

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

| | |
|----------------------|--|
| AGENDA TITLE: | Discussion of Proposed Ordinances Nos. 734 and 735 Regarding Collective Garden Regulations and Cannabis Regulations |
| DEPARTMENT: | City Manager's Office |
| PRESENTED BY: | Alex Herzog, Management Analyst |
| ACTION: | <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

The 2015 Washington State Legislature passed comprehensive legislation amending existing laws and adding new provisions regarding medical cannabis (marijuana) and recreational cannabis. The most notable changes are revision and remediation of the unregulated collective garden market via abolishment of collective gardens as a means to grow, process, buy, and, sell cannabis for medical use. And, recently, the State Liquor and Cannabis Board (LCB) began accepting applications for additional marijuana retailer licenses above the initial quota per jurisdiction. Shoreline has been allotted two additional retail marijuana licenses, for a total of four.

Proposed Ordinance No. 734 (Attachment A), would eliminate Collective Garden provisions from the City's municipal code. If Council were to adopt this ordinance, changes to the City's code regarding Collective Gardens would go into effect at midnight on June 30, 2016.

Proposed Ordinance No. 735 (Attachment B) establishes four categories for recreational marijuana retail, processing and producing and medical cannabis cooperatives on the City's Residential, Nonresidential, and Station Area Use Tables and adds a new buffer provision of 1,000 feet between retail operations.

At its December 17, 2015 meeting, the Planning Commission recommended both proposed ordinances for Council adoption.

RESOURCE/FINANCIAL IMPACT:

There is no direct significant financial impact of proposed Ordinances Nos. 734 and 735. While adoption of a 1,000 foot buffer between retail marijuana businesses and zoning restrictions (as included in Ordinance No. 735) may limit areas in the City where retail sales businesses may locate, the LCB has a more significant role in regulation via allotment and licensing of marijuana businesses.

RECOMMENDATION

No action is required as this item is for discussion purposes only. However, staff recommends that Council adopt proposed Ordinances Nos. 734 and 735 to delete Collective Garden provisions in the City's municipal code, and establish development codes related to marijuana businesses, including a 1,000 foot buffer between retail marijuana locations, respectively, when these ordinances are brought back for Council adoption on February 8, 2016.

Approved By: City Manager ***DT*** City Attorney ***MK***

BACKGROUND

On November 9, 2015, the City Council held a discussion on recent changes to state law and the number of ways in which local jurisdictions can impact or control the number and location of marijuana businesses. Specifically, Council expressed interest in adopting a regulation for marijuana retail businesses similar to an existing provision of Shoreline Municipal Code (20.40.275 (C)) relating to collective gardens. While this provision requires a 1,000 foot buffer between collective gardens, Council was interested in implementing a similar requirement of marijuana retail businesses.

Additionally, staff proposed to repeal collective garden provisions in the SMC effective midnight June 30, 2016 as state legislation prohibits collective gardens effective July 1, 2016. The staff report and supporting materials of the November 9, 2015 City Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2015/staffreport110915-9b.pdf>.

On December 17, 2015, the Planning Commission discussed and recommended that Council adopt proposed Ordinances Nos. 734 and 735. Proposed Ordinance No. 734 would, effective June 30, 2016, repeal provisions related to Collective Gardens in Regulatory License Fee schedules; repeal sections relating to Collective Gardens in Regulatory Business license sections; remove Collective Gardens from Non-residential and Station Area use tables; and repeal sections relating to Collective Gardens in zoning and use provisions. Proposed Ordinance No. 735 would require 1,000 feet between retailer locations to prevent clustering of these businesses and seek to limit the vehicular and pedestrian impacts to the surrounding community.

The Planning Commission also amended a recital ("WHEREAS" statement) in proposed Ordinance No. 735 in regards to the requirement that a medical cannabis cooperative may not be located closer than one mile from a marijuana retailer. While recital provisions are not codified and therefore have no regulatory authority, this amendment cannot be moved forward as the Planning Commission had no authority to modify this locational requirement.

RCW 69.51A.250(3) expressly states that "No cooperative may be located in any of the following areas: (a) within one mile of a marijuana retailer ..." Unlike RCW 69.50.331, which speaks to recreational marijuana licensing and grants the City authority to reduce the 1,000 foot buffer, the State has established for certain protected uses (e.g. parks, public transit, library), RCW 69.51A does not have parallel language. All medical cannabis cooperatives must conform to the RCW locational criteria.

The staff report and supporting materials of the December 17, 2015 Planning Commission discussion can be found at the following link:

<http://shorelinewa.gov/home/showdocument?id=24693>

DISCUSSION

Proposed Ordinance No. 734

Proposed Ordinance No. 734 would delete the following Collective Garden provisions in the City's code pursuant to SB 5052:

- **SMC 3.01: Fee schedules**
 - SMC 3.01.200(B)(5) Regulatory License Fee – Collective gardens is REPEALED in its entirety.
- **SMC 5.07.740-755: Article VIII: Collective Gardens**
 - SMC 5.07 Article VIII Collective Gardens is REPEALED in its entirety.
- **SMC 20.40.130: Nonresidential Uses Table**
 - Table 20.40.130 Non Residential Uses is amended to delete the specific land use of “Collective Gardens” from the use table.
- **SMC 20.40.160 Station Area Uses.**
 - Table 20.40.160 Station Areas Uses is amended to delete the specific land use of “Collective Garden” from the use table.
- **SMC 20.40.275: Collective Gardens**
 - SMC 20.40.275 Collective Gardens is REPEALED in its entirety effective June 30, 2016.

As proposed, these changes would go into effect at midnight on June 30, 2016.

Proposed Ordinance No. 735

Proposed Ordinance No. 735 establishes four categories for recreational marijuana retail, processing and producing and medical cannabis cooperatives on the City's Residential, Nonresidential, and Station Area Use Tables and adding a new buffer provision for retail operations as follows:

Section 3. SMC 20.40.445 Marijuana Operations. A new section, SMC 20.40.445, is added to the supplemental index criteria as follows:

SMC 20.40.445 Marijuana Operations.

Marijuana producers, processors, and retailers licensed by the State of Washington pursuant to RCW 69.50 are subject to the following requirements:

1. Marijuana retailers shall not be located closer the one thousand feet (measured from the main entrance of the retailer) from another marijuana retailer.

A 1,000 foot buffer between retail operations would prevent clustering of retail operations in close proximity to each other. This separation requirement further seeks to limit the impacts (vehicular and pedestrian) to the surrounding community.

FINANCIAL IMPACT

There is no direct significant financial impact of proposed Ordinances Nos. 734 and 735. While adoption of a 1,000 foot buffer between retail marijuana businesses and zoning restrictions (as included in Ordinance No. 735) may limit areas in the City where retail sales businesses may locate, the LCB has a more significant role in regulation via allotment and licensing of marijuana businesses.

RECOMMENDATION

No action is required as this item is for discussion purposes only. However, staff recommends that Council adopt proposed Ordinances Nos. 734 and 735 to delete Collective Garden provisions in the City's municipal code, and establish development codes related to marijuana businesses, including a 1,000 foot buffer between retail marijuana locations, respectively, when these ordinances are brought back for Council adoption on February 8, 2016.

ATTACHMENTS

- Attachment A – Proposed Ordinance No. 734 - Deleting Collective Garden Provisions in the City's Municipal Code
- Attachment B – Proposed Ordinance No. 735 - Amending the City's Development Code to Establish Regulations Related to Recreational and Medical Cannabis

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 734

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, REPEALING SECTION 5.07 ARTICLE VIII COLLECTIVE GARDENS OF CHAPTER 5.07 REGULATORY BUSINESS LICENSES AND SECTION 3.01.200(B)((8) OF THE BUSINESS LICENSE FEE TABLE IN CHAPTER 3.01, AND AMENDING SECTIONS 20.40.130, 20.40.160, AND 20.40.275 OF CHAPTER 20.40 OF THE SHORELINE MUNICIPAL CODE IN REGARDS TO ALL REGULATIONS RELATED TO RCW 69.51A COLLECTIVE GARDENS.

WHEREAS, with Ordinance Nos. 625, 643, 654, and 706, the City established zoning and business license regulations related to Collective Gardens authorized pursuant to RCW 69.51A.085; and

WHEREAS, in April 2015, the Legislature passed Second Substitute Senate Bill 5052 (SSSB 5052) establishing the Cannabis Patient Protection Act; and

WHEREAS, SSSB 5052 expressly repealed RCW 69.51A.085 effective July 1, 2016; and,

WHEREAS, given the repeal of RCW 69.51A.085, the City's regulations are no longer legally sustainable; and

WHEREAS, pursuant to RCW 36.70A.106, notice of the City's intent repeal SMC 20.40.130, 20.40.160, and 20.40.275 was sent to the Washington State Department of Commerce; and

WHEREAS, since Title 20 regulations are being amended, the Planning Commission, at properly noticed meetings, has reviewed the amendments to Title 20 and held a properly noticed public hearing on December 17, 2015, to consider the amendments to Title 20; and

WHEREAS, the City Council, at properly noticed meetings, has considered the entire public record, the Legislature's passage of SSSB 5052 and its repeal of RCW 69.51A.085, and the Planning Commission's recommendation in regards to Title 20 amendments;

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

Section 1. SMC 5.07 Regulatory Business Licenses. SMC 5.07 Article VIII Collective Gardens is REPEALED in its entirety.

Section 2. SMC 3.01 Fee Schedules. SMC 3.01.200(B)(5) Regulatory License Fee – Collective gardens is REPEALED in its entirety.

Section 3. SMC 20.40.275 Collective Gardens. SMC 20.40.274 Collective gardens is REPEALED in its entirety.

Section 4. SMC 20.40.130 Non Residential Uses. Table 20.40.130 Non Residential Uses is amended to delete the specific land use of “Collective Gardens” from the use table.

Section 5. SMC 20.40.160 Station Area Uses. Table 20.40.160 Station Areas Uses is amended to delete the specific land use of “Collective Garden” from the use table.

Section 6. Severability. If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

Section 7. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect on July 1, 2016 at 12:01 AM.

PASSED BY THE CITY COUNCIL ON FEBRUARY 8, 2016

Mayor Christopher Roberts

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2016
Effective Date: _____, 2016

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 735

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,
AMENDING TITLE 20 UNIFIED DEVELOPMENT CODE OF THE
SHORELINE MUNICIPAL CODE TO ESTABLISH DEVELOPMENT
REGULATIONS RELATED TO RECREATIONAL MARIJUANA AND
MEDICAL CANNABIS.**

WHEREAS, the voters of the State of Washington approved Initiative 502, authorizing the licensing and regulation of marijuana production, distribution, and sale to persons over 21 years of age, commonly referred to as recreational marijuana; and

WHEREAS, Initiative 502 has been codified in the Revised Code of Washington (RCW) Chapter 69.50 and this RCW establishes three types of license categories – Marijuana Producer, Marijuana Processor, and Marijuana Retailer; and

WHEREAS, RCW 69.50 establishes one thousand feet as an appropriate buffer for all license categories and the advertisements for the same from certain types of facilities; and

WHEREAS, the City believes that utilizing this same buffer distance to prevent the proliferation and/or clustering of retail marijuana operations is in the best interests of the public health, safety, and welfare of the citizens of the City; and

WHEREAS, with the adoption of Section 26 of Engrossed Substitute Senate Bill 5052 in April 2015, the Washington State Legislature added a new section to RCW 69.51A, establishing Medical Cannabis Cooperatives so as to provide marijuana only for the medical use of the cooperative's members; and

WHEREAS, the new legislation for Medical Cannabis Cooperatives establishes criteria for the location and operation of the cooperative including that it must be location in a participant's domicile, no closer than one mile from a marijuana retailer, and only one cooperative per tax parcel; and

WHEREAS, pursuant to RCW 36.70A.106, notice of the City's intent to amend Title 20 to include these regulations was sent to the Washington State Department of Commerce; and

WHEREAS, the Planning Commission, at properly noticed meetings, reviewed the amendments to Title 20 and held a properly noticed public hearing on December 17, 2015, to consider the amendments to Title 20; and

WHEREAS, the City Council, at properly noticed meetings, has considered the entire public record and the Planning Commission's recommendation in regards to Title 20 amendments;

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

Section 1. SMC 20.40.130 Nonresidential uses. Table 20.40.130 Nonresidential uses is amended as follows:

Table 20.40.130 Nonresidential Uses

| NAICS # | SPECIFIC LAND USE | R4- R6 | R8- R12 | R18- R48 | TC-4 | NB | CB | MB | TC-1, 2 & 3 |
|-----------------------|--|-----------|------------|-------------|------|-----|-----|-----|----------------|
| RETAIL/SERVICE | | | | | | | | | |
| 532 | Automotive Rental and Leasing | | | | | | P | P | P only in TC-1 |
| 81111 | Automotive Repair and Service | | | | | P | P | P | P only in TC-1 |
| 451 | Book and Video Stores/Rental (excludes Adult Use Facilities) | | | C | C | P | P | P | P |
| 513 | Broadcasting and Telecommunications | | | | | | | P | P |
| 812220 | Cemetery, Columbarium | C-i | C-i | C-i | C-i | P-i | P-i | P-i | P-i |
| | Houses of Worship | C | C | P | P | P | P | P | P |
| | Collective Gardens | | | | | P-i | P-i | P-i | |
| | Construction Retail, Freight, Cargo Service | | | | | | | P | |
| | Daycare I Facilities | P-i | P-i | P | P | P | P | P | P |
| | Daycare II Facilities | P-i | P-i | P | P | P | P | P | P |
| 722 | Eating and Drinking Establishments (Excluding Gambling Uses) | C-i | C-i | C-i | C-i | P-i | P-i | P-i | P-i |
| 812210 | Funeral Home/Crematory | C-i | C-i | C-i | C-i | | P-i | P-i | P-i |
| 447 | Fuel and Service Stations | | | | | P | P | P | P |
| | General Retail Trade/Services | | | | | P | P | P | P |
| 811310 | Heavy Equipment and Truck Repair | | | | | | | P | |
| 481 | Helistop | | | S | S | S | S | C | C |

Table 20.40.130 Nonresidential Uses

| NAICS # | SPECIFIC LAND USE | R4- R6 | R8- R12 | R18- R48 | TC-4 | NB | CB | MB | TC-1, 2 & 3 |
|----------------------------|---|-----------|------------|---|----------|------------|------------|------------|----------------|
| 485 | Individual Transportation and Taxi | | | | | | C | P | P only in TC-1 |
| 812910 | Kennel or Cattery | | | | | | C-i | P-i | P-i |
| | Library Adaptive Reuse | P-i | P-i | P-i | P-i | P-i | P-i | P-i | P-i |
| 31 | Light Manufacturing | | | | | | | S | P |
| | <u>Marijuana Operations – Medical Cooperative</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| | <u>Marijuana Operations - Retail</u> | | | | | <u>P-i</u> | <u>P-i</u> | <u>P-i</u> | <u>P-i</u> |
| | <u>Marijuana Operations - Processer</u> | | | | | | | <u>S</u> | <u>P-i</u> |
| | <u>Marijuana Operations - Producer</u> | | | | | | | <u>P-i</u> | |
| 441 | Motor Vehicle and Boat Sales | | | | | | | P | P only in TC-1 |
| | Professional Office | | | C | C | P | P | P | P |
| 5417 | Research, Development and Testing | | | | | | | P | P |
| 484 | Trucking and Courier Service | | | | | | P-i | P-i | P-i |
| 541940 | Veterinary Clinics and Hospitals | | | C-i | | P-i | P-i | P-i | P-i |
| | Warehousing and Wholesale Trade | | | | | | | P | |
| | Wireless Telecommunication Facility | P-i | P-i | P-i | P-i | P-i | P-i | P-i | P-i |
| | | | | | | | | | |
| P = Permitted Use | | | | S = Special Use | | | | | |
| C = Conditional Use | | | | -i = Indexed Supplemental Criteria | | | | | |

Section 2. SMC 20.40.160 Stations Area Uses. Table 20.40.160 Station Area Uses is amended as follows:

Table 20.40.160 Station Area Uses

| NAICS # | SPECIFIC LAND USE | MUR-35' | MUR-45' | MUR-70' |
|--------------------|--|-----------------------------------|-----------------------------------|----------------|
| RESIDENTIAL | | | | |
| | Accessory Dwelling Unit | P-i | P-i | P-i |
| | Affordable Housing | P-i | P-i | P-i |
| | Apartment | P | P | P |
| | Bed and Breakfast | P-i | P-i | P-i |
| | Boarding House | P-i | P-i | P-i |
| | Duplex, Townhouse, Rowhouse | P-i | P-i | P-i |
| | Home Occupation | P-i | P-i | P-i |
| | Hotel/Motel | | | P |
| | Live/Work | P (Adjacent to Arterial Street) | P | P |
| | Microhousing | | | |
| | Single-Family Attached | P-i | P-i | P-i |
| | Single-Family Detached | P-i | | |
| | Tent City | P-i | P-i | P-i |
| COMMERCIAL | | | | |
| | Book and Video Stores/Rental (excludes Adult Use Facilities) | P (Adjacent to Arterial Street) | P (Adjacent to Arterial Street) | P |
| | Collective Garden | | | |
| | House of Worship | C | C | P |
| | Daycare I Facilities | P | P | P |
| | Daycare II Facilities | P | P | P |
| | Eating and Drinking Establishment (Excluding Gambling Uses) | P-i (Adjacent to Arterial Street) | P-i (Adjacent to Arterial Street) | P-i |

Table 20.40.160 Station Area Uses

| NAICS # | SPECIFIC LAND USE | MUR-35' | MUR-45' | MUR-70' |
|--|---|-----------------------------------|-----------------------------------|----------|
| | General Retail Trade/Services | P-i (Adjacent to Arterial Street) | P-i (Adjacent to Arterial Street) | P-i |
| | Individual Transportation and Taxi | | | P -A |
| | Kennel or Cattery | | | C -A |
| | <u>Marijuana Operations – Medical Cooperative</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| | <u>Marijuana Operations - Retail</u> | | | |
| | <u>Marijuana Operations - Processor</u> | | | |
| | <u>Marijuana Operations - Producer</u> | | | |
| | Mini-Storage | | C –A | C -A |
| | Professional Office | P-i (Adjacent to Arterial Street) | P-i (Adjacent to Arterial Street) | P |
| | Research, Development and Testing | | | P |
| | Veterinary Clinic and Hospital | | | P-i |
| | Wireless Telecommunication Facility | P-i | P-i | P-i |
| EDUCATION, ENTERTAINMENT, CULTURE, AND RECREATION | | | | |
| | Amusement Arcade | | P –A | P -A |
| | Bowling Center | | P-i (Adjacent to Arterial Street) | P |
| | College and University | | | P |
| | Conference Center | | P-i (Adjacent to Arterial Street) | P |
| | Elementary School, Middle/Junior High School | C | C | P |
| | Library | | P-i (Adjacent to | P |

Table 20.40.160 Station Area Uses

| NAICS # | SPECIFIC LAND USE | MUR-35' | MUR-45' | MUR-70' |
|-------------------|--|---------|-----------------------------------|---------|
| | | | Arterial Street) | |
| | Museum | | P-i (Adjacent to Arterial Street) | P |
| | Outdoor Performance Center | | P –A | P -A |
| | Parks and Trails | P | P | P |
| | Performing Arts Companies/Theater (excludes Adult Use Facilities) | | P –A | P -A |
| | School District Support Facility | | C | C |
| | Secondary or High School | C | C | P |
| | Specialized Instruction School | | P-i (Adjacent to Arterial Street) | P |
| | Sports/Social Club | | P-i (Adjacent to Arterial Street) | P |
| | Vocational School | | P-i (Adjacent to Arterial Street) | P |
| GOVERNMENT | | | | |
| | Fire Facility | | C-i | C-i |
| | Police Facility | | C-i | C-i |
| | Public Agency Office/Yard or Public Utility Office/Yard | S | S | S |
| | Utility Facility | C | C | C |
| HEALTH | | | | |
| | Hospital | C | C | C |
| | Medical Lab | C | C | C |
| | Medical Office/Outpatient Clinic | | P-i (Adjacent to | P |

Table 20.40.160 Station Area Uses

| NAICS # | SPECIFIC LAND USE | MUR-35' | MUR-45' | MUR-70' |
|--------------|--------------------------------------|---------|-----------------------------------|---------|
| | | | Arterial Street) | |
| | Nursing and Personal Care Facilities | | P-i (Adjacent to Arterial Street) | P |
| OTHER | | | | |
| | Animals, Small, Keeping and Raising | P-i | P-i | P-i |
| | Light Rail Transit System/Facility | P-i | P-i | P-i |
| | Transit Park and Ride Lot | | S | P |
| | Unlisted Uses | P-i | P-i | P-i |

P = Permitted Use

C = Conditional Use

S = Special Use

-i = Indexed Supplemental Criteria

A= Accessory = Thirty percent (30%) of the gross floor area of a building or the first level of a multi-level building.

Section 3. SMC 20.40.445 Marijuana Operations. A new section, SMC 20.40.445, is added to the supplemental index criteria as follows:

SMC 20.40.445 Marijuana Operations.

A. Marijuana producers, processors, and retailers licensed by the State of Washington pursuant to RCW 69.50 are subject to the following requirements:

- 1. Marijuana retailers shall not be located closer the one thousand feet (from another marijuana retailer.**

Section 4. Severability. If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect within five (5) days of publication.

PASSED BY THE CITY COUNCIL ON FEBRUARY 8, 2016

Mayor Christopher Roberts

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2016

Effective Date: _____, 2016