

June 13, 2013

To: Housing, Human Services, Health & Culture Committee  
From: Peter Harris, Central Staff  
Re: Council Bills on smoking in public and marijuana consumption

## **Introduction**

The Law Department has proposed an ordinance related to smoking in public places and places of employment, and another ordinance related to consumption of marijuana in public view. Each would bring the Seattle Municipal Code (SMC) into conformity with the Revised Code of Washington (RCW).

### **Ordinance on smoking in public places and places of employment**

The ordinance on smoking in public places and places of employment would update the SMC by:

- (a) Updating the definition of “public place,” adding a definition of “place of employment,” and simplifying the statement of prohibition of smoking in such places by simply referring to these terms in the prohibition section;
- (b) Giving Public Health the responsibility for enforcing signage requirements and giving the Police Department the responsibility for enforcing the remaining provisions of this chapter;
- (c) Requiring Public Health to give one warning to signage violators; and
- (d) Exempting persons passing by or through a public place on a sidewalk or right of way from the smoking prohibition.

Again, all these SMC changes reflect changes in the RCW. Thus this ordinance is analogous to routine periodic ordinances that update the City’s traffic and criminal codes to reflect changes in the RCW.

### **Ordinance on consuming marijuana in public**

The ordinance on consuming marijuana in public is similar in bringing the SMC into conformity with the RCW, but is different in two ways.

First, instead of being a fairly minor revision to existing law expressed in both the RCW and SMC, it reflects the decriminalization of marijuana resulting from Initiative 502.

Second, it is an entirely new topic for the SMC. (SMC 12A.20.060 sets the investigation, arrest and prosecution of marijuana offenses as the City’s lowest law enforcement priority, but the SMC is silent on what those offenses are, or were.)

The ordinance states that consuming marijuana or opening a marijuana package “in view of the general public” is a class 3 civil infraction. By state law, class 3 civil infractions are subject to a fine of \$50, plus statutory assessments of 105%, for a maximum total of \$102.50.

**What is the relationship between the two ordinances?**

The relationship occurs when someone consumes marijuana by smoking it. Depending on where the person is smoking marijuana, it may be a violation of one or both ordinances.

First, observe that:

- (a) All public places are in view of the general public;
- (b) All sidewalks and rights-of-way are in view of the general public; and
- (c) Some places of employment are public places and some are not.

Hence:

- (1) Smoking marijuana in a public place would be a violation of both ordinances.
- (2) Smoking marijuana while passing a public place on a sidewalk or right-of-way would be a violation of the marijuana consumption ordinance, but not of the smoking ordinance.
- (3) Smoking marijuana in a place of employment that is not a public place would be a violation of the smoking ordinance, but not of the marijuana consumption ordinance.

**Conclusion**

If you have any questions, please let me know.