



## City of Seattle

Edward B. Murray, Mayor

### Finance and Administrative Services

Fred Podesta, Director

### Department of Planning and Development

Diane Sugimura, Director

October 16, 2014

Dear Seattle Business Operator:

The Seattle Department of Planning and Development (DPD) recently issued an updated Tip Sheet outlining requirements for operating a business involving the growing, processing, selling, or delivery of marijuana in Seattle. As with any business, you must comply with Seattle's zoning code, obtain all required permits, and obtain a business license and pay all applicable taxes. The enclosed Tip Sheet 134 explains these specific requirements.

Seattle also has regulations specific to "major marijuana activity," which includes all activity that involves more than 45 marijuana plants or 72 ounces of useable marijuana. Major marijuana activity is prohibited in certain zones. It is also prohibited everywhere in Seattle without a license issued by the Washington State Liquor Control Board (LCB). Businesses that have been conducting major marijuana activity since before November 16, 2013 have until July 1, 2015 (or January 1, 2016, depending on action by the state legislature), to either: (1) obtain a state-issued license or (2) stop conducting major marijuana activity. Any *new* (i.e., commencing on or after November 16, 2013) major marijuana activity in Seattle must have a state license. If you began operating after November 16, 2013 and do not have a state issued license, you are in violation of City law and can be subject to enforcement action.

We urge you to carefully review Tip Sheet 134 and all of the cited Seattle Municipal Code provisions. Note that compliance with Seattle laws regarding zoning, building permits, and business licenses does not necessarily constitute compliance with applicable state and federal laws—you are independently responsible for reviewing, understanding, and complying with state and federal laws related to marijuana. You should consult your own attorney about these laws and how they affect your business. Although marijuana remains illegal under federal law, the U.S. Department of Justice issued a memorandum on August 29, 2013, outlining its enforcement priorities regarding marijuana. If you are operating as an I-502 business, please consult with the LCB regarding applicable laws, rules, and procedures. If you are operating as a medical marijuana business, we suggest carefully reviewing RCW Chapter 69.50 and recent case law interpreting this law, including *State v. Reis*, 180 Wn. App. 438, 322 P.3d 1238 (2014). The court in *Reis* held that compliance with medical marijuana laws creates an affirmative defense to criminal prosecution but does not prevent such prosecution.

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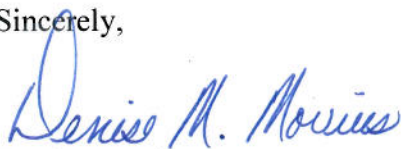
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Hearing Impaired use the Washington Relay Service (7-1-1)

Thank you for your attention to the important details of operating within applicable legal requirements. If you have any questions regarding zoning, land use, or building code issues relating to a marijuana business in Seattle, please contact Art Pederson at 206-684-0638 or [art.pederson@seattle.gov](mailto:art.pederson@seattle.gov) at DPD. If you have B&O tax or business license issues to address, please contact Cherie Macleod with the Department of Finance and Administrative Services (FAS) at 206-615-0760 or [cherie.macleod@seattle.gov](mailto:cherie.macleod@seattle.gov). If after reaching out to DPD or FAS you still have problems or questions, please contact the City's Customer Service Bureau (CSB) at 206-684-CITY (2489). Staff at the CSB can answer general questions or, depending on your inquiry, refer you to the appropriate individual who can better assist you.

Sincerely,



Denise Movius  
Deputy Director  
Finance and Administrative Services



Faith Lumsden  
Compliance Director  
Department of Planning and Development



# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Businesses Involving the Growing, Processing, Selling, or Delivery of Marijuana

September 25, 2014

The growing, processing, selling or delivery of marijuana is subject to state, federal, and city regulations. This document is intended to explain how City of Seattle regulations, effective as of November 16, 2013, are likely to apply to marijuana-related businesses. The City does not provide any guidance on state and federal regulations so it is highly encouraged that businesses proposing to engage in these activities consult a lawyer before they proceed on any permits.

This Tip may be most helpful in combination with Tip 102—"Small Business: Getting Your Use and Building Permit from DPD," which provides general information on getting permits.

### What Do You Need to Know?

Before you start this process, it will be helpful to determine the following:

- **What is the zoning for the proposed location?** Go to DPD's parcel data application at <http://web1.seattle.gov/dpd/parceldata/>. Type in the address of your proposed business to find zoning information. Note the base zone and whether it is located in a historic district or an urban village overlay. If you want to see the zoning for a larger area, you can use the DPD GIS tool at [web1.seattle.gov/dpd/maps/dpdgis.aspx](http://web1.seattle.gov/dpd/maps/dpdgis.aspx).
- **What changes will be necessary to improve the property?** Common changes that may require a permit include: change of use (for example, putting a retail sales business where a restaurant used to be), additions, modification of walls or structural

elements in existing buildings, or changes to electrical wiring, plumbing, or mechanical systems.

### What Permits are Necessary?

A permit is likely to be required if you are planning to do any of the following:

- change or add a use on your property such as converting an office to a retail space
- change the building's interior, like moving or adding non-structural walls
- change wiring or electrical plugs
- change the mechanical systems
- change the plumbing system
- use flammable or compressed liquids or gases or store significant amounts of fertilizer
- install, alter or repair any permanent sign that is visible from the public right-of-way

Information on the types of permits that may be required is available in Tip 102 and on the permit website at [www.seattle.gov/dpd/permits/](http://www.seattle.gov/dpd/permits/). Large projects involving multiple systems and new uses are typically handled through a single construction permit while smaller projects involving only electrical, mechanical, or plumbing work can often be done through separate electrical, mechanical, or plumbing permits.

### What Restrictions Exist on the Location of These Businesses?

In addition to state and federal restrictions, individuals proposing a marijuana-related business must meet both the marijuana-specific regulations in Seattle Municipal Code 23.42.058 and any general requirements for the use category. To understand whether a specific business may be allowed in a location, you should know the **type of use** that is proposed, the **base zoning** of the location, and if the location is in an **overlay district**, such as a historic district or the Stadium Transition Overlay District.

[www.seattle.gov/dpd](http://www.seattle.gov/dpd)



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Major marijuana activity means that you are growing, processing, selling and/or delivering large amounts of marijuana or marijuana-infused products. Major activity involves more than 45 plants or 72 ounces of useable marijuana or marijuana-infused products. Marijuana activity is allowed on any lot or in association with any house or apartment if it is not "major marijuana activity"; provided the City's Home Occupation Rules and Washington State's collective garden regulations are met.

### Types of Uses

All business activities are regulated in part based on the uses (such as retail sales and service or food processing) they contain. Since "marijuana-related" is not a separate use category, these businesses must follow the rules for the use or uses that most closely describe their activities. Many businesses will have multiple uses on site. Certain uses may be prohibited in different zones of the city or may be subject to size limits or other restrictions. Below is a summary of the common uses that marijuana-related business may contain and how they may be limited in Seattle.

**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 are specifically limited to rooftop and "indoor agriculture operations."

"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. However, drying of marijuana as part of a combined growing and processing operation would be considered incidental to the urban farm use and would not be considered a separate use.

If marijuana is processed without a mechanized assembly line, it would generally 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...

**Sale or delivery 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.

It is possible that a delivery-only business with no walk-in customers could be considered a different use such as office; however, this would depend on the specifics of the business.

## Base Zone Restrictions

The following tables list where the above uses are allowed outright, allowed with conditions, or prohibited.

Base Zone	Retail sales and services	Urban farm	Food processing	Light Manufacturing
Commercial 1 and 2	P	P	P	P
Downtown Office Core 1 and 2; Downtown Retail Core;	P	P	P	P
Downtown Mixed Commercial				
Downtown Mixed Residential	25	P	P	X
Harborfront	No Major Marijuana Activity Allowed <sup>1</sup>			
Industrial Buffer;	P	See Footnote 2	P	P
Industrial Commercial;				
Industrial General 1 and 2				
International District Mixed	No Major Marijuana Activity Allowed <sup>1</sup>			
International District Residential	No Major Marijuana Activity Allowed <sup>1</sup>			
Multifamily (LR, MR, HR)	No Major Marijuana Activity Allowed <sup>1</sup>			
Neighborhood Commercial 1	No Major Marijuana Activity Allowed <sup>1</sup>			
Neighborhood Commercial 2	25	P	25	10
Neighborhood Commercial 3	P	P	25	25
Pike Place Mixed	No Major Marijuana Activity Allowed <sup>1</sup>			
Pioneer Square Mixed	No Major Marijuana Activity Allowed <sup>1</sup>			
Seattle Mixed	P	P	P	P
Single Family	No Major Marijuana Activity Allowed <sup>1</sup>			

### KEY:

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

### Footnotes

1. Except that existing businesses do not need to come into compliance until July 1, 2015. If the state legislature passes a law prior to this date that would allow for additional licenses for marijuana businesses, this deadline would be automatically extended to January 1, 2016.
2. Outside Manufacturing and Industrial Centers, urban farms are permitted without size limits. Within the Duwamish Manufacturing and Industrial Center and the Ballard-Interbay Manufacturing and Industrial Center urban farms are permitted with the following limits:

- a. the only type of urban farms that are permitted are rooftop and indoor agricultural operations
- b. No indoor agriculture operations are allowed in IG1 zones unless they were established prior to November 16, 2013 and are not more than 5,000 sq ft in size
- c. The maximum size limit for an indoor agricultural operation in IC and IB zones is 10,000 sq ft
- d. The maximum size limit for an indoor agricultural operation in IG2 zones is 20,000 sq ft

Size limits exclude areas used exclusively for office and food processing areas but include the entirety of any room containing agriculture.



## Overlay District Restrictions

In addition to the base zone limitations listed above, no major marijuana activity is allowed on any lot located in an historic district or the Stadium Transition Overlay District. Historic districts in Seattle are located at: Ballard Avenue, Columbia City, Fort Lawton, Harvard-Belmont, International Special Review District, Pike Place, Pioneer Square, and Sand Point. More information on Historic Districts can be found at [www.seattle.gov/neighborhoods/preservation/historic\\_districts.htm](http://www.seattle.gov/neighborhoods/preservation/historic_districts.htm).

## What Other Regulations May Apply?

All actions requiring a permit will be expected to meet applicable codes including Building, Electrical, Plumbing, and Fire codes. The primary purpose of requiring permits is to allow reviewers to compare your project to existing code requirements.

While it is not feasible to summarize all of these codes here, key things to consider include:

- Grow operations will need to provide information showing what measures will be taken to meet the odor requirements of SMC 23.42.051.C. Examples may include, but are not limited to, the location of vents, installation of filters, and/or installation of mechanical equipment.
- Substantial alterations to existing buildings, particularly very old or previously vacant buildings, may trigger a requirement to bring the building space at least partially into compliance with existing codes for earthquake safety, fire safety, or energy efficiency. It is recommended that applicants consult DPD early in the planning process to identify any issues that could substantially change the cost or timing of their project. Tip 314, Seattle Building Code Requirements for Existing Buildings that Undergo Substantial Alterations, describes when these larger upgrades may be triggered.
- Indoor lighting for horticulture is exempt from energy code per section 1512.2, item 4; however, the addition or modification of equipment to control the temperature or climate of indoor spaces will require review under the energy code. Energy-efficient equipment or additional insulation may be necessary to meet these requirements. Additionally, any wiring necessary to add electrical capacity will need to meet electrical code standards.
- Facilities planning to store or use liquids or gases that are flammable, combustible or compressed,

including but not limited to butane, propane, ethanol, acetone, or CO<sub>2</sub>, should check with the Fire Department to determine if they need a permit or need to take specific safety precautions. This also applies to facilities planning to store significant amounts of fertilizer. The processing of marijuana using flammable gases is prohibited by the fire code, unless performed with an approved, professional grade, closed loop extraction system that does not release any flammable gas to the atmosphere. For more information on the Fire code and permits, go to [www.seattle.gov/fire/FMO/permits/permits.htm](http://www.seattle.gov/fire/FMO/permits/permits.htm).

- While DPD does not review how chemicals such as pesticides or fertilizers will be disposed, it is expected that these materials will be disposed of properly. Additional information on existing rules and resources is available at [www.lhwmp.org](http://www.lhwmp.org).

## Home Occupation Regulations

As discussed above, major marijuana activity is not allowed in any residential zones; however, small-scale activities below these limits are allowed in these areas. Marijuana activities that occur in residential units must meet Seattle's Home Occupation Regulations, which limit advertising, business traffic, and other potential impacts in residential zones. Tip 236, Home Occupations, provides more information on these rules and is available at [web1.seattle.gov/dpd/cams/camdetail.aspx?cn=236](http://web1.seattle.gov/dpd/cams/camdetail.aspx?cn=236).

## Is a Business License Necessary?

With very few exceptions, individuals and businesses operating in the city of Seattle are required to get a business license (see Seattle Municipal Code 5.45.090 for a list of exempt businesses and business activities). Information on applying for a business license as well as paying taxes can be found at: [www.seattle.gov/html/business/taxes.htm](http://www.seattle.gov/html/business/taxes.htm). Applicants may also apply online at: [www.seattle.gov/self](http://www.seattle.gov/self).

## What are the State Regulations and is a State License Required?

New businesses, and businesses that started operation after November 16, 2013, that conduct major marijuana activity are required to have a license from the Washington State Liquor Control Board in order to operate in the city of Seattle. Business that were being conducted prior to November 16, 2013 will be required to have a license from the Washington State Liquor Control Board in order to operate in the city of Seattle starting July 1, 2015. If the state legislature passes a law prior to this date that would allow for additional licenses for marijuana businesses, this deadline would be automatically extended to January 1, 2016. These rules apply to medical and recreational businesses.

Information on state licenses is available at: <http://liq.wa.gov/>. The City of Seattle does not provide any guidance on meeting state regulations including the requirement not to locate within 1,000 feet of certain facilities such as parks, playgrounds, or schools.

Additionally, if you are planning to produce any edible marijuana-infused products, it is likely that you will need a license from the Washington State Department of Agriculture for food processing.

Grow operations may also need to get permits or meet specific regulations regarding:

- Wastewater ([www.kingcounty.gov/environment/wastewater/IndustrialWaste/DischargeApprovalOverview.aspx](http://www.kingcounty.gov/environment/wastewater/IndustrialWaste/DischargeApprovalOverview.aspx) )
- Chemigation and fertigation (<http://agr.wa.gov/PestFert/ChemFert/>)
- Air quality (<http://www.pscleanair.org/announce/permits/>)
- Mercury bulbs ([www.ecy.wa.gov/mercury/mercury\\_light\\_bulbs.html](http://www.ecy.wa.gov/mercury/mercury_light_bulbs.html))
- Disposal of pesticides (<http://agr.wa.gov/PestFert/Pesticides/WastePesticide.aspx>)

### Access to Information

Links to electronic versions of **DPD Tips**, **Director's Rules**, and **Forms** are available on the "Tools & Resources" page of our website at [www.seattle.gov/dpd](http://www.seattle.gov/dpd). Paper copies of these documents are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.