



**Legislative Department  
Seattle City Council  
Memorandum**

**Date:** April 22, 2013

**To:** Councilmember Nick Licata, Chair  
Councilmember Sally Bagshaw, Vice Chair  
Councilmember Bruce Harrell, Member  
Housing, Human Services, Health, and Culture (HSHHC) Committee

**From:** Rebecca Herzfeld, Council Central Staff

**Subject:** **Regulation of marijuana-related activities – Council Bill (CB) 117744**

**Introduction**

Councilmembers Licata and Clark are sponsoring legislation that would limit marijuana-related activity to a scale that is appropriate for the zoning designation and characteristics of the area in which it would be located. These regulations are being proposed in response to changes to State regulations that allow the production, processing, selling, and delivery of marijuana and marijuana-infused products for medical and recreational use.

The purpose of this proposal is to limit the off-site impact of larger-scale marijuana-related activity. The legislation would accomplish this by limiting the level of activity within businesses and residences in certain residential and “special character” areas to levels commensurate with what the State defines as a *single* collective garden. The proposed limits would apply in all designated Historic Districts and in the following zones: Single-family, Multifamily, Pioneer Square Mixed, International District Mixed, International District Residential, Pike Place Mixed, Harborfront, and Neighborhood Commercial 1. Attachment 1 is a map of the areas where proposed scale restrictions on marijuana-related activity would apply. The legislation would not expressly limit marijuana-related activity in other areas.

The proposed bill would also require that urban agriculture of any type be located in enclosed structures or on rooftops in industrial zones that are located in designated Manufacturing and Industrial Centers (MICs). It would also impose a size limit of 10,000 square feet for indoor agricultural operations in these areas. Attachment 2 is a map of industrial zones and the Manufacturing and Industrial Centers.

Larger-scale marijuana-related activities located in areas prohibited by the legislation would be required to move within 12 months of the effective date of the legislation.

**Schedule**

The HSHHC Committee was briefed on CB 117744 at its last meeting on March 27, 2013, and a public hearing is scheduled at the April 24<sup>th</sup> meeting of the Committee. The Committee may vote on the proposed legislation at its May 8<sup>th</sup> meeting.

### **Relationship to Current Land Use Code Definitions**

Several public comments have expressed confusion about how the current and proposed definitions in the Land Use Code would apply to marijuana-related activity. The Land Use Code limits the type of uses that are allowed in different zone designations. A business incorporating marijuana-related activities must comply with these regulations, as would any other business.

The proposed bill would not define marijuana-related activity as a distinct use regulated by zone; there would be no requirement to obtain a permit expressly to conduct marijuana-related activity. Depending on the type of activity conducted, however, it might fall within a use defined and regulated by the Land Use Code and other City regulations (for a longer list of such regulations, see Ordinance 123661, adopted in 2011).

The discussion below provides the definitions of the uses in which marijuana-related activities would generally occur, and is followed by two tables that summarize where such uses may be permitted in zones outside and inside of downtown.

***Sale of marijuana and related products*** would generally occur within a general retail sales and services use, which is defined as follows:

"Retail sales and services, general" means a general sales and service use that is not a multi-purpose retail sales use [grocery store]. General retail sales and services include general retail sales uses, general services uses, and customer service office uses. Examples of general retail sales include but are not limited to bookstores, florists, and clothing stores. Examples of general services include but are not limited to shoe repair, hair cutting salons, pet grooming, pet daycare centers and dry cleaning. Customer service offices are uses in which services are provided to individuals and households in an office setting in a manner that encourages walk-in clientele and in which generally an appointment is not needed to conduct business, including but not limited to uses such as branch banks, travel agencies, brokerage firms, real estate offices, and government agencies that provide direct services to clients.

***Growing of marijuana*** would generally occur within an urban farm use, which is defined as follows:

"Urban farm" means a use in which plants are grown for sale of the plants or their products, and in which the plants or their products are sold at the lot where they are grown or off site, or both, and in which no other items are sold. Examples may include flower and vegetable raising, orchards and vineyards.

In designated Manufacturing and Industrial Centers, which include portions of the Duwamish Valley, Ballard, and Interbay, urban farm uses would be limited to rooftop and indoor agriculture operations. A new definition of indoor agriculture is proposed in the bill, as follows:

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

***Processing of marijuana*** into other products for human consumption (baked goods, infusions, oils, etc.), would generally occur within a food processing or light manufacturing use, depending on the process used. If marijuana is processed without a mechanized assembly line, it could occur within a “food processing and craft work” use, which is categorized as a commercial (not a manufacturing) use. Food processing is defined as follows:

"Food processing" means a food processing and craft work use in which food for human consumption in its final form, such as candy, baked goods, seafood, sausage, tofu, pasta, etc., is produced, when the food is distributed to retailers or wholesalers for resale off the premises. Food or beverage processing using mechanized assembly line production of canned or bottled goods is not included in this definition, but shall be considered to be light manufacturing.

If a mechanized assembly line is used, processing of marijuana could occur within a light manufacturing use, which is defined in relevant part as follows:

“Light manufacturing” means a manufacturing use, typically having little or no potential of creating noise, smoke, dust, vibration or other environmental impacts or pollution, and including but not limited to...[c]anning or bottling of food or beverages for human consumption using a mechanized assembly line or food processing for animal consumption....

The tables on the next page list examples of the uses in which marijuana-related activity might occur in both the zones outside of downtown (Table 1), and within downtown (Table 2), and show the zones where these uses would be permitted and whether a maximum size limit would apply.

**Table 1**  
**Current and Proposed Regulations and Maximum Size Limits for Uses in Which**  
**Marijuana-Related Activity Might Occur in Commercial and Industrial Zones**

Type of use	Commercial zones				Industrial zones		
	Neighborhood Commercial 2	Neighborhood Commercial 3	Commercial 1	Commercial 2	Industrial Buffer	Industrial Commercial	Industrial General 1 (IG1) & IG2
Retail sales and services	25	P	P	P	P	P	P
Urban farm	P	P	P	P	P (1)	P (1)	P (1)
Food processing	25	25	P	P	P	P	P
Light manufacturing	10	25	P	P	P	P	P

**Table 2**  
**Current and Proposed Regulations and Maximum Size Limits for Uses in Which**  
**Marijuana-Related Activity Might Occur in Downtown Zones**

Type of use	Downtown zones				
	Downtown Office Core 1	Downtown Office Core 2	Downtown Retail Core	Downtown Mixed Commercial	Downtown Mixed Residential
Retail sales and services	P	P	P	P	25 & 50(1)
Urban farm	P	P	P	P	P
Food processing	P	P	P	P	P
Light manufacturing	P	P	P	P	X

KEY to Tables 1 and 2:

P = Permitted with no size limit

10 = Permitted, size limited to 10,000 square feet

25 = Permitted, size limited to 25,000 square feet

X = Prohibited

Footnote (1) to Table 1: Within the Duwamish Manufacturing and Industrial Center and the Ballard-Interbay Manufacturing and Industrial Center, the only type of urban farm that is permitted are rooftop and indoor agricultural operations, and the maximum size limit is 10,000 square feet, excluding associated office or food processing areas.

Footnote (1) to Table 2: Within the Downtown Mixed Residential zone in South Downtown, the maximum size limit is 25,000 square feet for general sales and services uses and restaurants, except that grocery stores are limited to 50,000 square feet.

## **Other Public Comments**

The following list summarizes the other public comments that the Council has received to date on CB 117744.

1. One commenter expressed concern about creating a “marijuana zone” at the intersection of 23<sup>rd</sup> and Union in the Central Area and wanted to know how to keep this from happening. This comment originated from the fact that state Initiative 502 requires that state-licensed businesses involved in the production, processing, selling, and delivery of marijuana may not be located within 1,000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or game arcade that allows minors to enter. This rule, which is to be enforced by the Washington State Liquor Control Board, is likely to substantially limit the areas where state-licensed marijuana-related activities can occur in many parts of the City and thus result in the clustering of businesses in some areas. The commenter was concerned that one such cluster might be located at 23<sup>rd</sup> and Union. Because this issue is driven by state requirements, the City has limited options for addressing this comment.
2. Don't place tighter restrictions on the location of marijuana-related activity. Legal use of marijuana should be treated like other adult vices where there is a public health concern to be contended with, not treated more harshly simply because it is stigmatized. Why not just allow marijuana to be sold in any neighborhood where hard liquor is sold?
3. Existing marijuana-related activities located in areas prohibited by the legislation (such as Pioneer Square) should be “grandfathered” and not be required to move.
4. The proposed 10,000 square foot limit on indoor growing operations in Manufacturing and Industrial Centers is too small.
5. The definition of “food processing” should be expanded so that it is clear that the processing of marijuana into other products, such as oils and infusions for human consumption, is covered by the definition.

**Attachment 1:** Map of areas where proposed size limits on marijuana-related activities would apply.

**Attachment 2:** Map industrial zones and Manufacturing and Industrial Centers