



## CITY OF KIRKLAND

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
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### MEMORANDUM

DATE: FEBRUARY 11, 2014

TO: HOUGHTON COMMUNITY COUCIL

FROM: ERIC SHIELDS

SUBJECT: REGULATIONS FOR MARIJUANA RETAILING, PROCESSING AND PRODUCTION; FILE NO. CAM14-02374

### Recommendation

Conduct a public hearing, review the proposed regulations, and make a recommendation to the City Council.

The proposed regulations would codify existing interim regulations and would have the following affect within the jurisdiction of the Houghton Community Council:

- Because there are no industrial zones in Houghton, processing and production activities (including marijuana) are not allowed under existing zoning. New regulations concerning processing and production, therefore, would have no effect in Houghton.
- Although retailing is allowed in several zones within Houghton, under the buffer requirements of the Washington State Liquor Control Board (LCB), explained further below, the only site in Houghton where marijuana sales would be allowed is on one property adjacent to the Yarrow Bay Marina. The proposed regulations would not change that.
- The proposed regulations would put in place a prohibition on the sale of marijuana along school walk routes that could restrict marijuana sales in Houghton in the future if LCB buffer regulations are relaxed. The proposed regulations include the addition of a school walk routes "plate" in the Zoning Code.

### Background

Initiative 502, approved by the voters in 2012, legalized the possession, sale, processing and production of marijuana in Washington State. The initiative assigned the responsibility for regulating and licensing marijuana businesses to the LCB and established that marijuana businesses may not be located within 1000 feet of "the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or any game arcade."

The LCB also issued a number of other regulations, including:

- prohibition on locating a marijuana business in a personal residence;
- limitation of on-premises sign area to 1,600 square inches (about 11 square feet);
- prohibition on issuing permits to those with criminal backgrounds;
- prohibition on consuming marijuana on business premises;

- limitation of the number of retail licenses issued within each city, based upon the 2010 population census. Kirkland was assigned a maximum of two retail licenses;
- prohibition on issuing a license to a business within another business;
- limitation of hours of operation to between 8 a.m. and 12 a.m.;
- Requirements for alarms and surveillance cameras;
- Requirements for businesses to buy liability insurance.

In addition to state regulations, marijuana businesses must comply with City regulations such as zoning. Consequently a business selling marijuana, may only be located in zones where retail uses are allowed (mostly business district zones), while processing and production businesses may only locate in zones where those uses are allowed (mostly light industrial zones).

In 2014, the City Council adopted interim zoning regulations for marijuana sales, processing and production. After the initial adoption in February 2014, the interim regulations were refined a number of times to address citizen concerns, with the final versions of the regulations adopted and extended in September and October, 2014.

Under state law, interim regulations are intended to be temporary while new permanent regulations are prepared. An ordinance adopting interim regulations may have a maximum duration of six months, but may be renewed if the final regulations haven't been completed. The current interim regulations will expire on March 27, 2015. In October, 2014 the City Council directed staff to prepare permanent regulations that codify the interim regulations in time to be adopted prior to the expiration of the interim regulations.

New zoning regulations to codify the interim regulations were reviewed by the Planning Commission at a study session in December, 2014; and the Commission conducted a public hearing on the regulations on January 22, 2015. Several people spoke at the hearing, all of whom recommended approval. In addition, several letters expressing support were received. Following the hearing, the Commission recommended approval.

In summary, the following new regulations are recommended to codify the existing interim regulations:

- A special regulation in the Market Street Corridor 1 and 2 zones prohibiting marijuana sales;
- Use listings in the TL 7, 9A and LIT zones that allow marijuana sales in those zones;
- A special regulation in the LIT zone that specifies that sale of marijuana sales is only allowed where at least 50% of the zone is bounded by commercial zones;
- A special regulation in all zones within which or adjacent to which there are designated school walk routes (PR, BN, BNA, BC, BC2, RH 5A, RH 5B, RH 7, and RH 8) prohibiting marijuana sales on properties abutting a school walk route;
- A "plate" showing designated school walk routes; and
- An odor control regulation in Chapter 115 pertaining to marijuana processing and production businesses.

#### Attachments:

1. Chart summarizing proposed code amendments
2. Map showing school walk routes
3. Map showing sites where marijuana sales allowed

Es: HCC marijuana 2-15

**Summary of New Regulations for Marijuana Sales, Processing and Production**  
(Codifies Existing Interim Regulations)

**New permitted uses and associated regulations to be added to the LIT, TL 7 and TL 9A zones:**

(All associated regulations are the same as the existing regulations associated with other retail uses permitted within each zone.)

Code Section	Use	Required Review Process	Min. Lot Size	Min. Required Front Yard	Min. Required Side yard	Min. Required Rear Yard	Max. Lot Coverage	Max. Height of Structure	Landscape Category	Sign Category	Required Parking Spaces	Special Regulations
48.15 (LIT)	A Retail Establishment selling marijuana or products containing marijuana (See special regulation 1)	Within the NE 85 <sup>th</sup> Street Subarea, DR Chapter 142, Otherwise None	None	20'	0'	0'	80%	If adjoining a low density zone, then 25' above average building elevation. Otherwise, 35' above average building elevation	B	E	1 per each 300 sq. ft. of gross floor area	1. Permitted only where 50% of the boundaries of the LIT zone adjoin commercial zones. 2. Not permitted on school walk routes shown on Plate 46.
55.51 (TL 7)	A Retail Establishment selling marijuana or products containing marijuana	D.R. Chapter 142. See Gen. Reg. 3.	None	10'	0'	0'	80%	45' above average building elevation	B	E	1 per each 300 sq. ft. of gross floor area	
55.61 (TL 9A)	A Retail Establishment selling marijuana or products containing marijuana	None	None	10'	0'	0'	80%	45' above average building elevation	B	E	1 per each 300 sq. ft. of gross floor area	

**Odor regulation to be added to Section 115.100:**

115.100 Odor

1. General

Any odor which injures; endangers the comfort, repose, health or safety of persons on abutting properties or streets; or in any way renders persons insecure in life, or in the use of abutting properties or streets, is a violation of this code.

2. Marijuana Processing and Production - Marijuana processing and production businesses must be equipped with a ventilation system that prevents marijuana odors from being detected beyond the premises of the business. Applicants for such businesses must submit, as part of building and mechanical permit applications, a ventilation plan prepared by a licensed mechanical engineer. The ventilation plan shall be reviewed and approved by the City. Once operation of the business begins, if odors are detected beyond the premises of the building, even with an approved ventilation plan, the facility shall be subject to Code Enforcement actions as outlined in KMC Chapter 1.12.

**New Special Regulation to be added to MSC 1 and 2 Zones**

Section	Use	Required Review Process	Min. Lot Size	Min. Required Front Yard	Min. Required Side yard	Min. Required Rear Yard	Max. Lot Coverage	Max. Height of Structure	Landscape Category	Sign Category	Required Parking Spaces	Special Regulations
51.10.050	Any Retail Establishment, other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services	D.R. Chapter 142	None	10' in MSC 4, otherwise 20'	5' but 2 side yards must equal at least 15'	10'	70%	If adjoining a low density zone, then 25' above average building elevation. Otherwise, 30' above average building elevation	C	E	1 per each 300 sq. ft. of gross floor area	The following uses are not permitted in this zone:... <u>h. Within the MSC 1 and MSC 2 zones, Retail establishments selling marijuana or products containing marijuana</u>

**Special regulation to be added to the retail use listing in zones with abutting school walk routes, as noted below:**

Special Regulation	Applicable Zones
<u>Retail establishments selling marijuana or products containing marijuana are not permitted on properties abutting the school walk routes shown on Plate 46.</u>	PR RH 5A BN RH 5B BNA RH 7 BC RH 8 BC 2

**New Plate 46 showing school walk routes to be added to Chapter 180 of the Zoning Code.**

