

Planning Commission Meeting Date: December 17, 2015

Agenda Item

**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.

**Approved By:** Project Manager \_\_\_\_\_

**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. 2<sup>nd</sup> 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**

## 6a. Public Hearing Staff Report - Marijuana

- 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).

## 6a. Public Hearing Staff Report - Marijuana

- 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

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 has 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 Section 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 \_\_\_\_\_, to consider the amendments to Title 20; and

WHEREAS, the City Council, a 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;

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

**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

## 6a. Marijuana - Attachment A, Ordinance 734

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 \_\_\_\_\_, 2016

\_\_\_\_\_  
Mayor Shari Winstead

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;

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, 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 and the Planning Commission's recommendation in regards to Title 20 amendments;

## 6a. Marijuana - Attachment B - Ordinance 735

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

**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
<b>RETAIL/SERVICE</b>									
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



## 6a. Marijuana - Attachment B - Ordinance 735

**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
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
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
<b>P = Permitted Use</b> <span style="margin-left: 200px;"><b>S = Special Use</b></span>									

## 6a. Marijuana - Attachment B - Ordinance 735

**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
<b>C = Conditional Use</b>					<b>-i = Indexed Supplemental Criteria</b>				

**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'
<b>RESIDENTIAL</b>				
	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
<b>COMMERCIAL</b>				

## 6a. Marijuana - Attachment B - Ordinance 735

Table 20.40.160 Station Area Uses

NAICS #	SPECIFIC LAND USE	MUR-35'	MUR-45'	MUR-70'
	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
	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
<b>EDUCATION, ENTERTAINMENT, CULTURE, AND RECREATION</b>				

## 6a. Marijuana - Attachment B - Ordinance 735

Table 20.40.160 Station Area Uses

NAICS #	SPECIFIC LAND USE	MUR-35'	MUR-45'	MUR-70'
	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 Arterial Street)	P
	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
<b>GOVERNMENT</b>				
	Fire Facility		C-i	C-i

## 6a. Marijuana - Attachment B - Ordinance 735

Table 20.40.160 Station Area Uses

NAICS #	SPECIFIC LAND USE	MUR-35'	MUR-45'	MUR-70'
	Police Facility		C-i	C-i
	Public Agency Office/Yard or Public Utility Office/Yard	S	S	S
	Utility Facility	C	C	C
<b>HEALTH</b>				
	Hospital	C	C	C
	Medical Lab	C	C	C
	Medical Office/Outpatient Clinic		P-i (Adjacent to Arterial Street)	P
	Nursing and Personal Care Facilities		P-i (Adjacent to Arterial Street)	P
<b>OTHER</b>				
	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.

**6a. Marijuana - Attachment B - Ordinance 735**

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 \_\_\_\_\_, 2016

\_\_\_\_\_  
Mayor Shari Winstead

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jessica Simulcik-Smith  
City Clerk

\_\_\_\_\_  
Margaret King  
City Attorney

Date of Publication: \_\_\_\_\_, 2016

Effective Date: \_\_\_\_\_, 2016