

**CITY OF SAMMAMISH
WASHINGTON**

ORDINANCE NO. O2014-376

**AN ORDINANCE OF THE CITY OF SAMMAMISH,
WASHINGTON, PROHIBITING THE ESTABLISHMENT,
LOCATION, OPERATION, LICENSING, MAINTENANCE
OR CONTINUATION OF RECREATIONAL MARIJUANA
PROCESSING, PRODUCING AND RETAILING;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING
AN EFFECTIVE DATE**

WHEREAS, in 2012, the voters of the state of Washington passed Initiative 502 (“I-502”), which authorizes the issuance of marijuana producer, processor and retailer licenses, subject to the proviso that retail sale and certain acts of producing and processing marijuana in accordance with I-502 and implementing regulations shall not be criminal or civil offenses under Washington state law, and subject to the further proviso that no such license shall be issued for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older; and

WHEREAS, under I-502 the Washington State Liquor Control Board (“WLCB”) was tasked with adopting, no later than December 1, 2013, rules establishing the procedures and criteria for the licensing and operation of marijuana producers, processors and retailers; and

WHEREAS, on October 16, 2013 the WLCB issued final rules concerning implementation of I-502 and began issuing marijuana producer, processor and retail licenses to qualified applicants; and

WHEREAS, the City Council deemed it to be in the public interest to establish a zoning moratorium pending local review of the WLCB’s rules and other information, which was subsequently extended by Ordinance No. 2014-370 for an additional six months; and

WHEREAS, on August 29, 2013, Deputy United States Attorney General James Cole issued a memorandum providing guidance regarding federal marijuana enforcement in light of the adoption of state ballot initiatives such as I-502 that legalize under state law the possession and use of small amounts of marijuana; and

WHEREAS, Deputy Attorney General Cole’s memorandum indicates that the federal government will not now seek to preempt state laws such as I-502, or invest substantial federal resources in investigating and prosecuting individuals for possession and use of small amounts of marijuana, but instead will treat this as a matter left to the discretion of state and local law

enforcement so long as the state implements a robust system of procedures and controls to ensure that federal interests concerning marijuana (e.g., deterring distribution to minors, preventing revenue from marijuana sales from going to organized crime, and preventing marijuana sales from serving as a cover for other illicit activities) are not threatened; and

WHEREAS, Deputy Attorney General Cole's memorandum also indicates that if state enforcement efforts are not sufficiently robust to protect against the harms to federal interests outlined above, the federal government may seek to challenge the entire state regulatory structure; and

WHEREAS, on January 16, 2014, the Washington State Attorney General's Office issued AGO 2014 No. 2 concluding that I-502 does not preempt counties, cities and towns from banning recreational marijuana producers, processors, and retailers within their jurisdiction; and

WHEREAS, a recent Washington State Court of Appeals decision upheld a local government's zoning and police power authority to exclude or otherwise regulate medical marijuana-related land uses, and such zoning or police power authority also applies to the regulation or exclusion of recreational marijuana-related land uses; and

WHEREAS, possession, use and sale of marijuana continues to remain illegal under federal law; and

WHEREAS, the City Council finds and determines that the prohibition of recreational marijuana producers, processors, and retailers will protect public safety, morals, health and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this Ordinance, the following terms have the definitions set forth below:

"Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Marijuana processor" means a person or entity licensed by the Washington State Liquor Control Board ("WLCB") to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail

outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

“Marijuana producer” means a person or entity licensed by the WLCB to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana-infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include useable marijuana.

“Marijuana retailer” means a person or entity licensed by the WLCB to sell useable marijuana and marijuana-infused products in a retail outlet.

Section 2. Marijuana Production, Processing and Retailing Prohibited. The City of Sammamish hereby prohibits the establishment, location, operation, licensing, maintenance or continuation of any use of property by a marijuana producer, marijuana processor, or marijuana retailer, or for use by any person for the production, processing, and/or retailing of marijuana. In accordance with the provisions of RCW 35A.82.020 and SMC 5.05, no business license shall be issued to any person or entity for marijuana production, processing or retailing, and any permits issued for any of these uses in error or based on a vague and/or misleading application description are null and void, and without legal force or effect.

Section 3. Adoption of Amendments to Sammamish Municipal Code 21A.15 and 21B.15 Technical Terms and Land Use Definitions, and 21A.20 and 21B.20 Retail Land Uses. The amendments to the Sammamish Municipal Code as set forth in Attachment “A” are hereby adopted.

Section 4. Ordinance to Be Transmitted to State Commerce Department. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

Section 5. Findings of Fact. The above “Whereas” clauses of this Ordinance constitute specific findings of fact by the City Council in support of passage of this Ordinance.

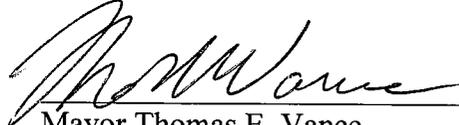
Section 6. Moratorium Terminated. The six-month moratorium established pursuant to Ordinance No. 2014-370 shall terminate upon the effective date of this Ordinance.

Section 7. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 8. Effective Date. This Ordinance shall be effective five days after passage and publication in the official newspaper of the City.

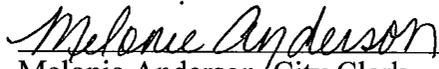
**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
OCTOBER 21, 2014.**

CITY OF SAMMAMISH



Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:



Melonie Anderson, City Clerk

Approved as to form:

Michael R. Kenyon, City Attorney

Filed with the City Clerk:	September 10, 2014
Public Hearing:	September 16, 2014
First Reading:	September 16, 2014
Passed by the City Council:	October 21, 2014
Date of Publication:	October 24, 2014
Effective Date:	October 29, 2014

Attachment “A”

Amendments to Chapter 21A SMC (Development Code), new text underlined and italicized:

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21A.15.205 Cogeneration.

“Cogeneration” means the sequential generation of energy and useful heat from the same primary source or fuel for industrial, commercial, or residential heating or cooling purposes. (Ord. O2003-132 § 10)

21A.15.207 Collective Garden

“Collective garden” means any area or location where qualifying patients engage in the production, processing, transporting, and delivery of cannabis for medical use as set forth in ESSSB 5073 or otherwise.

21A.15.208 Collocation.

“Collocation” means the practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antenna, feed lines and radio frequency generating equipment. (Ord. O2005-181 § 1)

21A.15.209 Combined antenna.

“Combined antenna” means an antenna or an antenna array designed and utilized to provide multiple services or services for more than one wireless provider for the same or similar type of services. (Ord. O2005-181 § 1)

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21A.15.732 Maintenance.

“Maintenance” means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition or use. Maintenance may include, but is not limited to, pruning, plant material replaced with alternate plant material, hardscape replaced with alternate hardscape, hardscape replaced with plant material. (Ord. O2013-350 § 1 (Att. A))

21A.15.733 Marijuana or marihuana.

“Marijuana” or “marihuana” means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks

(except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

21A.15.734 Marijuana Processor

“Marijuana processor” means a person or entity licensed by the Washington State Liquor Control Board (“WLCB”) to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

21A.15.735 Marijuana Producer

“Marijuana producer” means a person or entity licensed by the WLCB to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

21A.15.736 Marijuana-infused Products

“Marijuana-infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include useable marijuana.

21A.15.737 Marijuana Retailer

“Marijuana retailer” means a person or entity licensed by the WLCB to sell useable marijuana and marijuana-infused products in a retail outlet.

21A.15.735-21A.15.738 Marina.

“Marina” means an establishment providing docking, moorage space and related activities limited to the provisioning or minor repair of pleasure boats and yachts; and accessory facilities including, but not limited to:

- (1) Showers;
 - (2) Toilets; and
 - (3) Self-service laundries. (Ord. O2003-132 § 10)
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21A.15.733 21A.15.739 Master telecommunications plan.

“Master telecommunications plan” means a plan developed to establish public policy and applicable development standards related to the deployment of wireless telecommunications infrastructure. (Ord. O2005-181 § 1)

21A.15.740 Material error.

“Material error” means substantive information upon which a permit decision is based that is submitted in error or is omitted at the time of permit application. (Ord. O2003-132 § 10)

21A.15.742 Medium-speed electric vehicle.

“Medium-speed electric vehicle” means a self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one mile is more than 25 miles per hour but not more than 35 miles per hour and otherwise meets or exceeds the federal regulations set forth in 49 CFR 571.500. (Ord. O2011-300 § 1 (Att. A))

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21A.20.070 Retail land uses.

A. Table of Retail Land Uses.

KEY

P – Permitted Use

C – Conditional Use

S – Special Use

		ZONE	RESIDENTIAL		COMMERCIAL		
			Urban Residential		Neighborhood Business	Community Business	Office
SIC#	SPECIFIC LAND USE		R-1– R-8	R-12 – R-18	NB	CB	O
*	Building, hardware and garden materials				P1	P	
*	Department and variety stores				P	P	C
54	Food stores				P	P	C
*	Agricultural product sales		P2				
553	Auto supply stores					P4	
554	Gasoline service stations				P	P	
56	Apparel and accessory stores					P	
*	Furniture and home furnishings stores					P	
58	Eating and drinking places				P5	P	P
*	Drug stores				P	P	C
592	Liquor stores					P	
593	Used goods: antiques/secondhand shops					P	

*	Sporting goods and related stores				P	
*	Book, stationery, video and art supply stores			P	P	C
*	Jewelry stores				P	
*	Hobby, toy, game shops			P	P	
*	Photographic and electronic shops			P	P	
*	Fabric shops				P	
598	Fuel dealers				C7	P
*	Florist shops			P	P	P
*	Personal medical supply stores				P	
*	Pet shops			P	P	
*	Bulk retail				P	
*	Livestock sales	P8, P9				
	<u>Marijuana Retailer</u>					
	<u>Marijuana Producer</u>					
	<u>Marijuana Processor</u>					
	<u>Collective Garden</u>					

B. Development Conditions.

1. Only hardware and garden materials stores shall be permitted.
2. a. Except for hay sales, limited to products produced on-site; and
 - b. Covered sales areas shall not exceed a total area of 500 square feet.
3. Limited to SIC Industry No. 5331, Variety stores, and further limited to a maximum of 2,000 square feet of gross floor area.
4. Only the sale of new or reconditioned automobile supplies is permitted.
5. Excluding SIC Industry No. 5813, Drinking places.

6. Adult use facilities shall be prohibited within 660 feet of any residential zones, any other adult use facility, school, licensed daycare centers, parks, community centers, public libraries, or churches which conduct religious or educational classes for minors.
7. No outside storage of fuel trucks and equipment.
8. Retail sale of livestock is permitted only as accessory to raising livestock.
9. Limited to the R-1 zone.

Amendments to Chapter 21B SMC (Town Center Development Code), new text underlined and italicized:

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21B.15.080 Clustered development.

“Clustered development” means concentrating lots or buildings in areas to avoid development of sensitive or hazardous areas. (Ord. O2010-293 § 1 (Att. A § 21B.15.035))

21B.15.085 Collective Garden

“Collective garden” means any area or location where qualifying patients engage in the production, processing, transporting, and delivery of cannabis for medical use as set forth in ESSSB 5073 or otherwise.

21B.15.090 Common open space.

See SMC 21B.30.090(1)(c) for the definition of “common open space.” (Ord. O2010-293 § 1 (Att. A § 21B.15.040))

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21B.15.230 Low impact development.

Low impact development (LID) is a stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings. (Ord. O2010-293 § 1 (Att. A § 21B.15.100)).

21B.15.235 Marijuana or marihuana.

“Marijuana” or “marihuana” means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin

extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

21B.15.236 Marijuana Processor

“Marijuana processor” means a person or entity licensed by the Washington State Liquor Control Board (“WLCB”) to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

21B.15.237 Marijuana Producer

“Marijuana producer” means a person or entity licensed by the WLCB to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

21B.15.238 Marijuana-infused Products

Marijuana-infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include useable marijuana.

21B.15.239 Marijuana Retailer

“Marijuana retailer” means a person or entity licensed by the WLCB to sell useable marijuana and marijuana-infused products in a retail outlet.

21B.15.240 Mixed-use node.

“Mixed-use node” refers to one of the five TC-A zoned properties in the Town Center, including TC-A-1 through A-5. (Ord. O2010-293 § 1 (Att. A § 21B.15.105))

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21B.20.080 Retail land uses.

(1) Table of Retail Land Uses.

KEY

P – Permitted Use

U – Permitted Use as Part of Adopted Unified Zone Development Plan

C – Conditional Use

S – Special Use

X – Prohibited Use

SIC#	SPECIFIC LAND USE	TC-A sub-zones					TC-B	TC-C	TC-D	TC-E
		A1 ⁸	A2 ⁸	A3 ⁸	A4 ⁸	A5 ⁸				
*	Building, hardware and garden materials ¹⁰	U ^{1,5}	U ^{2,6}	U ^{2,6}	U ^{2,6}	U ^{2,6}	U ^{1,3,4,6}	X	X	X
*	Department and variety stores ¹⁰	U ⁵	U ^{2,6}	U ^{2,6}	U ^{2,6}	U ^{2,6}	U ^{3,4,6}	X	X	X
54	Food stores ¹⁰	U ⁵	U ^{2,6}	U ^{2,6}	U ^{3,6}	U ^{3,6}	U ^{3,4,6}	X	X	X
*	Farmers market	P	P	P	P	P	P	X	P	X
56 5941	Apparel and accessory stores, sporting goods and related stores ¹⁰	U ⁵	U ^{2,6}	U ^{2,6}	U ^{2,6}	U ^{2,6}	U ^{3,4,6}	X	P ⁹	X
*	Furniture and home furnishings stores ¹⁰	U ²	U ^{2,6}	U ^{2,6}	U ^{2,6}	U ^{2,6}	U ^{3,4,6}	X	X	X
58	Eating and drinking places ¹⁰	U	U	U	U	U	U ^{3,4}	X	P	X
*	Brewpub ¹⁰	U	U	U	U	U	U ^{3,4}	X	P	X
5912	Drug stores ¹⁰	U ²	U ^{2,6}	U ^{2,6}	U ^{3,6}	U ^{3,6}	U ^{3,4,6}	X	X	X
5921	Liquor stores ¹⁰	U ²	X	X	U ^{2,6}	X	X	X	X	X
5932	Used goods: antiques/secondhand shops ¹⁰	U ³	U ^{3,6}	U ^{3,6}	U ^{3,6}	U ^{3,6}	U ^{3,4,6}	X	X	X

594	Book, stationery, video and art supply stores ¹⁰	U ^{2,7}	U ^{2,6,7}	U ^{2,6,7}	U ^{2,6,7}	U ^{2,6,7}	U ^{4,6,7}	X	P ⁷	X
594	Hobby, toy, game shops, photographic and electronic shops, jewelry stores ¹⁰	U ^{3,7}	U ^{3,6,7}	U ^{3,6,7}	U ^{3,6,7}	U ^{3,6,7}	U ^{3,4,6,7}	X	X	X
594 5992	Fabric and florist shops ¹⁰	U ²	U ^{3,6}	U ^{3,6}	U ^{2,6}	U ^{3,6}	U ^{3,4,6}	X	X	X
*	Personal medical supply stores ¹⁰	U ³	U ^{3,6}	U ^{3,6}	U ^{3,6}	U ^{3,6}	U ^{3,4,6}	X	X	X
*	Pet shops ¹⁰	U ³	U ^{3,6}	U ^{3,6}	U ^{3,6}	U ^{3,6}	U ^{3,4,6}	X	X	X
	<u>Marijuana Retailer</u>	X	X	X	X	X	X	X	X	X
	<u>Marijuana Producer</u>	X	X	X	X	X	X	X	X	X
	<u>Marijuana Processor</u>	X	X	X	X	X	X	X	X	X
	<u>Collective Garden</u>	X	X	X	X	X	X	X	X	X

Development Conditions:

1. Outdoor storage and/or sales area restrictions:

a. Applicable areas are prohibited along the frontage of designated pedestrian-oriented streets, except where the areas are designed as pedestrian-oriented spaces.

b. Applicable areas shall be limited in size to areas no more than 20 percent of the enclosed gross floor area of the applicable establishment.

2. Limited to 10,000 square feet gross floor area for each establishment.

3. Limited to 4,000 square feet gross floor area for each establishment.

4. Properties in the TC-B zone may include the subject use, as determined by the City, if it is contiguous to a TC-A zoned property and included in an approved unified zone development plan.

5. Limited to 40,000 square feet gross floor area for each establishment.

6. Use permitted only when provided within a building featuring a vertical mix of uses where the subject use is the ground floor and office and/or residential uses are provided on the upper floor or floors. The director may allow

flexibility to this requirement provided the overall plan meets the goals and policies of the Town Center Plan in terms of mixed-uses and pedestrian-oriented character.

7. Adult use facilities shall be prohibited within 660 feet of any residential zones, any other adult use facility, schools, licensed daycare centers, parks, community centers, public libraries or churches which conduct religious or educational classes for minors.

8. For all nonresidential uses subject to a size limitation in the TC-A or TC-B zones, the City may allow flexibility to the maximum size of individual businesses provided the director determines that the business is well-integrated with surrounding development and meets the goals and policies of the Town Center Plan. Factors in making this determination include the site design, building design, parking location and design, context, surrounding mix of uses, streetscape design, pedestrian amenities, compatibility with other businesses within the sub-zone and the entire Town Center, traffic impacts, and environmental quality.

9. Use permitted only when accessory to a permitted use. Such use shall be limited to 2,000 square feet gross floor area for each establishment.

10. The commercial square footage allocation established pursuant to SMC 21B.25.030, development condition No. 6 shall apply to these uses.