

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to land use and zoning, creating a new Section 23.42.058 and amending Sections 23.50.012, 23.84A.012, 23.84A.018, and 23.84A.025 of the Seattle Municipal Code to establish locational restrictions on the production, processing, selling, or delivery of marijuana, to modify the definition of food processing, and to modify existing allowances for agricultural uses in certain industrial areas.

WHEREAS, in 1998 the State of Washington approved the medical use of marijuana by patients with certain medical conditions; and

WHEREAS, in 2011 the Washington State Legislature passed ESSSB 5073 that, among other things: (1) permits collective gardens by qualifying patients whereby they may, consistent with state law, collectively grow marijuana for their own medical use; and (2) clarifies that cities may continue to use their zoning authority to regulate the production, processing, or dispensing of marijuana within their respective jurisdictions; and

WHEREAS, Governor Christine Gregoire signed into law those portions of ESSSB 5073 described above, which took effect on July 22, 2011, as more fully set forth in Laws of 2011, Chapter 181, and codified primarily in RCW Chapter 69.51A; and

WHEREAS, in 2011 the Seattle City Council passed and the Mayor signed Ordinance 123661 clarifying that the manufacture, production, processing, possession, transportation, delivery, dispensing, application, or administration of marijuana must comply with all applicable City laws, and that compliance with City laws does not constitute an exemption from compliance with applicable state and federal regulations; and

WHEREAS, in 2012 the people of Washington State passed Initiative 502 legalizing the possession of small amounts of marijuana and directing the Washington State Liquor Control Board to develop a process for regulating the production, processing, selling, and delivery of marijuana; and

WHEREAS, the City of Seattle believes that any production, processing, selling, or delivery of marijuana should be conducted in a safe and fair manner for the health, safety, and welfare of the community, which includes complying with provisions of Washington State law for both medical and other uses of marijuana throughout the City of Seattle; and

1 WHEREAS, the City of Seattle believes that the health, safety, and welfare of the community is
2 best served by excluding from certain zones any production, processing, selling, or
3 delivery of marijuana at a level greater than the level that may permissibly be included in
4 a single collective gardens under current state law; and

5 WHEREAS, Section 1 of Initiative 502 articulates a policy that “generates new state and local
6 tax revenue for education, health care, research, and substance abuse prevention” and
7 “takes marijuana out of the hands of illegal drug organizations and brings it under a
8 tightly regulated, state-licensed systems similar to that for controlling hard alcohol” and
9 Section 2 restricts “Marijuana Processor,” “Marijuana Producer,” and “Marijuana
10 Retailer” to “a person licensed by the state liquor control board”; and

11 WHEREAS, Initiative 502 and RCW Chapter 69.51A together establish the current primary
12 regulatory structure for marijuana-related activity in Washington; and

13 WHEREAS, the City of Seattle is responding to the changes in state law in a responsible manner
14 that will minimize impacts on patients, providers, and the health, safety, and welfare of
15 the community; and

16 WHEREAS, the intent of the deadline of January 1, 2015 to comply with Section 1 of this
17 ordinance is to provide time for implementation of any new RCW Title 69 regulations
18 adopted by the state in 2014, and to evaluate the initial implementation of Initiative 502
19 regulations and the siting and opening of businesses licensed under Initiative 502; and

20 WHEREAS, the City of Seattle is monitoring the development of state regulations, and may need
21 to revise its regulations in the future; NOW, THEREFORE,

22 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

23 Section 1. A new Section 23.42.058 of the Seattle Municipal Code is added as follows:

24 **23.42.058 Marijuana**

25 A. On any lot or on any combination of contiguous lots held in common ownership that
26 contains no dwelling unit or business establishment, major marijuana activity may not be
27 conducted.

28 B. On any lot or any combination of contiguous lots held in common ownership that
contains one or more dwelling units:

1. no production, processing, selling, or delivery of marijuana, marijuana-infused
products, or useable marijuana may be conducted unless it is in association with a dwelling unit

1 or is in association with a business establishment meeting the limitations imposed by subsection
2 23.42.058.C; and

3 2. major marijuana activity may not be conducted in association with any
4 dwelling unit.

5 C. Except as provided in subsection 23.42.058.D, major marijuana activity may not be
6 conducted in association with all business establishments combined on a lot or combination of
7 contiguous lots held in common ownership.

8 D. Licensed marijuana business establishments described in subsection 23.42.058.D.1
9 are exempt from subsection 23.42.058.C if not located in any of the restricted areas listed in
10 subsection 23.42.058.D.2.

11 1. A “licensed marijuana business establishment” within the meaning of
12 subsection 23.42.058.D is a business establishment acting in compliance with a license issued by
13 the state for the production, processing, selling, or delivery of marijuana, marijuana-infused
14 products, or useable marijuana under Title 69 of the Revised Code of Washington.

15 2. The “restricted areas” within the meaning of subsection 23.42.058.D are:

- 16 a. Any Single-family zone;
- 17 b. Any Multifamily zone;
- 18 c. Any Neighborhood Commercial 1 (NC1) zone;
- 19 d. Any of the following Downtown zones:
 - 20 1) Pioneer Square Mixed (PSM);
 - 21 2) International District Mixed (IDM);
 - 22 3) International District Residential (IDR);
 - 23 4) Downtown Harborfront 1 (DH1);
 - 24 5) Downtown Harborfront 2 (DH2); or
 - 25 6) Pike Market Mixed (PMM); or

e. Any of the following districts:

- 1) Ballard Avenue Landmark District;
- 2) Columbia City Landmark District;
- 3) Fort Lawton Landmark District;
- 4) Harvard-Belmont Landmark District;
- 5) International Special Review District;
- 6) Pike Place Market Historical District;
- 7) Pioneer Square Preservation District;
- 8) Sand Point Overlay District; or
- 9) Stadium Transition Area Overlay District.

Section 2. Note 14 to Table A for Section 23.50.012 of the Seattle Municipal Code, which section was last amended by Ordinance 123986, is amended as follows:

23.50.012 Permitted and Prohibited Uses

A. All uses are permitted outright, prohibited or permitted as a conditional use, according to Table A for 23.50.012 and this Section 23.50.012.

B. All permitted uses are allowed as either a principal use or an accessory use, unless otherwise indicated in Table A for 23.50.012.

* * *

Table A For 23.50.012 Uses in Industrial Zones					
USES	PERMITTED AND PROHIBITED USES BY ZONE				
	IB	IC	IG1 and IG2 (general)	IG1 in the Duwamish M/I Center	IG2 in the Duwamish M/I Center
A. AGRICULTURAL USES					
A.1. Animal Husbandry	X	X	X	X	X
A.2. Aquaculture	P	P	P	P	P
A.3. Community Garden	P(14)	P(14)	P(14)	P(14)	P(14)

1	A.4. Horticulture	X	X	X	X	X
2	A.5. Urban Farm	P(14)	P(14)	P(14)	P(14)	P(14)
3	***					

4 Notes to Table A for 23.50.012

5 * * *

6 (14) Except within designated manufacturing and industrial centers, where they are
 7 permitted only on rooftops and/or as (~~vertical farming~~) indoor agricultural operations. Except
 8 for indoor agricultural operations established prior to the effective date of this ordinance, indoor
 9 agricultural operations are not permitted in the IG1 zone. Indoor agricultural operations within
 10 designated manufacturing and industrial centers (excluding associated office or food processing
 11 areas) shall not exceed:

12 a. 5,000 square feet in IG1 zones for indoor agricultural operations established prior to
 13 the effective date of this ordinance;

14 b. 10,000 square feet in IB and IC zones; and

15 c. 20,000 square feet in IG2 zones.

16 * * *

17 Section 3. Section 23.84A.012 of the Seattle Municipal Code, last amended by
 18 Ordinance 123495, is amended as follows:

19 **23.84A.012 “F”**

20 * * *

21 “Food processing and craft work” means a commercial use in which food items and craft work
 22 are produced without the use of a mechanized assembly line and includes but is not limited to the
 23 following:

24 1. “Custom and craft work” means a food processing and craft work use in which nonfood,
 25 finished, personal or household items, which are either made to order or which involve

1 considerable handwork, are produced. Examples include but are not limited to pottery and
2 candlemaking, production of orthopedic devices, motion picture studios, printing, creation of
3 sculpture and other art work, and glassblowing. The use of products or processes defined as
4 high-impact uses shall not be considered custom and craft work.

5 2. “Food processing” means a food processing and craft work use in which ~~((food))~~ products
6 for human consumption~~((in its final form))~~, such as candy, baked goods, seafood, sausage, tofu,
7 pasta, beverages, tinctures, consumable oils, products to be smoked, etc., ~~((is))~~ are produced~~((~~
8 ~~when the food is distributed to retailers or wholesalers))~~ for ~~((re))~~ sale and consumption off the
9 premises. Food processing includes catering services. ~~((Food or beverage p))~~ Processing of
10 products for human consumption using mechanized assembly line production of canned or
11 bottled goods is not included in this definition, but ~~((shall be))~~ is considered to be light
12 manufacturing.

13 * * *

14 Section 4. Section 23.84A.018 of the Seattle Municipal Code, last amended by
15 Ordinance 123770, is amended by adding the following new definition:

16 **23.84A.018 “T”**

17 * * *

18 “Indoor agricultural operation” means a business establishment with an agricultural use
19 that is limited to plants grown in containers within an enclosed structure.

20 * * *

21 Section 5. Section 23.84A.025 of the Seattle Municipal Code, last amended by
22 Ordinance 123913, is amended by adding the following new definitions:

23 **23.84A.025 “M”**

24 * * *

1 “Marijuana” means all parts of the plant Cannabis, whether growing or not; the seeds
2 thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt,
3 derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include:

- 4 1. the mature stalks of the plant;
5 2. fiber produced from the mature stalks of the plant;
6 3. oil or cake made from the seeds of the plant;
7 4. any other compound, manufacture, salt, derivative, mixture, or preparation of
8 the mature stalks (except the resin extracted therefrom), fiber, oil, or cake; or
9 5. the sterilized seed of the plant which is incapable of germination.

10 “Marijuana activity, major” means the production, processing, selling, or delivery of
11 marijuana, marijuana-infused products, or useable marijuana that involves more than 45
12 marijuana plants, 72 ounces of useable marijuana, or an amount of marijuana-infused product
13 that could reasonably be produced with 72 ounces of useable marijuana.

14 “Marijuana-infused products” means products that contain marijuana or marijuana
15 extracts and are intended for human use. The term “marijuana-infused products” does not include
16 useable marijuana.

17 “Marijuana, useable” means dried marijuana flowers. The term “useable marijuana” does
18 not include marijuana-infused products.

19 * * *

20 Section 6. The Department of Planning and Development (DPD) will report back to
21 Council on the number of permits for urban farms that are issued in industrial zones, the size of
22 the operations, and their locations. Using readily available market data, DPD will also analyze
23 whether these urban farms, if any, have affected the market for industrial land, and if so, in what
24 way. DPD will report to the Council by July 1, 2015.

1 Section 7. Lots, business establishments, and dwelling units where the production,
2 processing, selling, or delivery of marijuana was being conducted prior to the effective date of
3 this ordinance must come into compliance with Section 23.42.058 no later than January 1, 2015.

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Section 8. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2013, and signed by me in open session in authentication of its passage this ____ day of _____, 2013.

President _____ of the City Council

Approved by me this ____ day of _____, 2013.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

Monica Martinez Simmons, City Clerk

(Seal)