SEATTLE CITY COUNCIL

Legislative Summary

CB 119178

Record No.: CB 119178 **Type:** Ordinance (Ord) **Status:** Passed

Version: 1 **Ord. no:** Ord 125516 **In Control:** City Clerk

File Created: 11/09/2017

Final Action: 01/19/2018

Title: AN ORDINANCE relating to the regulation of marijuana businesses; amending Sections 6.500.020, 6.500.030, 6.500.040, 6.500.050, 6.500.060, 6.500.070, 6.500.080, 6.500.110, 6.500.160, and 6.500.170 of the Seattle Municipal Code; adding a new Section 6.500.143 to the Seattle Municipal Code; and ratifying and confirming certain prior acts.

Notes:

Sponsors: Bagshaw

Date

Filed with City Clerk:

Mayor's Signature:

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: adam.schaefer@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	11/14/2017	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	11/14/2017	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	01/04/2018	sent for review	Finance and Neighborhoods Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Finance and Neighborhoods Committee						
	Notes:						

1	Full Council	01/08/2018	referred	Finance and Neighborhoods Committee	
	Action Text:	The Council Bill (CB) was referred. to the Finance and Neighborhoods Committee			
	Notes:				
1	Finance and Neighborhoods Committee	01/10/2018	pass		Pass
	Action Text:	The Committee recommends that Full Council pass the Council Bill (CB).			
		In Favor: 3	Chair Bagshaw, Vice Chair González , Member Harrell		
		Opposed: 0			
1	Full Council	01/16/2018	passed		Pass
	Action Text:	The Council Bill (CB) was passed by the following vote, and the President signed the Bill:			
	Notes:				
		In Favor: 9	Councilmember Bagshaw, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant		
		Opposed: 0			
1	City Clerk	01/17/2018	submitted for Mayor's signature	Mayor	
1	Mayor	01/19/2018	Signed		
1	Mayor	01/19/2018	returned	City Clerk	
1	City Clerk	01/19/2018	attested by City Clerk		
	Action Text:	The Ordinance (Ord) was attested by City Clerk.			
	Notes:				

CITY OF SEATTLE

ORDINANCE 125516

COUNCIL BILL 119178

AN ORDINANCE relating to the regulation of marijuana businesses; amending Sections 6.500.020, 6.500.030, 6.500.040, 6.500.050, 6.500.060, 6.500.070, 6.500.080, 6.500.110, 6.500.160, and 6.500.170 of the Seattle Municipal Code; adding a new Section 6.500.143 to the Seattle Municipal Code; and ratifying and confirming certain prior acts.

WHEREAS, Ordinance 124807, regulating marijuana businesses, added Chapter 6.500 to the Seattle Municipal Code in 2015; and

WHEREAS, since the passage of Ordinance 124807, the full transition of the unregulated marijuana industry to a regulated system, as well as state updates to signage and minor access requirements, require amendments to provisions of Chapter 6.500; and

WHEREAS, other amendments are advisable to provide clarity, improve facilitation and compliance, and allow for effective application and enforcement of Chapter 6.500; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 6.500.020 of the Seattle Municipal Code, enacted by Ordinance 124807, is amended as follows:

6.500.020 Definitions

For the purposes of this Chapter 6.500 the following definitions are adopted:

"Juvenile" means any individual who is under the chronological age of 18 years.

"Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than ten percent.

"Marijuana license" or "license" means a license issued by the Director giving permission to a person to engage in a marijuana business in Seattle.

* * *

((~~"Medical marijuana establishment" means a marijuana business operating in compliance with chapter RCW 69.51A.~~))

* * *

((~~"Premises" means the building and land upon which a marijuana producer, processor, or retailer is located.~~))

* * *

"Qualifying patient" means a person who:

1.

a. Is a patient of a health care professional;

b. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

c. Is a resident of the state of Washington at the time of such diagnosis;

d. Has been advised by that health care professional about the risks and benefits of the medical use of marijuana;

e. Has been advised by that health care professional that he or she may benefit from the medical use of marijuana;

f.

1) Has an authorization from his or her health care professional; or

2) Beginning July 1, 2016, has been entered into the medical marijuana authorization database and has been provided a recognition card; and

g. Is otherwise in compliance with the terms and conditions of chapter 69.51A RCW ((~~69.51A~~)).

((~~b.~~)) 2. "Qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of ((~~Chapter~~)) chapter 69.51A RCW are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

"Recognition card" means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered them into the medical marijuana authorization database.

* * *

Section 2. Section 6.500.030 of the Seattle Municipal Code, enacted by Ordinance 124807, is amended as follows:

6.500.030 License required

A. It is unlawful for any person to engage in a marijuana business in the City unless such person ((~~has obtained from the Director a license to do so, to be designated as a marijuana business license,~~)) possesses a valid marijuana license and is in compliance with all provision[s] of this Chapter 6.500.

B. The following are exempt from the requirement to obtain a marijuana license:

1. Marijuana businesses located on federal lands.

2. Persons licensed by the Washington State Liquor and Cannabis Board to conduct quality assurance testing or research on marijuana for scientific purposes.

3. Manufacturers and distributors of cannabis health and beauty aids.

Section 3. Section 6.500.040 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

6.500.040 General provisions

A. ((~~No license shall be approved under this Chapter 6.500 for any marijuana business located on federal lands.~~))

((~~B.~~)) No marijuana business shall be located within another business. More than one marijuana business licensee may be located in the same building if each licensee ((~~has their own area physically separated with their own entrance. Marijuana~~)) occupies an area that is physically separate from any other business and has its own separate entrance. Licensees shall not commingle marijuana and marijuana products ((~~shall not be commingled~~)).

((~~C.~~)) B. No marijuana processor licensed by the Department shall conduct the processing, storage, or sale of marijuana-infused products except using sanitary practices and ensuring facilities are constructed, kept, and maintained in a clean and sanitary condition pursuant to rules prescribed by the Seattle Department of Construction and Inspections, Seattle Fire Department, Washington Department of Agriculture under Chapters 16-165 and 16-167 Washington Administrative Code (WAC), and Seattle-King County Department of Public Health.

((~~D. Licensees shall not allow the consumption~~)) C. Consumption of marijuana or marijuana products is prohibited on ((~~the~~)) licensed premises.

((~~E. Signs must be posted at all licensed premises that inform the public that no persons under the age of 21 years are permitted on the premises. After July 1, 2016, signs must be posted that inform the public that qualified patients between the ages of 18 and 21 years with recognition cards are permitted on the premises.~~)) D. Signs containing the following language

must be conspicuously posted at each entry: "Persons under 21 years of age are not permitted on these premises without a valid qualifying patient card. Juvenile qualifying patients must be accompanied by their designated provider at all times."

((~~F. A business shall only sell product to the public from their licensed location.~~)) E. Marijuana and marijuana products may only be sold to the public by retail licensees from their licensed business locations.

((~~G.~~)) F. Marijuana ((~~or~~)) and marijuana products shall not be ((~~provided from booths~~)) sold, donated or transferred at ((~~vendor~~)) festivals, fairs, farmers' markets, or other similar events.

G. Licensees may only purchase marijuana and marijuana products from another licensee.

Section 4. Section 6.500.050 of the Seattle Municipal Code, enacted by Ordinance 124807, is amended as follows:

6.500.050 License applications

A. ((~~Marijuana business licenses are limited to those persons who have been issued a license by the~~)) Only persons who possess a valid Washington State Liquor and Cannabis Board license to produce, process, distribute, or transport marijuana or marijuana products are eligible for a City marijuana license.

* * *

((~~C. Those persons operating medical marijuana businesses that, before January 1, 2013, acquired a license issued by The City of Seattle under Section 5.55.230, attained a state registration certificate under RCW 82.32.030, established their operation as a medical marijuana establishment, have fully paid any judgments for unpaid wages or tip compensation, and have~~

~~consistently paid all applicable state and local taxes and fees, including but not limited to Washington State Employment Security Department unemployment premiums and Washington State Labor and Industries Department fees, may continue to operate until July 1, 2016 without a license issued by this Chapter 6.500. In order to continue operating without a license pursuant to this subsection 6.500.050.C, those persons or entities must fulfill all criteria and timely take all steps necessary to remain eligible to obtain a license from the Washington State Liquor and Cannabis Board no later than July 1, 2016. In addition, persons operating medical marijuana establishments must comply with all advertising and signage requirements pursuant to WAC 314-55-155 as adopted through rulemaking by the Director.~~

~~1. It shall be the burden of each medical marijuana establishment to affirmatively show that it meets the requirements of this subsection 6.500.050.C. Upon the request of the Director, such persons shall submit all records necessary to establish their eligibility to operate pursuant to this subsection 6.500.050.C.~~

~~2. A person or entity that is a successor of a medical marijuana establishment that had acquired a state registration certificate under RCW 82.32.030 and City of Seattle license under Section 5.55.230 and began operations before January 1, 2013 but attained their interest or control of said entity after January 1, 2013 may be eligible to continue operations until July 1, 2016 if operations were continuous and the transfer of interest or control is documented.~~

~~D.~~)) C. Marijuana businesses that are not located within ((~~the City~~)) Seattle city limits but provide marijuana or marijuana products to marijuana businesses located in Seattle city limits ((~~with marijuana or marijuana products~~)) must obtain ((~~a license under this Chapter 6.500. Only those persons that have a license issued by the Washington State Liquor and Cannabis Board may obtain a license under this Chapter 6.500~~)) marijuana licenses.

((~~E.~~)) D. All applications shall be submitted by and issued in the name(s) of the true party(ies) of interest and shall be signed by such person(s) and certified as true under penalty of perjury, and shall be accompanied by written evidence sufficient to show that such person(s) are the owner, operator, or lessee of the premises. All applications shall be submitted on a form supplied by the Director.

1. Failure to provide complete information required on an application form approved by the Director's form shall render the application incomplete and the license consequently shall be denied.

2. Within 30 days of any change in the information required to be submitted in this Section 6.500.050, each licensee shall notify the Director in writing of such change on a form provided by the Director.

((~~F.~~)) E. Applicants shall comply with all City and State laws, including but not limited to license or tax obligations and all provisions of this Chapter 6.500.

((~~G. Applications from currently operating state-licensed marijuana businesses must be received within 30 days of the effective date of this Chapter 6.500.~~))

F. Licensees who cease to engage in marijuana business activities must notify the Department within 15 days of discontinuation.

Section 5. Section 6.500.060 of the Seattle Municipal Code, enacted by Ordinance 124807, is amended as follows:

6.500.060 License – Applicant investigation

((~~A. The Director may investigate each license application. The Director may request record checks, site inspections or confirmation of zoning compliance to be performed by appropriate City agencies. The agency to which such a request has been directed shall determine~~

~~whether the applicant, activity, and/or premises comply with the requirements of City laws, rules, and regulations enforced by the agency. The agency shall notify the Director in writing whether or not any violation is found, specifying any noncompliance. If the Director does not receive a written reply within 30 days from the date of the original request for the check or inspection, the Director shall issue the license if the applicant is deemed qualified to hold the license in all other respects provided however, that the license shall be deemed invalid upon the receipt of competent evidence that the requirements of this Chapter 6.500 or any other law, rule, or regulation have not been met.~~

~~B. The Department may conduct an investigation of any person or entity that exercises any control over the applicant's business operations, including but not limited to a financial investigation and/or a criminal history background.~~))

A. The Director is authorized to investigate each license application and may review an applicant's business records and inspect the proposed business premises.

B. The Director may request that appropriate City departments confirm that an applicant is in compliance with City regulations. A department to which such a request has been directed shall determine whether the applicant, activity, and/or premises comply with City laws, rules, and regulations enforced by that department, and that department shall notify the Director of any violations found.

C. The Director may conduct an investigation of any person or entity that exercises any control over the applicant's business operations, including but not limited to a financial investigation and/or a criminal history background.

Section 6. Section 6.500.070 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

6.500.070 Inspection of premises

* * *

B. Each licensee shall allow the licensed premises, including all books and records, to be inspected in accordance with and in the same manner as in subsection 6.500.070.A. Refusal to grant access to authorized persons shall result in a non-renewal or revocation of the license.

Section 7. Section 6.500.080 of the Seattle Municipal Code, last amended by Ordinance 125194, is amended as follows:

6.500.080 License and related fees

A. Licenses shall expire June 30 each year and be annually renewable. The following annual fees shall apply:

1. Marijuana ((~~Business~~)) License - Located in Seattle $1,500

2. Marijuana ((~~Business~~)) License - Located outside Seattle $750

((~~3. Marijuana Business License - Reinspection, Reinstatement or Relocation of Physical Address Fee ..... $250~~))

B. License fees are non-refundable.

C. License fees are not prorated.

D. Related fees

1. Premise Reinspection..... $250

2. License Reinstatement..... $250

3. Relocation of Physical Address..... $250

Section 8. Section 6.500.110 of the Seattle Municipal Code, enacted by Ordinance 124807, is amended as follows:

6.500.110 Restricted access for persons under 21 years of age

A. It is unlawful for any person under the age of 21 years to be in or upon any licensed premises((~~. Beginning July 1, 2016 persons between the ages of 18 and 21 years may be permitted upon~~)) , except that qualifying patients ages 18 to 21 years in possession of a valid recognition card and juveniles both in possession of a valid recognition card and accompanied by a designated provider may enter upon the premises of a licensed ((~~premises if they are a qualifying patient with an authorization or recognition card~~)) marijuana retail business as long as the retailer possesses a Washington State issued medical marijuana endorsement.

B. It is unlawful for any owner, operator, manager, employee, or other person in charge of a marijuana business ((~~for which a license under this Chapter is required,~~)) to allow any person under the age of ((~~21 years without an authorization or recognition card to be in or upon such premises.~~)) 21 years to be in or upon any licensed premises, except that qualifying patients ages 18 to 21 years in possession of a valid recognition card and juveniles both in possession of a valid recognition card and accompanied by a designated provider may enter upon the premises of a licensed marijuana retail business as long as the retailer possesses a medical marijuana endorsement.

C. All licensees shall affirmatively check the ((~~identification, authorization, and recognition card, and all licensees shall~~)) identifications and confirm the ((~~age~~)) ages of all ((~~that~~)) persons who enter or are on the premises.

D. ((~~Retail marijuana licensees~~)) Marijuana retailers with medical endorsements shall issue recognition cards in accordance with state law and shall confirm the validity of authorizations and recognition cards when selling marijuana or marijuana products under their medical marijuana endorsements.

Section 9. A new Section 6.500.143 is added to the Seattle Municipal Code as follows:

6.500.143 Property owner responsibilities

No property owner shall permit a lessee to engage in a marijuana business on the property unless the lessee possesses a valid marijuana license.

Section 10. Section 6.500.160 of the Seattle Municipal Code, enacted by Ordinance 124807, is amended as follows:

6.500.160 Seizure or confiscation of marijuana and marijuana products

The Department, its authorized agents, or the Seattle Police Department may seize or confiscate (1) all marijuana or marijuana products in the possession of a marijuana business that does not ((~~have~~)) possess a valid marijuana license ((~~issued pursuant to this Chapter 6.500 and that is not exempt pursuant to subsections 6.500.050.B or 6.500.050.C from obtaining a license~~)), and (2) all marijuana or marijuana products that do not meet any or all of requirements of this Chapter 6.500 or any rules promulgated pursuant to this Chapter 6.500.

Nothing in this Section 6.500.160 shall be construed to limit the authority of any law enforcement officer to seize or confiscate marijuana or marijuana products pursuant to any other law.

Section 11. Section 6.500.170 of the Seattle Municipal Code, enacted by Ordinance 124807, is amended as follows:

6.500.170 Penalties

* * *

E. Mitigation hearings

1. Date and ((~~Notice~~)) notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within 30 days after written response to the citation requesting a hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing shall be sent to the address specified in the request for hearing not less than ten days before the date of the hearing.

2. Procedure at ((~~Hearing~~)) hearing. The Hearing Examiner shall hold an informal hearing that shall not be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses shall not be compelled to attend. A representative from the Department ((~~of Transportation~~)) may also be present and may present additional information, but attendance by a representative from the Department ((~~of Transportation~~)) is not required.

3. Disposition. The Hearing Examiner shall determine whether the person's explanation justifies reduction of the monetary penalty. Factors that may be considered in whether to reduce the penalty include whether the violation was caused by the act, neglect, or abuse of another.

4. Entry of ((~~Order~~)) order. After hearing the explanation of the person cited and any other information presented at the hearing, the Hearing Examiner shall enter an order finding that the person cited committed the violation and assessing a monetary penalty in an amount determined pursuant to subsection 6.500.170.H. The Hearing Examiner's decision is the final decision of the City on the matter.

F. Contested hearing

1. Date and ((~~Notice~~)) notice. If a person requests a contested hearing, the hearing shall be held within 60 days after the written response to the citation requesting such hearing is received.

2. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases, except as modified by this Section 6.500.170. The issues heard at the hearing shall be limited to those that are raised in writing in the response to the citation and that are within the jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance of witnesses and the production of documents.

3. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed statement of the facts constituting the specific violation which the person cited is alleged to have committed or by reason of defects or imperfections, provided such lack of detail or such defects or imperfections do not prejudice substantial rights of the person cited.

4. Amendment of ((~~Citation~~)) citation. A citation may be amended prior to the conclusion of the hearing to conform to the evidence presented if substantial rights of the person cited are not thereby prejudiced.

5. Evidence at ((~~Hearing~~)) hearing. The certified statement or declaration authorized by RCW 9A.72.085 shall be prima facie evidence that a violation occurred and that the person cited is responsible. The certified statement or declaration authorized under RCW 9A.72.085 and any other evidence accompanying the report shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 shall also be admissible without further evidentiary foundation. The person cited may rebut the

Department ((~~of Transportation~~)) evidence and establish that the cited violation(s) did not occur or that the person contesting the citation is not responsible for the violation.

6. Disposition. The Hearing Examiner shall determine by a preponderance of the evidence whether the violation occurred. If the Hearing Examiner determines that the violation occurred, the citation shall be sustained and the Hearing Examiner shall enter an order finding that the person cited committed the violation and imposing the applicable penalty. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

7. Final ((~~Decision~~)) decision. The Hearing Examiner's decision is the final decision of the City.

G. Failure to appear for hearing

Failure to appear for a requested hearing will result in an order being entered finding that the person cited committed the violation stated in the citation and assessing the penalty specified in the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

H. Penalties

1. The following penalties shall be assessed for violations of any provision of this Chapter 6.500 other than Section 6.500.030 and any provision of the Washington Administrative Code:

a. $500 for the first violation, and

b. $1,000 for each subsequent violation within a 12-month period.

2. The following penalties shall be assessed for violations of Section 6.500.030:

a. $1,000 for the first violation, and

b. $1,500 for each subsequent violation within a ((~~six-month~~)) 12-month period.

3. Violations of or failure to comply with provisions of the Washington Administrative Code that have been adopted by the Director pursuant to Section 6.500.100 shall have the same monetary penalties as those set forth in the applicable provisions of Washington Administrative Code adopted by the Director.

* * *

Section 12. Any act consistent with the authority of this ordinance taken prior to its effective date is ratified and confirmed.

Section 13. 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 16th day of January, 2018, and signed by me in open session in authentication of its passage this 16th day of January, 2018.

President _____ of the City Council

Approved by me this 19th day of January, 2018.

Jenny A. Durkan, Mayor

Filed by me this 19th day of January, 2018.

Monica Martinez Simmons, City Clerk

(Seal)

STATE OF WASHINGTON -- KING COUNTY

--ss.

358243 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:125513-516 TITLE ONLY

was published on

02/05/18

The amount of the fee charged for the foregoing publication is the sum of $80.74 which amount has been paid in full.

JENNIFER A BARNES NOTARY PUBLIC STATE OF WASHINGTON

Subscribed and sworn to before me on

02/05/2018

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on January 16, 2018, and published below by title only, will be mailed upon request, or can be accessed at http://seattle.legistar.com. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar.

Ordinance 125513

Council Bill 119180

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 125514

Council Bill 119177

AN ORDINANCE relating to the Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of real property within Block 1, Plat of Yesler Terrace Community, as recorded in Volume 267, page 59 of plats; for maintenance, repair, replacement, and operation of the existing combined drainage and sewer facility.

Ordinance 125515

Council Bill 119179

AN ORDINANCE relating to housing regulations; amending Sections 14.09.020 and 14.09.025 of the Seattle Municipal Code as adopted in Ordinance 125393 to correct references and clarify notice provisions.

Ordinance 125516

Council Bill 119178

AN ORDINANCE relating to the regulation of marijuana businesses; amending Sections 6.500.020, 6.500.030, 6.500.040, 6.500.050, 6.500.060, 6.500.070, 6.500.080, 6.500.110, 6.500.160, and 6.500.170 of the Seattle Municipal Code; adding a new Section 6.500.143 to the Seattle Municipal Code; and ratifying and confirming certain prior acts.

Date of publication in the Seattle Daily Journal of Commerce, February 5, 2018.

2/5(358243)