

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 735 Regarding Cannabis Regulations
DEPARTMENT:	City Manager's Office
PRESENTED BY:	Alex Herzog, Management Analyst
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input 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. 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. 735 (Attachment A) 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.

Since the Council's and Planning Commissions' meetings at which collective garden regulations and cannabis regulations were discussed on November 9 and December 17, respectively, the LCB has finalized allocation of additional marijuana retail locations throughout the state. Shoreline received two additional retail licenses for a total of four.

On January 25, Council discussed proposed Ordinance No. 735 as recommend by the Planning Commission and a majority of Councilmembers were in favor of removing provisions requiring a 1,000 foot buffer between retail marijuana locations. Councilmembers were not concerned about potential clustering with only four total marijuana retailers allocated to the City.

RESOURCE/FINANCIAL IMPACT:

There is no direct significant financial impact of proposed Ordinance No. 735.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 735 to establish development regulations related to marijuana businesses after modifying the Planning Commission's recommendation by removing provisions requiring a 1,000 foot buffer

between retail marijuana locations as shown in proposed new section SMC 20.40.445 and removing the Indexed Supplemental Criteria references in SMC Table 20.40.130.

Approved By: City Manager **DT** City Attorney **JA-T**

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 for 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. 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. This Ordinance would also add the four categories of marijuana operations (cooperative, retailer, processor, and producer) to the zoning use tables.

In addressing this issue, the Planning Commission 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 as it is based on state law.

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>

Since the Council’s and Planning Commissions’ meetings in late-2015, the LCB finalized allocation of additional marijuana retail locations throughout the state. Shoreline received two additional retail licenses for a total of four.

On January 25, Council discussed proposed Ordinances 734 and 735 as recommended by the Planning Commission and a majority of Councilmembers were in favor of removing provisions requiring a 1,000 foot buffer between retail marijuana locations. Councilmembers were no longer concerned about potential clustering with only four total marijuana retailers allocated to the City.

The staff report and supporting materials of the January 25, 2016 City Council discussion can be found at the following link:
<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2016/staffreport012516-8c.pdf>.

DISCUSSION

As proposed at the January 25 meeting, 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 adds a new buffer provision for retail operations.

During the January 25 Council meeting, a majority of Councilmembers were supportive of moving forward proposed Ordinance No. 735 for adoption, but were also in favor of removing provisions requiring a 1,000 foot buffer between retail marijuana locations. Councilmembers were not concerned about potential clustering with only four total marijuana retailers allocated to the City. To remove the buffer provision, proposed Ordinance No. 735 would have to be amended to delete Section 3 which states:

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 than one thousand feet (from another marijuana retailer).

As proposed Ordinance No. 735 represents the Planning Commission's recommendation, modifications to the Commission's recommendation must be moved on the dais by Council. If a Councilmember is interested in making this amendment, the Councilmember should:

“Move to modify the Planning Commission's recommendation in regard to Ordinance No. 735 by deleting Section 3 of the Ordinance in its entirety so as to not require a 1000 foot separation between marijuana retail operations”

Also, staff recommends that the Planning Commission's recommendation also be modified to remove Indexed Supplemental Criteria references in Table 20.40.130

Nonresidential Uses relating to recreational marijuana retail, processing and producing if the 1,000 foot separation will not be utilized. Other than the separation, no other indexed supplemental criteria were discussed or proposed and references to such in the table would be confusing to users.

As proposed Ordinance No. 735 represents the Planning Commission's recommendation, modifications to the Commission's recommendation must be moved on the dais by Council. If a Councilmember is interested in making this amendment, the Councilmember should:

“Move to modify the Planning Commission’s recommendation by removing the Indexed Supplemental Criteria references in Table 20.40.130 Nonresidential Uses relating to recreational marijuana retail, processing and producing.”

FINANCIAL IMPACT

There is no direct significant financial impact of proposed Ordinance No. 735.

RECOMMENDATION

Staff recommends that Council adopt proposed Ordinance No. 735 to establish development regulations related to marijuana businesses after modifying the Planning Commission's recommendation by removing provisions requiring a 1,000 foot buffer between retail marijuana locations as shown in proposed new section SMC 20.40.445 and removing the Indexed Supplemental Criteria references in SMC Table 20.40.130.

ATTACHMENTS

Attachment A – 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. 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>	P	P	P
	<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>P = Permitted Use C = Conditional Use</p> <p>S = Special Use -i = Indexed Supplemental Criteria</p> <p>A= Accessory = Thirty percent (30%) of the gross floor area of a building or the first level of a multi-level building.</p>
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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