

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Staff Report on Proposed Changes and Additions to Shoreline Municipal Code Regarding Cannabis (Marijuana)
DEPARTMENT: City Manager's Office
PRESENTED BY: Alex Herzog, Management Analyst

Public Hearing
 Discussion

Study Session
 Update

Recommendation
 Other

INTRODUCTION

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 and will be determining the demand for marijuana producers, processors and retailers statewide.

On November 9, 2015, the City Council held a discussion on these recent changes to state law and the number of ways in which local jurisdictions can impact or control the number and location of 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 is interested in implementing a similar requirement of marijuana retail businesses. Additionally, staff proposes 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>.

BACKGROUND

Prior to the 2015 State Legislative session, medical and recreational marijuana laws had the two industries existing separately in Washington State. Regulation and licensing of medical marijuana (now medical cannabis) in the form of collective gardens, which in practice operated as storefronts for patients prescribed cannabis as a medical treatment and were not handled by the State but instead were left to cities to regulate. Cities took many different approaches to regulation with some jurisdictions regulating loosely and others very actively.

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Planning Director _____

In contrast, recreational marijuana businesses, since their inception, are subject to special taxes and a number of rules about their operation established by the state LCB.

There are two clearly separate laws regarding this drug; one dealing with medical cannabis and the other dealing with the recreational use of marijuana by persons 21 years of age and older. Legislation from the 2015 session has overhauled the medical and recreational environment. 2nd Substitute Senate Bill (SB) 5052 put the medical cannabis system under the jurisdiction of the LCB, and state licenses will be required for anyone making retail sales of medical cannabis or producing or processing medical cannabis for retail sale. Businesses that are now operating as medical cannabis collective gardens will either have to make the shift to operating as licensed cannabis businesses, with all of the record-keeping that is applicable to recreational cannabis producers, processors, and retailers, or to forming a cooperative which may only serve up to four (4) members. The statutes regarding collective gardens were repealed by SB 5052, effective July 1, 2016, because medical cannabis has been combined with recreational cannabis businesses with the exception of cooperatives which will be regulated by the LCB.

The other important piece of legislation passed during the 2015 State legislative session was House Bill (HB) 2136 which granted cities the authority to reduce the 1000-foot buffer zones required by RCW 69.50.331(8) around certain types of facilities within which licensed producers, processors, or retailers cannot be located. The buffer zones can be reduced to not less than 100 feet from recreation centers or facilities, child care centers, public parks, public transit centers, or game arcades admitting minors. This authority to adjust buffer distances does not apply to elementary or secondary schools or to playgrounds (Section 301(8)); all categories of marijuana businesses and cannabis cooperatives must always be at least 1,000 feet from these entities.

On October 12, 2015, the LCB reopened the license period for retail stores to allow additional licenses to be issued to address the needs of the medical market. The City, on November 17, received its first notice of application as a result of the LCB's acceptance of new retail applicants, seeking a license for a retail operation with a medical endorsement. The LCB may grant more licenses for operation in the City and a limit on the number of businesses has not been set by the LCB. Amending and adding provisions to the SMC that address these changes and reflect the City Council discussion on November 9 should be considered soon as the LCB may issue more licenses for marijuana businesses in the coming months.

PROPOSAL & ANALYSIS

Recently-enacted state legislation and a City Council discussion on November 9, 2015, has directed the proposed SMC provisions including:

Proposed Ordinance No. 734 (Attachment A), deleting Collective Gardens 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.

These changes would go into effective at midnight on June 30, 2016.

Proposed Ordinance No. 735 (Attachment B) establishing 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.

The reason for requiring separation between retail operations is to prevent the 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.

Due to the condensed schedule mostly governed by the LCB, a hearing is scheduled for tonight’s meeting to gather feedback from the public on these proposed changes to the SMC, and the Commission is being asked to consider a recommendation to the City Council on proposed Ordinances 734 and 735.

TIMING AND SCHEDULE

- HB 2136 was delivered to and enacted by the Governor on June 30, 2015, and on April 24, 2015, Governor Inslee approved SB 5052 (with some section vetoes).

- On October 12, 2015, the LCB began accepting new applications for retail licenses.
- November 9, 2015, City Council discusses cannabis updates and expresses interest in 1,000 foot buffer between retail cannabis business.
- December 17, 2015: Planning Commission holds public hearing on, and discusses proposed changes and additions to the SMC and makes a recommendation to the City Council on Ordinances 734 and 735.
- January 25, 2016: City Council discusses proposed Ordinances 734 and 735.
- February 8, 2016: City Council considers adoption of proposed Ordinances 734 and 735.
- Effective July 1, 2016, SB 5052 repeals all provisions regarding collective gardens and, if adopted, Ordinance 734 would repeal Shoreline's Collective Garden regulations.

RECOMMENDATION

Staff recommends the Planning Commission discuss the proposed changes to the SMC, gather and consider public feedback and make a recommendation to the City Council on proposed Ordinances 734 and 735.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 734

Attachment B – Proposed Ordinance No. 735