

August 8, 2022

## MEMORANDUM

**To:** Finance and Housing Committee  
**From:** Lise Kaye, Analyst  
**Subject:** CB 120392 – Cannabis Licensing Provisions

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On Thursday, August 11, the Finance and Housing Committee will discuss [Council Bill \(CB\) 120392](#), which would revise several licensing provisions for cannabis retailers, producers and processors doing business in or with the City of Seattle. Major revisions include a new license available through the Department of Facilities and Administrative Services (FAS) to individuals qualifying as “social equity” applicants, criteria defining that category of applicant, and replacing the term “marijuana” with “cannabis” in the Seattle Municipal Code (SMC).<sup>1</sup> CB 120392 would also expand the purposes for which the license may be used, in anticipation of possible state legislation that could allow on-premise consumption licenses, delivery licenses, and/or special event consumption licenses. The bill would delete the \$250 fees for premises reinspection and license reinstatement.

This memo provides state and city legislative context, describes key provisions of CB 120392, and identifies policy issues for Council consideration and outlines next steps.

### Background

In 2012, Washington State became one of the first two states to legalize adult recreational use of cannabis, following voter approval of Initiative 502. Cities, towns, and counties in Washington State may prohibit or designate appropriate zones for state-licensed cannabis businesses. The City has issued 45 retail licenses (all in the city) and 88 producer/processor licenses (51 in the city and 37 outside of the city). Please see Attachment 1 for a map of licensed cannabis businesses in the City and Attachment 2 for a list of the City-licensed producer/processor businesses outside the City.

### Racial Equity Toolkit

In 2018, FAS, together with the City’s Office of Economic Development, the Department of Construction and Inspections, and the Office for Civil Rights, initiated a Racial Equity Toolkit (RET) on Cannabis Licensing, initially focused on business licensing. Based on community feedback, the RET mission expanded to include:

- Access to licenses and capital;
- Access to business education and mentorship;
- Community reinvesting;
- Small Business Association (SBA) business plan support;

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<sup>1</sup> The following memo refers to “cannabis” rather than “marijuana,” consistent with current Washington State Law, unless referring to “medical marijuana” or to language/terminology from the current (August 2022) Seattle Municipal Code.

- Flexibility to pivot quickly as new barriers arise;
- Reinvesting proceeds into the Black community; and
- Rebuilding generational wealth.

At the March 3, 2022, Finance and Housing Committee meeting, FAS presented community and stakeholder recommendations from the RET. The recommendations included prioritizing benefits for equity efforts to communities most impacted by prior cannabis laws, making reparations for medical cannabis businesses closed due to state and city licensing requirements, and providing financial support for members of those impacted communities wishing to start new cannabis businesses.<sup>2</sup>

Table 1 describes the City’s cannabis-related legislation since passage of Initiative 502, from initial zoning and regulations to establishment of a City Marijuana Business License, as well as two subsequent increases in fees for the City license. With adoption of [Ordinance \(ORD\) 125703](#) in 2018, Council delegated authority to the FAS Director to adjust the license fees.

*Table 1. City of Seattle Cannabis-Related Legislation Following Passage of Initiative 502*

Date	Legislation	Effect
October 7, 2013	<a href="#">ORD 124326</a>	Established zoning and other regulations for the production, processing, selling, or delivery of cannabis in Seattle.
July 13, 2015	<a href="#">ORD 124807</a>	Required a City Marijuana Business License and established licensing fees.
November 21, 2016	<a href="#">ORD 125194</a>	Increased Marijuana Business License fees. <sup>3</sup>
November 19, 2018	<a href="#">ORD 125703</a>	Increased Marijuana Business License fees and delegated authority to the FAS Director to adjust the fees. <sup>4</sup>

Table 2 shows changes in the City’s Marijuana Business License fee from 2016 to the present. FAS reports that it has recovered 100% of its program costs since the 2019 fee increase.<sup>5</sup> In addition, the City of Seattle collected an average of \$1.5 million per (state fiscal) year since 2020 in sales tax revenue. City Business and Occupation Tax revenue from cannabis-related businesses have decreased somewhat in 2022 (\$195,000 YTD), but 2020 and 2021 averaged \$570,000.

<sup>2</sup> See staff memo for [CB 120391](#) for additional background, including additional detail about the RET

<sup>3</sup> Per the Ordinance 125194’s Summary and Fiscal Note, the City’s fees were not recovering FAS’s costs.

<sup>4</sup> Per the Ordinance 125703’s Summary and Fiscal Note, increased fees would support the FAS’s cost recovery and implementation of the new Accela Integrated Code Management System to manage code enforcement activities

<sup>5</sup> Cost recovery was 35% prior to the 2019 increase. Staff analysis of FAS’ cost recovery calculations is ongoing.

Table 2. Cannabis Annual Business License and Related Fees

Marijuana License Type	2016 (Ord 124807)		2017 (Ord 125194)		2019 (Ord 125703)		Proposed (CB 120392)	
	Annual Fee	Related Fees <sup>1</sup>	Annual Fee	Related Fees <sup>1</sup>	Annual Fee	Related Fees <sup>1</sup>	Annual Fee	Related Fee <sup>2</sup>
Inside City	\$1,000	\$250	\$1,500	\$250	\$3,500	\$250	\$3,500	\$250
Inside City - Social Equity Applicant	n/a	n/a	n/a	n/a	n/a	n/a	\$0	\$0
Outside City <sup>3</sup>	\$500	\$250	\$750	\$250	\$2,000	\$250	\$2,000	\$250
Outside City - Social Equity Applicant	n/a	n/a	n/a	n/a	n/a	n/a	\$0	\$0

<sup>1</sup> Fee for reinspection, reinstatement and relocation of physical address in Seattle

<sup>2</sup> Fee for relocation of physical address

<sup>3</sup> FAS reports that the City has been charging these fees for reinspection, reinstatement and relocation of physical address in Seattle but only for reinstatement outside Seattle. FAS anticipates that, should CB 120392 be enacted (which would eliminate all reinspection and reinstatement fees), FAS expects to continue to collect the relocation fee only from businesses within Seattle. Staff analysis is ongoing.

### Washington State Marijuana Social Equity Legislation

In 2020, [HB 2870](#) created the Marijuana Social Equity Program under the Washington State Liquor and Cannabis Board (LCB) to streamline retail licenses to people in communities disproportionately impacted by the enforcement of cannabis prohibition. It allows the LCB to prioritize its remaining unawarded licenses to “social equity applicants” or reissue them to existing licensees whose licenses have been canceled, revoked or forfeited. Under existing law, the City of Seattle would receive two of the 38 available licenses.<sup>6</sup> On August 3, 2022, the LCB approved [proposed draft rules](#), for which a public hearing will be held on September 14, 2022. The LCB could adopt the rules as soon as September 28, 2022. In addition, prior to accepting social equity license applications, the University of Washington will submit to the LCB and its Social Equity in Cannabis Task Force an analysis of the Task Force’s recommended criteria for a Disproportionately Impacted Area.

Also this year, the Washington legislature passed [HB 1210](#), replacing all references to “marijuana” in state law with the word “cannabis.” The bill stated that the use of the term “marijuana” in the United States has discriminatory origins and should be replaced with “the more scientifically accurate term “cannabis.”

<sup>6</sup> Although not passed in the 2022 legislative session, [legislation](#) could be reintroduced in 2023 to increase the number of social equity licenses available and allow them to be sited anywhere in the state.

## **Council Bill 120392**

The Executive prepared CB 120392 in response to community demands identified in the Cannabis RET, in anticipation of the State's issuance of social equity licenses, and to express the City's support for issuance of new cannabis business license types currently under consideration by the State's Social Equity in Cannabis Task Force. CB 120392 would revise the licensing provisions described below for cannabis retailers, producers and processors doing business in or with the City of Seattle.

### Social Equity Applicant

CB 120392 would create two new types of licenses for "social equity applicants" (one for businesses located in Seattle and one for those located outside of Seattle), with eligibility defined as follows:

- 1. An applicant who has at least fifty-one percent ownership and control by one or more individuals who have resided in a disproportionately impacted area for a period of time defined in rule by the Director after consideration of the time period established by the Washington State Liquor and Cannabis Board; or*
- 2. An applicant who has at least fifty-one percent ownership and control by at least one individual who has been convicted of a cannabis offense, a drug offense, or is a family member of such an individual;<sup>7</sup> or*
- 3. An applicant who meets criteria defined in rule by the Director after consideration of the criteria established by the Washington State Liquor and Cannabis Board.*

### Disproportionately Impacted Area

CB 120392 includes residence in a disproportionately impacted area, using the State's definition in [RCW 69.50.335](#), as shown below, as one consideration in qualifying as a social equity applicant. FAS will rely primarily on the State's data sources to identify these locations.

*"Disproportionately impacted area" means a census tract or comparable geographic area that satisfies the following criteria, which may be further defined in a rule by the Director after consideration of the criteria established by the Washington State Liquor and Cannabis Board:*

- 1. The area has a high poverty rate;*
- 2. The area has a high rate of participation in income-based federal or state programs;*
- 3. The area has a high rate of unemployment;*
- 4. The area has a high rate of arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis.*

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<sup>7</sup> LCB's proposed rules, issued August 3, 2022, include both drug offenses and cannabis offenses in a Social Equity Application Scoring Rubric, but only cannabis offenses are listed as social equity applicant requirements [Section 2(h)]. Staff review is ongoing.

### License Fees

CB 120392 would set annual cannabis license fees at zero for two new social equity licenses (one for businesses located in Seattle and the other for those located outside of Seattle). In addition, the fee for relocation of a physical address for a social equity applicant would be zero. The bill would also delete the \$250 fees for premises reinspection and license reinstatement. According to FAS, these fees are not needed to help meet the full cost of the regulatory program.

### Expanded Purposes

The Washington State Social Equity in Cannabis Task Force is currently considering recommendations for the legislature to establish new cannabis business license types. CB 120392 would expand the purposes for which a cannabis license may be used in the event that the legislature issues or authorizes local jurisdictions to issue on-premises consumption licenses, delivery licenses, and/or special event consumption licenses. It also expands eligibility for a City cannabis license to match any cannabis business practice licensed by the LCB license.

### Terminology

CB 120392 would replace “marijuana” with “cannabis” throughout SMC 6.500.

### **Policy Issues**

1. Eligibility Criteria – Timing and Authority – The City of Seattle’s cannabis regulations must be consistent with state law, including rules issued under the authority of specific enabling statutes and codified in the Washington Administrative Code (WAC). Recognizing that the LCB has yet to promulgate its final rules for social equity licenses, CB 120392 would authorize the FAS Director to further define the criteria for disproportionately impacted areas; establish a residency requirement; and, add a third to-be-determined set of criteria for social equity applicants after consideration of the LCB’s forthcoming rules.

#### Options:

- A. Postpone action on the CB 120392, pending LCB’s final rules; and/or
  - B. Require Council approval of any changes to eligibility criteria
  - C. Take no action
2. Cost Recovery Impacts – As noted above, Ordinance 125703 granted the FAS Director authority to set the cost recovery level for Marijuana Business Licenses. Adding a no fee license without making any adjustments to the existing license fees and/or to the City’s expenses (e.g., frequency of inspections or prioritizing enforcement) could reduce cost recovery for cannabis business licenses.

#### Options:

- A. Request an annual cost recovery report to Council
- B. Take no action

## **Potential Amendments**

To date, two potential amendments have been identified for the Committee's consideration and possible vote on August 17.

Amendment 1, sponsored by CM Herbold, would reduce license fees from \$3,500 to \$2,000 for small cannabis producers and transporters in the City of Seattle. This is based on a draft FAS proposal from 2020, which estimated the fiscal impact at \$4,500 per year.

Amendment 2, sponsored by CM Nelson, would prioritize social equity license applications from former owners of medical marijuana dispensaries who applied for but were not awarded state licenses after the state legalized cannabis possession and sale in 2012.

## **Next Steps**

CB 120392 will be discussed during a special meeting of the Finance and Housing Committee on August 11. Councilmembers who would like to propose amendments should contact Central Staff no later than noon on August 12. The Committee will discuss and potentially vote on amendments and the bill during the regularly scheduled Finance and Housing Committee meeting on August 17.

## **Attachments**

1. Cannabis Retailers, Producers and Processors in the City of Seattle
2. City Licensed Cannabis Businesses Located Outside Seattle

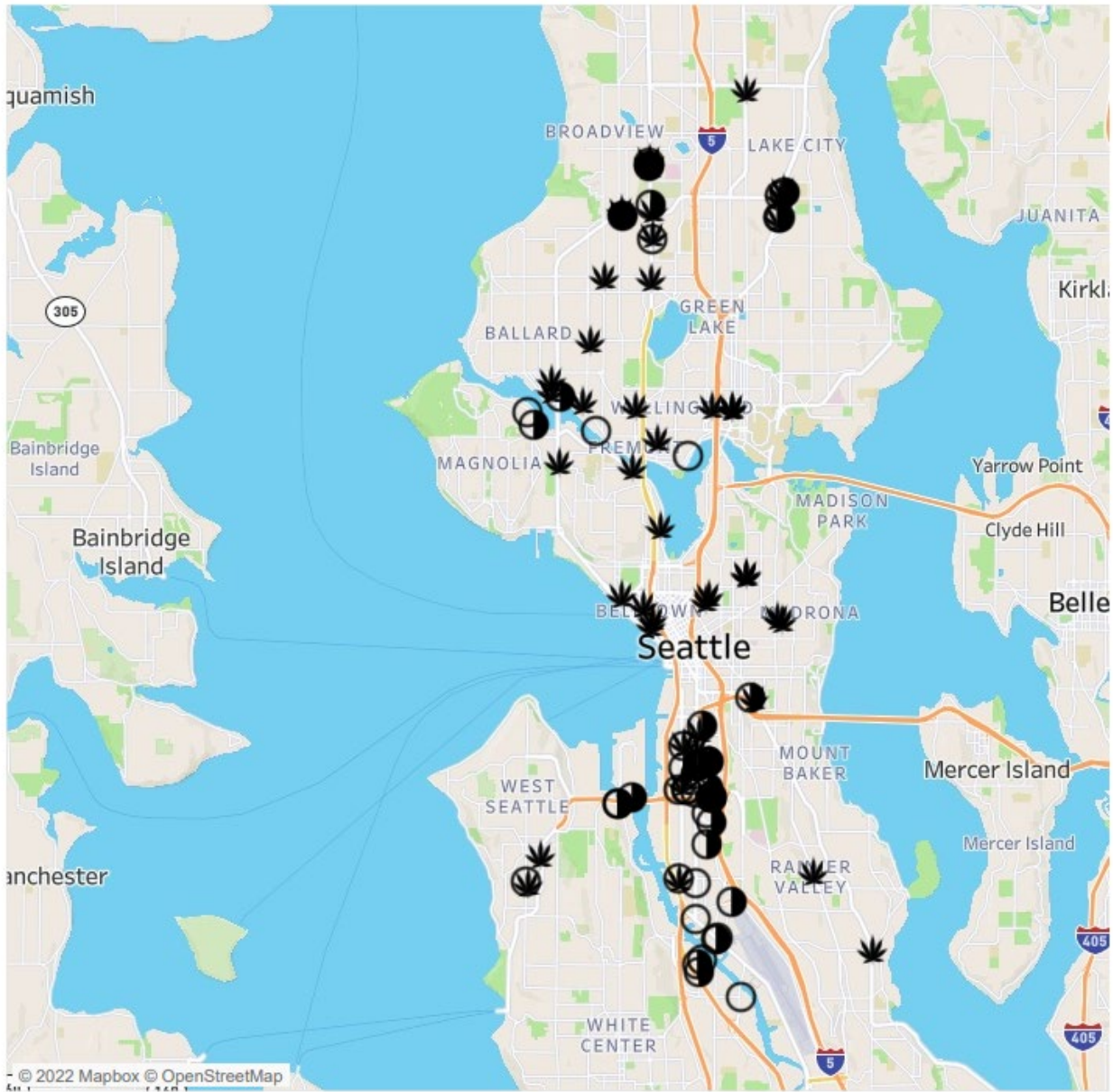
cc: Esther Handy, Director  
Aly Pennucci, Deputy Director  
Asha Venkataraman, Lead Analyst

Attachment 1. Cannabis Retailers, Producers and Processors in the City of Seattle



# Consumer Protection

Active Cannabis Licenses Last Data Update: 7/20/2022



## Attachment 2. City Licensed Cannabis Businesses Located Outside Seattle

Trade Name	License Category	Street Address	City State Zip
ARTIZEN CANNABIS COMPANY	Producer/Processor	2660 WILLAMETTE DR NE # F	LACEY, WA 98516
PHAT PANDA	Producer/Processor	2611 N WOODRUFF RD # B	SPOKANE VALLEY, WA 99206-4138
QUALITY GREEN TREES	Producer/Processor	26268 TWELVE TREE LN NW # 140	POULSBO, WA 98370
CREEKSIDE CANNABIS	Producer/Processor	33081 STATE ROUTE 20	SEDRO WOOLLEY, WA 98284-8044
TWO HEADS CO	Producer/Processor	1725 OCEAN AVE # BLDG 4	RAYMOND, WA 98577
DNA GARDENS	Producer/Processor	12720 278TH DR NE	GRANITE FALLS, WA 98252
GLW	Producer/Processor	3623 E PRINCETON AVE	SPOKANE, WA 99217
KOKUA SERVICES INC	Producer/Processor	8401 HOGUM BAY LN NE	LACEY, WA 98516-3125
FAIRWINDS MANUFACTURING	Producer/Processor	5913 NE 127TH AVE # 400	VANCOUVER, WA 98682
TOPSHELF	Producer/Processor	19705 60TH AVE NE # B	ARLINGTON, WA 98223-4769
DOC & YETI	Producer/Processor	2407 50TH AVE SW	TUMWATER, WA 98512
HARMONY FARMS	Producer/Processor	8575 COMMERCE PLACE DR NE # A	LACEY, WA 98516
SEATTLE'S PRIVATE RESERVE	Producer/Processor	17731 59TH AVE NE # 16A	ARLINGTON, WA 98223
OPTIMUM EXTRACTS	Producer/Processor	1501 CENTER ST	TACOMA, WA 98409-7923
GOLDEN TREE PRODUCTIONS	Producer/Processor	2524 N MACHIAS RD # UNIT A	LAKE STEVENS, WA 98258-9208
CANNA ORGANIX	Producer/Processor	374 BUSINESS PARK LOOP	SEQUIM, WA 98382-9491
TRAIL BLAZIN PRODUCTIONS	Producer/Processor	2005 DIVISION ST	BELLINGHAM, WA 98226
NORTHWEST CANNABIS SOLUTIONS	Producer/Processor	9603 LATHROP INDUSTRIAL DR SW	OLYMPIA, WA 98512
FORBIDDEN FARMS	Producer/Processor	1920 PORT OF TACOMA RD	TACOMA, WA 98421
AVITAS	Producer/Processor	25404 STATE ROUTE 9 NE	ARLINGTON, WA 98223
DAB DUDES HI GUYS	Producer/Processor	1445 19 B INDUSTRIAL WAY	LONGVIEW, WA 98632
BONDI FARMS	Producer/Processor	1401 INDUSTRIAL WAY	LONGVIEW, WA 98632
FIFTY FOLD INDUSTRIES	Producer/Processor	2709 N FELTS LN # STE 101	SPOKANE VALLEY, WA 99206
FIRELINE	Producer/Processor	17831 59TH AVE NE # 7	ARLINGTON, WA 98223-6303
JMS CONSULTANTS	Producer/Processor	1512 CENTER ST STE A	TACOMA, WA 98409-7903
SUSPENDED BRANDS	Producer/Processor	860 NE OLD BELFAIR HWY	BELFAIR, WA 98528-9613
AGRIJUANA	Producer/Processor	1810 SE COMMERCE AVE	BATTLE GROUND, WA 98604-8963
ROOT DOWN LLC	Producer/Processor	3830 E BOONE AVE	SPOKANE, WA 99202-4505
LANDRACE LABS	Producer/Processor	5845 192ND LN SW # 102	ROCHESTER, WA 98579
AGRO COUTURE	Producer/Processor	2602 S 38TH ST # PMB 292	TACOMA, WA 98409
SECRET GARDENS OF WASHINGTON	Producer/Processor	410 1DA ST W	BREMERTON, WA 98312-3134
FALCANNA	Producer/Processor	123 ELWHA RD	PORT ANGELES, WA 98362-9385
PIONEER NUGGETS	Producer/Processor	17835 59TH AVE NE # 8A	ARLINGTON, WA 98223-6303
VERDELUX CHOCOLATES	Producer/Processor	924 KENTUCKY ST	BELLINGHAM, WA 98225
SWIFTS GREEN LABS	Producer/Processor	45 RAYMOND SOUTH BEND RD	RAYMOND, WA 98577
GABRIEL LLC	Producer/Processor	29700 SE HIGH POINT WAY	ISSAQUAH, WA 98027-8886
SUBX	Producer/Processor	1419 WHITEHORN ST	FERNDALE, WA 98248-8923