



CITY OF KIRKLAND

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

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MEMORANDUM

DATE: JANUARY 7, 2015

To: PLANNING COMMISSION

FROM: ERIC SHIELDS

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

Recommendation

Conduct a public hearing and make a recommendation to the City Council on proposed regulations for marijuana sales, processing and production.

Background

As you know, 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 Washington State Liquor Control Board (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 signs to no more than 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 version 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 22, 2015.

In summary the interim regulations do the following:

- Allow marijuana sales in all zones where retail uses are allowed except the MSC 1 and MSC 2 zones located along Market Street;
- Allow marijuana sales in the TL 7 and TL 9A zones and in LIT zones where at least 50% of the boundary of the zone is surrounded by commercial zones (this effectively allows marijuana sales only in the LIT zone in North Rose Hill);
- Prohibit marijuana sales on properties abutting adopted school walk routes; and
- Continue to allow marijuana processing and production in light industrial zones subject to a new odor control regulation;
- No additional restrictions were placed upon marijuana processing and production businesses.

In October, 2014 the City Council considered several approaches to preparing permanent regulations. At that time, the Council directed staff to 1) prepare permanent regulations that codify the interim regulations and 2) have those regulations ready for Council consideration prior to the expiration of the interim regulations. To accomplish this, staff has scheduled a Planning Commission study meeting on December 18, 2014 and a public hearing on January 22, 2015. Council consideration of the regulations will be in late February or early March, 2015.

Attachment 1 to this memo shows the new code amendments that are proposed to codify the existing interim regulations. In summary, the new regulations do the following:

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

Attachments 2 is a map showing properties where the sale of marijuana is allowed under both the zoning regulations (interim and proposed) and the 1,000 foot buffers required by I-502. The properties shown with bright colors are those where both the zoning and the I-502 required buffers allow marijuana retail sales. The properties shown with muted colors are those where the zoning would normally allow marijuana sales, but where I-502 required buffers or, in the case only for the MSC 1 and MSC 2 zones, the interim

regulations prohibit marijuana sales. I will have a large version of the map at the Planning Commission meeting and will be able to explain the map and answer any questions about it at that time.

Attachments:

1. Summary of proposed marijuana regulations
2. Map showing sites where marijuana sales allowed

Es: PC marijuana 1-7-15

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)	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.

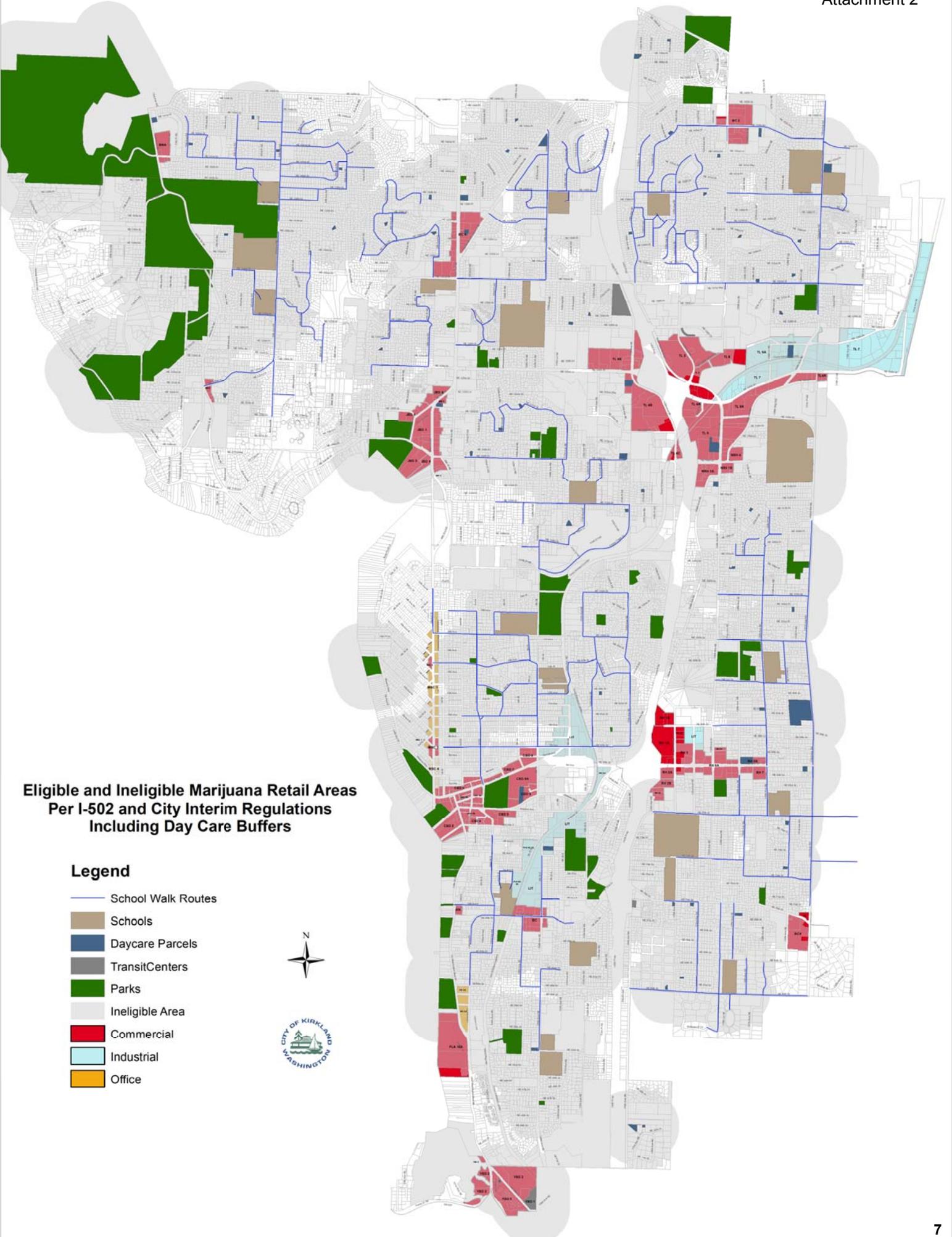
New Special Regulation to be added to MSC 1 and 2 Zones

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.



**Eligible and Ineligible Marijuana Retail Areas
Per I-502 and City Interim Regulations
Including Day Care Buffers**

Legend

- School Walk Routes
- Schools
- Daycare Parcels
- TransitCenters
- Parks
- Ineligible Area
- Commercial
- Industrial
- Office