marijuana system with the existing recreational system. The proposed code amendments would make the regulations consistent with State law and address issues raised through community discussions.

HOW TO PROVIDE COMMENTS?

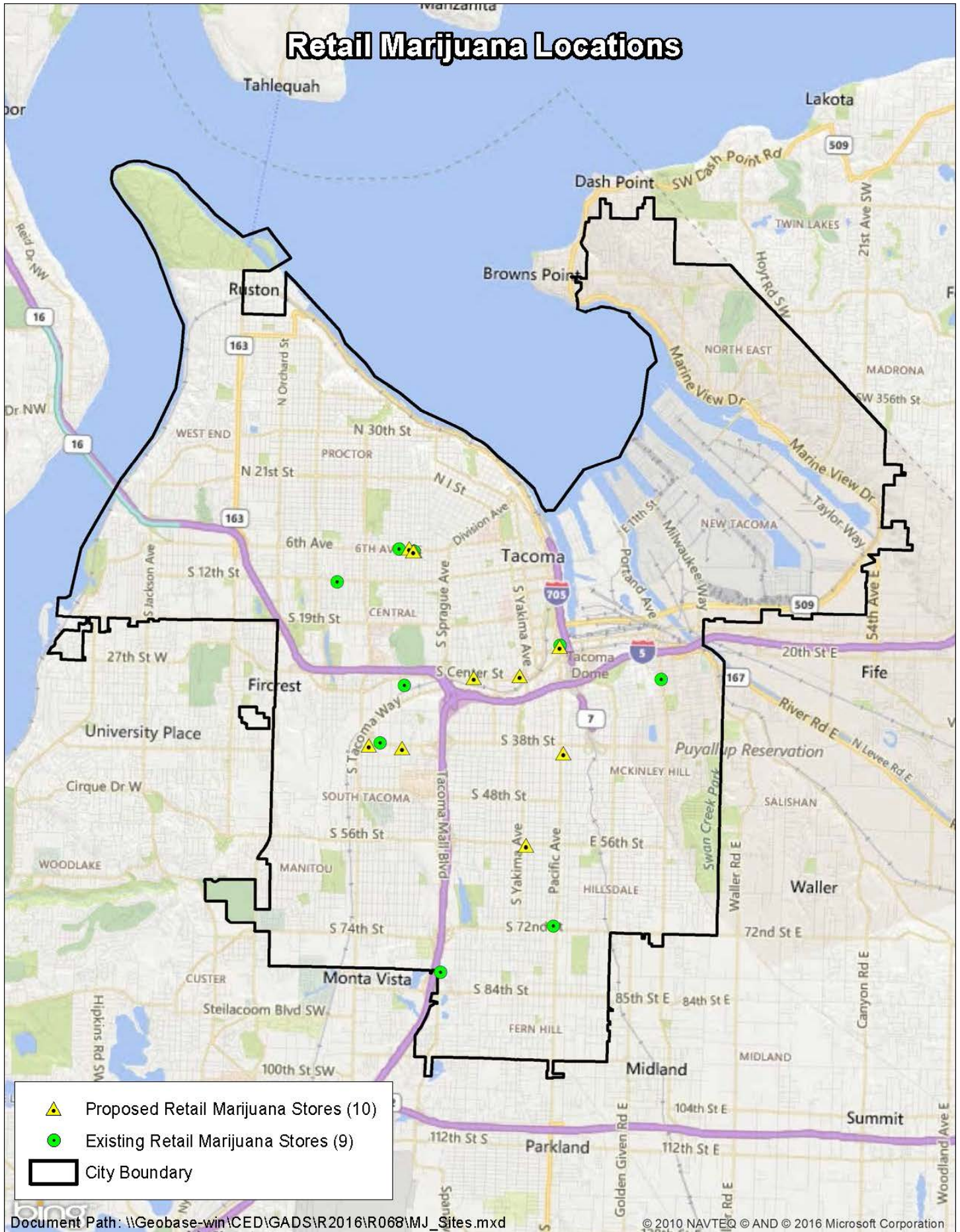
Provide oral testimony at the public hearing on March 2, 2016 or provide written comments using the return address on this notice no later than 5:00 p.m. on March 7, 2016, by facsimile at (253) 591-5433 or via e-mail to planning@cityoftacoma.org

STAFF CONTACT

Molly Harris at (253) 591-5383 or mharris@cityoftacoma.org

The City of Tacoma does not discriminate on the basis of disabilities in any of its programs or services. Special accommodations can be provided upon request within five (5) business days prior to the hearing. To arrange for these accommodations please contact the Planning and Development Services Department at (253) 591-5030 (voice) or (253) 591-5153 (TDD).

MAP DEPICTS PROPOSED AND EXISTING RETAIL MARIJUANA LOCATIONS



ADDITIONAL INFORMATION

A Preliminary Determination of Nonsignificance (DNS) has been issued based on the completion of an environmental checklist. Comments on the DNS must be submitted by March 7, 2016 at 5:00 pm. Unless modified by the City, the DNS will become final on March 14, 2016. The DNS, the environmental checklist, and additional information associated with the proposal are available at the Planning and Development Services Department, 747 Market Street, Room 345; and on the following website:

www.cityoftacoma.org/Planning
(and click on "Marijuana Regulations")

Tacoma Municipal Code Chapter 13.06, Zoning

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, establish a “medical marijuana endorsement” that allows licensed marijuana retailers to sell 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 state licensed 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 on Nov. 5, 2013 ~~this ordinance~~ shall be deemed to have been a legally established use or entitled to claim legal non-conforming status. No unlicensed marijuana use, including but not limited to collective gardens and dispensaries, shall be deemed to have been legally established or entitled to claim legal non-conforming status.

2. As of July 1, 2016, in accordance 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, and marijuana retailer) shall only be permitted as allowed under RCW 69.50 and WAC 314-55.

Note: These amendments show potential 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~~.

PRELIMINARY DRAFT POTENTIAL Regulations—Marijuana Uses

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, 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. 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. Uses subject to this standard are as defined in WAC 314-55.

~~ab. As provided in RCW 69.50.331 and WAC 314-55-050, m~~Marijuana uses shall not be allowed to locate within 1,000 feet of public parks, ~~playgrounds~~, recreation ~~centers or facilities~~/~~community centers~~, libraries, child care centers, schools, game arcades, and public transit centers. ~~For purposes of Uses subject to~~ this standard, ~~these uses~~ are as defined in WAC 314-55.

~~c~~b. Marijuana retail uses shall not be allowed to locate within ~~1,0~~300 feet of correctional facilities, court houses, drug rehabilitation facilities, substance abuse facilities, and detoxification centers.

~~c~~. 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.

d. 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.

e. 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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f. Marijuana retail uses shall be dispersed a minimum of 500 feet from each other; except in all downtown districts, a dispersal separation of 300 feet is required.

f. 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.

g. Marijuana cooperatives, as defined in RCW 69.51A.250 and WAC 314-55-410, are allowed per State law; except that sensitive buffers are reduced from 1000-feet to 100 -feet from child care centers, game arcades, libraries, public parks, public transit centers, and recreation centers or facilities.

* * *

13.06.700 Definitions and illustrations.

* * *

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-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.

Note: These amendments show potential 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~~.

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.

* * *

Note: These amendments show potential 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~~.

* * *

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	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

* * *

Note: These amendments show potential 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~~.

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	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

* * *

Note: These amendments show potential 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~~.

13.06.400 Industrial Districts.

* * *

4. District use table.

Uses	M-1	M-2	PMI	Additional Regulations ¹
Marijuana processor	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

* * *

Note: These amendments show potential 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~~.

13.06A Downtown Tacoma

* * *

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, 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 shall be prohibited in all downtown districts.

Note: These amendments show potential 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~~.



Preliminary Determination of Environmental Nonsignificance

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

SEPA File Number: LU16-0028

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 Proposed Regulations would amend Tacoma Municipal Code, Chapters 13.06 – Zoning and 13.06A – Downtown Tacoma, with the following provisions:

- Sets a 100-foot minimum buffer between retail marijuana stores and child care centers, game arcades, libraries, public parks, public transit centers, or recreation centers or facilities
- Sets a 300-foot minimum buffer between retail marijuana stores and correctional facilities, court houses, drug rehabilitation centers, or detoxification centers
- Maintains a 1,000-foot minimum buffer between retail marijuana stores and properties containing elementary schools, secondary schools, or playgrounds
- Requires all retail stores to have a State medical endorsement
- Requires retail marijuana stores to be located no closer than 300-feet in the downtown area and 500-feet for the rest of the City (measured by property lines)
- Allows cooperatives as per State law but with sensitive buffers reduced from 1000-feet to 100-feet from child care centers, game arcades, libraries, public parks, public transit centers, recreation centers or facilities, correctional facilities, court houses, drug rehabilitation centers, or detoxification centers

Copies of the complete text of the proposed 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 “Marijuana Regulations”).

Location: City of Tacoma

Lead Agency: City of Tacoma

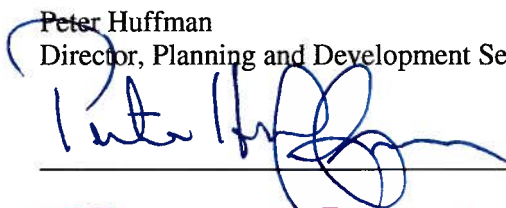
City Contact: Molly Harris
Planning and Development Services Department
747 Market Street, Room 345
Tacoma, WA 98402
(253) 591-5383 or mharris@cityoftacoma.org

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 March 7, 2016.** 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 March 14, 2016.** 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.

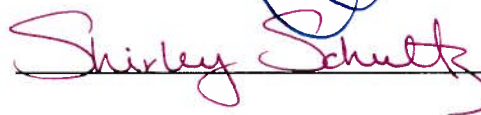
The Puyallup Tribe is notified that this initiates the consultation process.

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

Signature:



SEPA Officer Signature:



Issue Date: February 19, 2016
Comment Deadline: March 7, 2016, 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
 - Puyallup Tribe of Indians, Bill Sullivan, Natural Resources Director, 3009 E. Portland Ave., Tacoma, WA 98404
 - Puyallup Tribe of Indians, David Duenas, 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
 - Metro Parks, Joe Brady, joeb@tacomaparks.com
 - Puget Sound Clean Air Agency, Steve Van Slyke, stevev@pscleanair.org
 - Department of Ecology, separegister@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

City of Tacoma

Marijuana Regulations

Potential Amendments to the Tacoma Municipal Code

SEPA File Number:

LU16-0028

February 18, 2016

**City of Tacoma
Planning and Development Services Department
747 Market Street, Room 345
Tacoma, WA 98402-3701
253-591-5030**



A. BACKGROUND

1. Name of proposed project, if applicable:

Marijuana Regulations – Potential Amendments to the Tacoma Municipal Code

2. Proponent/applicant:

City of Tacoma – Planning and Development Services Department

3. Contact:

Molly Harris
City of Tacoma
Planning and Development Services Department
747 Market Street, Room 345
Tacoma, WA 98402-3701
Phone: (253) 591-5383
E-mail: mharris@cityoftacoma.org

4. Date checklist prepared:

February 18, 2016

5. Agency requesting checklist:

City of Tacoma – Planning and Development Services Department

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

July 2015	City Council directs Planning Commission to revise Marijuana regulations
January 12, 2016	City Council Moratorium on New Retail Marijuana Stores
March 2, 2016	Planning Commission public hearing on potential regulations
April 19, 2016	City Council first reading of ordinance
April 26, 2016	City Council final reading of ordinance adopting the revised regulations
May 8, 2016	Regulations become effective

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

The City may consider additional regulations concerning recreational and medical marijuana if new State laws are passed.

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

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.

No.

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

The Revised Regulations – potential 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 Potential Regulations would amend Tacoma Municipal Code, Chapters 13.06 – Zoning and 13.06A – Downtown Tacoma (and potentially other TMC sections for consistency including TMC Chapter 6B – License Code and TMC 8.30 – Nuisance Code), with the following provisions:

- Sets a 100-foot minimum buffer between retail marijuana stores and child care centers, game arcades, libraries, public parks, public transit centers, or recreation centers or facilities
- Sets a 300-foot minimum buffer between retail marijuana stores and correctional facilities, court houses, drug rehabilitation centers, or detoxification centers
- Maintains a 1,000-foot minimum buffer between retail marijuana stores and properties containing elementary schools, secondary schools, or playgrounds
- Requires all retail stores to have a State medical endorsement
- Requires retail marijuana stores to be located no closer than 300-feet in the downtown area and 500-feet for the rest of the City (measured by property lines)
- Allows cooperatives as per State law but with sensitive buffers reduced from 1000-feet to 100-feet from child care centers, game arcades, libraries, public parks, public transit centers, recreation centers or facilities

These regulations are intended to implement provisions of two State laws passed in April 2015, 2SSB 5052 and 2E2SHB 2136. The laws establish regulations for the formerly unregulated medical 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. The statutes regarding “collective gardens” were repealed, effective July 1, 2016 and instead provides for Washington State Liquor and Cannabis Board (LCB)-certified “cooperatives” with a maximum of four patients or designated providers.

The State cap on retail marijuana stores for Tacoma is sixteen. Tacoma currently has nine retail marijuana locations and anticipates that seven more will open after they have completed the state and local licensing process.

The City Council enacted a moratorium on new retail marijuana stores in January 2016 after the State issued a license to a ninth retail store in Tacoma, before the Council had the opportunity to establish new regulations in concert with the community’s desires.

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 potential Revised 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: Molly Harris
Position and Agency/Organization: Senior Planner, City of Tacoma
Date Submitted: February 18, 2016

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

The responses to the questions below 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 BOTEC Analysis Company. It is anticipated that the potential impacts identified in the WSLCB's checklist would be experienced in Tacoma, but at a much less extensive level.

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?

These regulations limit marijuana uses that include the production, processing, selling, and delivery of marijuana in the City at levels that require a state license. The amendments are intended to prohibit and shift these activities away from residential zones to zoning designations that, given their land use patterns and permissible use allowances, are better suited to accommodate these activities.

Examples are those zones with land use patterns and buildings accommodating industrial facilities or commercial spaces. This would tend to limit the potential for adverse effects upon the most sensitive classes of neighboring users, such as residents, in relation to a worst-case potential for discharges of pollutants to air or water, and increases in incidents of unpleasant odors, and/or noise.

The likelihood of worst-case pollutant releases to air or water is judged to be low, but in the worst case, it is possible that intentional or unintentional releases of substances (such as fertilizers, pesticides, planting soils, and volatile organic solvents like butane or similar liquids) to storm drains could occur, as well as odors released through exhaust systems or open doors. This might occur at production or processing facilities. At retail facilities, marijuana products are more likely to be already packaged or handled in ways that reduce or minimize the potential for releases to air and water.

The proposal would not likely cause significant or adverse increases in noise generation. However, the proposal does not entirely eliminate the potential for spillover odor or noise effects on residential uses, because Tacoma has many mixed use areas where residential land uses are sometimes relatively close to commercial districts. In addition, cooperatives are required by State law to be in the

domicile of one of the cooperative patients. If noise and odor incidents occur, they would be enforced through existing City codes for noise and odor control, on a complaint basis.

Listed below are some of the specific issues that are of concern and need to be managed appropriately:

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.

Solvent Use and Management – Solvents are used in the production of marijuana. These should be handled and disposed of in accordance with applicable laws.

Chemical Use and Management – Chemicals used in marijuana production include, but are not limited to, high intensity discharge mercury vapor lamps, hydroponic media such as rock wool, coco fiber, clay marbles or other inert media, carbon dioxide gas, fertilizers, sanitizers, pesticides, herbicides, traditional or oil-based solvents, contaminated ice water, glycerin, fats, oils and greases, ethanol, and butane. Other wastes include off-specification product, marijuana waste, and air scrubber wastewater.

Solid Waste Handling for Indoor Growing Operations – The marijuana licensing rules require that marijuana wastes from indoor growing operations be rendered unusable by mixing with 50% other materials and ground before disposal or composting. These ground and mixed materials are considered “solid waste” by state regulations and must be handled according to the state Solid Waste Handling Standards (WAC 173-350) and the requirements of the marijuana licensing rules.

Solid Waste Handling for Marijuana Processor Operations – If the wastes from extraction activities do not designate as dangerous wastes, they are considered “solid waste” by the state and must be handled according to the state Solid Waste Handling Standards (WAC 173-350) and the requirements of the marijuana licensing rules. The marijuana licensing rules require that these wastes be rendered unusable by mixing with 50% other ground materials before disposal or composting. Waste with 10% THC or greater could be designated as a toxic Dangerous Waste (DW) and should be disposed of and handled according to applicable laws.

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.

Tacoma Municipal Code Chapter 12.08 requires businesses that use solvents in their manufacturing processes to prepare an Accidental Spill Prevention Plan for potential discharges to the sanitary

sewer, a Surface Water Pollution Prevention Plan for potential discharges to the municipal stormwater system, or both. Tacoma's Source Control Inspectors conduct periodic business inspections to ensure the spill plan is implemented. Businesses will have to characterize their waste solvents according to the state dangerous waste regulations to determine where and how those wastes will be disposed of.

Businesses generating waste with 10% THC or greater will have to characterize those wastes according to WAC 173-303 in order to determine proper disposal options.

Proper management and disposal of hazardous waste containing these chemicals are handled in accordance with the Dangerous Waste Regulation (Chapter 173-303 WAC). Solid waste regulatory oversight rests with local health departments. Producers and processors should work with the Tacoma-Pierce County Health Department to determine proper disposal of solid waste from their specific operation. The Tacoma-Pierce County Health Department's Waste Management Program can be reached at (253)798-6047 or www.tpchd.org.

Washington State Liquor Control Board has published guidance that covers land use and environmental regulations for marijuana growers and processors.

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 creating 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 potential 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 potential regulations are not likely to result in significant adverse impacts to plants, animals, fish, and marine life as there is only a low potential for worst-case increases in discharges to the urban built environment or disturbance to plant, animal or fish/marine habitats in Tacoma. The proposal's effects are also not anticipated to result in substantial amounts of additional construction or demolition, as they primarily limit the scope of certain activities, and such uses are somewhat likely to typically occur within existing buildings rather than induce entirely new buildings.

Even if new construction does occur as a result of the proposal for production, processing or retail activities, the character and patterns of the eligible areas within commercial and industrial zoning tend to be already substantially developed with buildings, impervious surfaces or previously altered grounds that typically provide relatively low quality habitat for plants and animals. As well, there is not a substantial potential that future uses would be located in ways that substantially adversely affect marine habitats, even indirectly (such uses are prohibited in shoreline zones). Current City regulations relating to land use controls, development standards, utility improvements, and shorelines, would tend to minimize the potential for substantial adverse impacts upon these elements of the environment.

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. *Orobancha* 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 City's sensitive areas include shorelines, wetlands, steep slopes, flood plains, urban parks, fish and wildlife habitat areas and others. The marijuana uses are unlikely to impact these areas as they include prohibitions on locating in certain sensitive use areas as well as requiring buffers away from these sensitive use areas.

The potential regulations would restrict a business from locating within 100 feet of child care centers, game arcades, libraries, public parks, public transit centers, or recreation centers or facilities. The potential regulations would also restrict businesses from locating within 1,000 feet of elementary and secondary schools and playgrounds, as required by the WSLCB Rules. The potential regulations would also apply a 300-foot buffer to additional sensitive uses, including correctional facilities, court houses, drug rehabilitation centers, and detoxification centers.

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

The buffering requirement is intended to reduce the impacts to sensitive uses or areas. In addition, the potential regulations restrict commercial and industrial marijuana uses to commercial, mixed-use and industrial areas and prohibit them from shoreline and residential areas. This 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?

This proposal would tend to limit and reduce the overall potential for worst-case land use incompatibility impacts on surrounding uses from major marijuana activity. This would be due in part to the discontinuation of a great number of marijuana-related uses that would not have proper State licensing. This would reduce the total number of instances where uses involving marijuana would be

present and thus the potential for local incompatibilities or spillover impacts. It would also relate to the details of the proposal that would establish dispersal of a smaller number of licensed uses, buffers from certain kinds of potentially sensitive uses (schools, as one example), and the probable location of the relevant uses into commercial and industrial zoned areas that are interpreted as settings that are more compatible and less sensitive, in terms of land use mixes and adjacencies, to marijuana-related activities. The proposal would be consistent with City land use policies. Despite such findings, it is also accurate to conclude that in the worst-case there would remain potential for adverse spillover effects relating to use compatibility (such as related to noise, or odor or releases as described in the response to question D.1 above). This would include situations where, given new licensing of marijuana uses and/or cooperatives, new instances of major marijuana activity could occur in a variety of locations around Tacoma. If such effects occurred, they would be able to be adequately resolved through State and City enforcement actions that would pinpoint and address the particular issues that arise.

The Potential 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 and industrial zones. Marijuana related uses are not allowed in shoreline districts.

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

Marijuana related uses are not allowed in shoreline districts and will be significantly buffered from certain sensitive uses. Additional regulations related to land use, nuisance inspection and enforcement may be imposed as necessary pending the public comment period and implementation of the potential regulations.

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

The potential regulations are not likely to adversely increase demands on transportation as it would primarily limit the scope of certain activities. This effect of limiting presence of certain uses would tend to avoid causing systematically increased demands upon public utilities, road systems, and public services. It might even reduce the potential for demands upon police and fire protection, because the number of existing businesses engaged in such activities within the city will diminish if and when factors such as State licensing and local code enforcement leads to the closing of businesses with licenses for such activities.

However, to the extent that new locations engaged in production, processing or selling of marijuana would likely emerge over time through expansion of licenses available from the State, there could be increases in demand for public services and utilities at such locations over time. This is based on a reasonable assumption that more intensive activity levels at given properties may add to the possibility of additional police service or emergency/fire calls, and that more water, sewer, electricity services would be consumed. Indoor agricultural activities relevant to the proposal would involve use of lights that would consume energy to maintain good growing conditions. Given the low volume of such additional demands in comparison to citywide service demands, the proposal is not likely to noticeably impact the ability of police, fire or utility providers in their ability to provide effective services to future licensed locations.

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 increased crime related to marijuana cultivation which would impact law enforcement/services.

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

Marijuana related businesses would not be allowed in residential areas or shoreline districts where law enforcement access, without notice or cause, may be limited.

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

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