



Legislative Department  
Seattle City Council  
Memorandum

Date: May 20, 2013

To: Housing, Human Services, Health, and Culture (HSHC) Committee

From: Rebecca Herzfeld, Council Central Staff  
Brennon Staley, Department of Planning and Development

**Subject: Land use limitations on the scale of marijuana-related activities – Council Bills 117744 and 117781**

The intent of Council Bill (CB) 117744 is to 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. It would also change the regulations for urban farms in Manufacturing and Industrial Centers to clarify definitions and implement size limits. At the May 8 meeting of the HSHC Committee, Councilmembers directed staff to prepare four amendments to CB 117744 in response to public comments and Committee discussion. These amendments are presented below.

**1. Amend the definition of “food processing” uses to clarify that it includes processing of marijuana.**

The Committee decided that the definition of a “food processing use” in the Land Use Code should be amended to clarify that it applies to processing of marijuana into products for human consumption. Without this amendment, there could be confusion for the public and City staff about how to categorize marijuana processing activities. Outside the context of marijuana-related activity, others have expressed confusion over the application of the “food processing” definition to catering activities.

The proposed amendment would make the definition more general by changing the term “food products” to “products for human consumption,” and would clarify that food processing includes catering services. Note that changing the definition requires a change in the title of CB 117744, and a substitute bill (CB 117781) with the necessary title change and amended definition is now before the Committee. The proposed changes to the definition are shown below. By voting to substitute CB 117781, the Committee would be approving the amended food processing definition.

**23.84A.012 “F”**

\* \* \*

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

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

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

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

\* \* \*

#### **Committee Decision:**

#### **2. Add a new recital to the legislation.**

Since Initiative 502 (I-502) was adopted last fall, the Washington State Liquor Control Board (WSLCB) has been working on the adoption of a comprehensive set of regulations for the licensing of recreational marijuana producers, processors, and retailers. The initial draft of the WSLCB regulations was published for public comment on May 16, 2013. Because the WSLCB regulations are not scheduled to be completed until late 2013, Councilmember Licata is proposing to add the following statement as the final recital in the legislation, to put the public on notice that the land use limitations in the bill may need to be amended:

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

#### **Committee Decision:**

#### **3. Urban farms in industrial zones within Manufacturing and Industrial Centers.**

The purpose of the proposed legislation is to limit the off-site impact of larger-scale marijuana-related activity. In industrial zones in Manufacturing and Industrial Centers (MICs), the proposal would do this by:

- Limiting urban farms to building rooftops and indoor operations; and
- Setting a 10,000 square foot (SF) limit on the size of urban farms in industrial zones, excluding related office and food processing uses.

In considering these limits, it is important to note that there are four major categories of industrial zones, as shown on the map in Attachment 1:

- IC (Industrial Commercial) – zones with the loosest use and maximum size restrictions; represents about 8% of all industrial areas, most of which is located outside Manufacturing and Industrial Centers.
- IB (Industrial Buffer) – primarily industrial parcels next to non-industrial zones; similar to IC in use and maximum size restrictions; represents about 5% of all industrial areas.
- IG2 (Industrial General 2) – represents about 41% of all industrial areas.
- IG1 (Industrial General 1) – zone with the strictest use and maximum size restrictions; represents about 46% of all industrial areas.

The purpose of the proposed size limit is to minimize competition for space between industrial uses and marijuana grow operations, which are likely to be able to pay higher rents, by restricting grow operations from competing for larger spaces. The size limit would apply to all urban farms, regardless of the product that is grown, although in the near term marijuana is the crop most likely to be grown on a large scale. It is very difficult to quantify the actual amount of competition that may occur between traditional industrial uses and marijuana grow operations.

HSHC Committee members have proposed two amendments that address this issue:

**Licata-Clark Amendment:** The Licata-Clark amendment would make two changes:

1. Increase the size limit for urban farms in IC, IB, and IG2 zones in the MICs from 10,000 to 50,000 square feet; and
2. Prohibit urban farms in IG1 zones in Manufacturing and Industrial Centers.

The Licata-Clark amendment recognizes that while the proposed 10,000 SF limit was considered sufficient to fully supply a single, average-sized medical marijuana dispensary, new state regulations for recreational marijuana-related activity have the potential to substantially change the marketplace. In recent conversations, Washington State Liquor Control Board (WSLCB) staff have said that studies of grow operations in more mature markets, such as Holland, suggest that sizes between 30,000 and 50,000 SF are necessary to produce cost-competitive grow operations for the general market. This new information suggests that the proposed 10,000 SF limit may be fine for some high-end or specialty growers, but could be problematic for most growers in the long term.

Marijuana industry stakeholders have also requested higher size limits because the legislation's 10,000 SF limit would further hamper their search for appropriate spaces to grow marijuana. Space is already difficult to find given the low vacancy rate in Seattle's industrial areas and the fact that many property owners don't feel comfortable renting to businesses involving marijuana.

By prohibiting urban farms in IG1 zones, the amendment would prevent competition with industrial uses in the zone that is predominately occupied by Port of Seattle property or located in the shoreline district, and that has the strictest use and maximum size restrictions. Almost all of the IG1 zone, which represents 46% of all industrially-zone land, is located in the MICs.

The proposed wording of the Licata-Clark amendment is shown in Attachment 2.

**Bagshaw Amendment:** The Bagshaw amendment agrees with the Licata-Clark amendment that urban farms should be prohibited in IG1 zones in the MICs. In addition, it would keep the size limit for urban farms in other industrial zones in the MICs at 10,000 SF.

If urban farms are prohibited in IG1 zones, the vast majority of potential space for grow operations in industrial areas would be located in IG2 zones. This is because most IC and IB zones are located within the 1,000 foot buffer area required by the state to separate licensed marijuana-related activities from certain protected uses. The IG2 zone currently provides space for Port-related businesses in the Duwamish MIC, and is the “work-horse” zone for many manufacturing businesses.

Given the uncertainty about the state regulations for recreational marijuana and the difficulty of determining the demand for space for marijuana grow operations, the Bagshaw amendment recognizes that it would be premature to increase the maximum size limit to five times the amount proposed in the legislation. Keeping the size limit at 10,000 SF would help preserve industrially zoned land for traditional industrial uses. The size limit could be amended in the future if it becomes evident that it is causing problems for the siting of marijuana grow operations.

The proposed wording of the Bagshaw amendment is shown in Attachment 3.

**Committee Decision:**

**4. Allow existing marijuana-related businesses located in Pioneer Square to be “grandfathered” (i.e. allowed to continue even if they violate the proposed regulations).**

The proposed legislation would limit the level of marijuana activity associated with businesses and residences in certain residential and historic 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. Businesses that do not meet the proposed limit would be required to move within twelve months of the effective date of the legislation.

While the City does not have comprehensive information about marijuana-related businesses, a survey of business licenses and online advertisements suggests that there may be only one large-scale medical marijuana dispensary that would be required to move from its current location by the restrictions in the proposed legislation. This dispensary is located in Pioneer Square.

On May 8, the HSSHC Committee requested that staff prepare an amendment to the legislation that would allow existing marijuana-related businesses in Pioneer Square to remain, by exempting them from the restriction on the level of marijuana-related sales. In order to qualify, the owner of the business would have to demonstrate that, as of January 1, 2013, the business had a valid City of Seattle business license and was selling or delivering marijuana-infused products or useable marijuana at its current location. The language of the proposed amendment is shown below.

**23.42.058 Marijuana**

A. ~~The~~ Except as provided in subsection 23.42.058.B, the production, processing, selling, or delivery of marijuana, marijuana-infused products, or useable marijuana that involves more than 45 marijuana plants, 72 ounces of useable marijuana, or an amount of marijuana-infused product that could reasonably be produced with 72 ounces of useable marijuana, may not be conducted in association with any business establishments or dwelling units located in any of the following areas:

1. Any Single-family zone;
2. Any Multifamily zone;
3. Any Neighborhood Commercial 1 (NC1) zone;
4. Any of the following Downtown zones:
  - a. Pioneer Square Mixed (PSM);
  - b. International District Mixed (IDM);
  - c. International District Residential (IDR);
  - d. Downtown Harborfront 1 (DH1);
  - e. Downtown Harborfront 2 (DH2); or
  - f. Pike Market Mixed (PMM); or
5. Any of the following districts:
  - a. Ballard Avenue Landmark District;
  - b. Columbia City Landmark District;
  - c. Fort Lawton Landmark District;
  - d. Harvard-Belmont Landmark District;
  - e. International Special Review District;
  - f. Pike Place Market Historical District;
  - g. Pioneer Square Preservation District; or
  - h. Sand Point Overlay District.

B. The selling or delivery of marijuana-infused products or useable marijuana in association with a business establishment located in the Pioneer Square Mixed zone or the Pioneer Square Preservation District is exempt from the limits in subsection 23.42.058.A if the business establishment demonstrates to the satisfaction of the Director that:

1. The business establishment had a 2012 City of Seattle business license; and
2. The business establishment occupied a structure in the Pioneer Square Mixed zone or the Pioneer Square Preservation District where it sold or delivered marijuana-infused products or useable marijuana during 2012.

**Committee Decision:**

Attachment 1: Map of industrial zones and Manufacturing and Industrial Centers.

Attachment 2: Licata-Clark amendment to limits on urban farms in industrial zones within MICs.

Attachment 3: Bagshaw amendment to limits on urban farms in industrial zones within MICs.

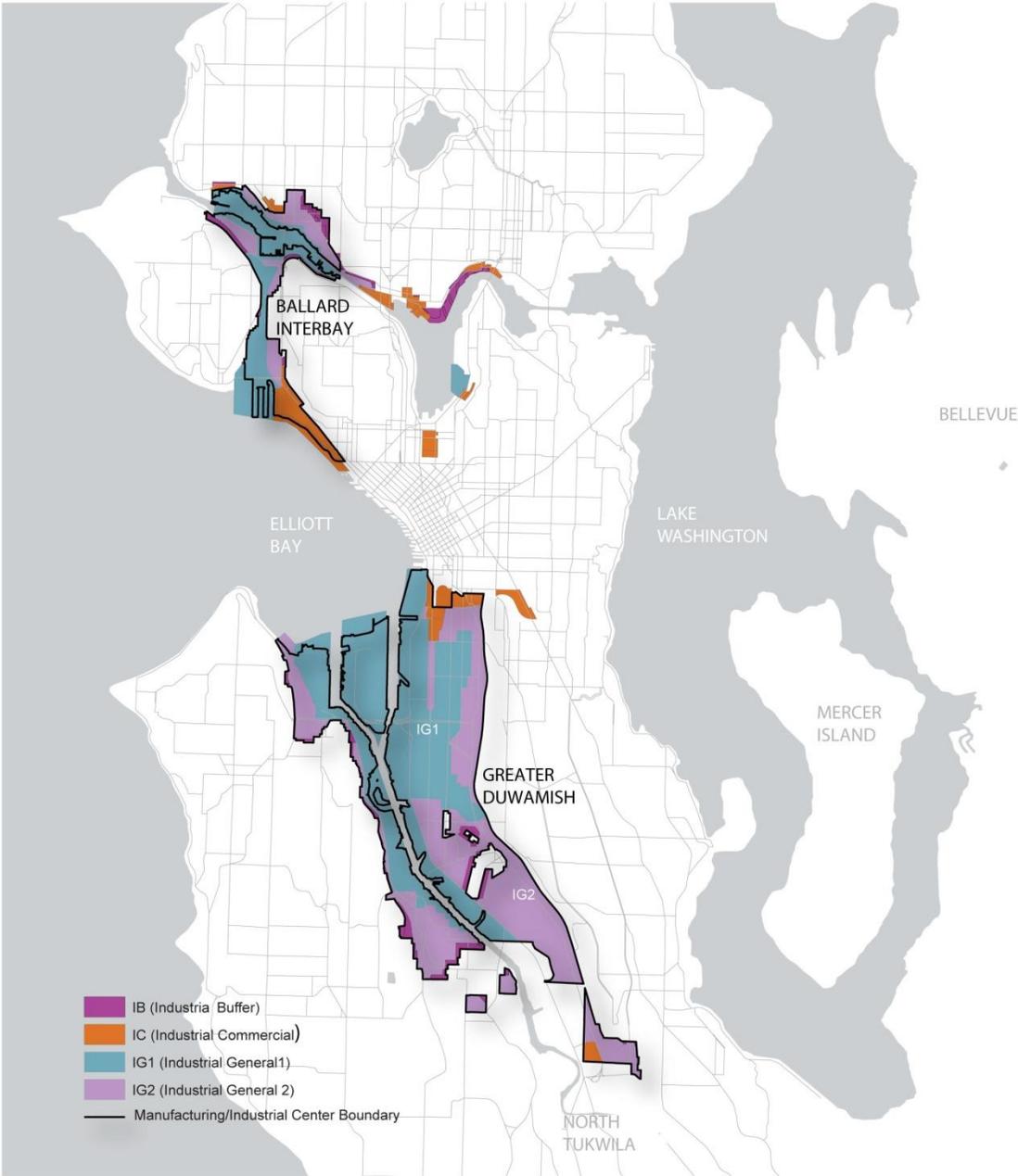
Attachment 1

Industrial Zones and Manufacturing and Industrial Centers

Percentage Breakdown of Total Industrial Land by Zone



Map



**Attachment 2:**

**Licata-Clark amendment to limits on urban farms in industrial zones within MICs**

Amendments are shown double underlined or ~~double crossed out~~.

**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.

\* \* \*

<b>Table A For 23.50.012 Uses in Industrial Zones</b>					
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
<b>A. AGRICULTURAL USES</b>					
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)
A.4. Horticulture	X	X	X	X	X
A.5. Urban Farm	P(14)	P(14)	P(14)	P(14)	P(14)
* * *					

Notes to Table A for 23.50.012

\* \* \*

(14) Except within designated manufacturing and industrial centers where they are permitted only on rooftops and/or as ~~((vertical farming))~~ indoor agricultural operations. Indoor agricultural operations within designated manufacturing and industrial centers (excluding associated office or food processing areas) ~~greater than 10,000 square feet are prohibited~~ shall not exceed 50,000 square feet in IB, IC, and IG2 zones, and are prohibited in IG1 zones.

\* \* \*

**Attachment 3:**

**Bagshaw amendment to limits on urban farms in industrial zones within MICs**

Amendments are shown double underlined or ~~double crossed out~~.

**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.

\* \* \*

<b>Table A For 23.50.012 Uses in Industrial Zones</b>					
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
<b>A. AGRICULTURAL USES</b>					
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)
A.4. Horticulture	X	X	X	X	X
A.5. Urban Farm	P(14)	P(14)	P(14)	P(14)	P(14)
* * *					

Notes to Table A for 23.50.012

\* \* \*

(14) Except within designated manufacturing and industrial centers where they are permitted only on rooftops and/or as ~~((vertical farming))~~ indoor agricultural operations. Indoor agricultural operations within designated manufacturing and industrial centers (excluding associated office or food processing areas) ~~greater than 10,000 square feet are prohibited~~ shall not exceed 10,000 square feet in IB, IC, and IG2 zones, and are prohibited in IG1 zones.

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