

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended), Increasing the Number of Permitted Recreational Marijuana Retail Stores to Not More than Ten and Reducing the Required Separation Between Stores to Five-Hundred Feet

_____ Briefing
 _____ Proposed Action
 _____ Consent
 _____ Action
 _____ First Reading
 _____ Second Reading
 _____ Third Reading
 _____ Public Hearing
 _____ Budget Advisory

COUNCIL BILL # CB1804-18
 Originating Department Planning
 Contact Person Allan Giffen
 Phone Number 425-257-8725
 FOR AGENDA OF May 2, 2018

Initialed by:
 Department Head _____
 Administration _____
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	Ordinance No. 3846-16 on March 16, 2016	Ordinance	Planning, Legal

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT: After the Washington State Legislature merged the medical marijuana regulatory system with the recreational marijuana regulatory system in 2015, the Washington State Liquor and Cannabis Board (WSLCB) increased the number of recreational marijuana retail stores it would permit in Everett from five to ten. In 2016, the City Council adopted Ordinance No. 3846-16, which established a limit on the number of recreational marijuana retail stores to not more than five. The ordinance provided for a review by City Council within two years to determine if the number of permitted stores should be increased. The Planning Commission held a public workshop and a public hearing on the City's current regulations, and recommends that the City Council amend the current regulations as follows:

1. Increase the permitted number of recreational marijuana retail stores from five to ten; and
2. Decrease the minimum required separation between recreational marijuana retail stores from two-thousand five-hundred feet to five-hundred feet.

RECOMMENDATION:

Adopt Ordinance Amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended), Increasing the Number of Permitted Recreational Marijuana Retail Stores to Not More than Ten and Reducing the Required Separation Between Stores to Five-Hundred Feet.



ORDINANCE NO. _____

An Ordinance Amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended), Increasing the Number of Permitted Recreational Marijuana Retail Stores to Not More than Ten and Reducing the Required Separation Between Stores to Five-Hundred Feet.

WHEREAS, the City Council finds the following:

1. The City Council adopted Ordinance No. 3486-16, establishing a limit on the number of permitted recreational marijuana retail stores in the city limits of Everett to not more than five;
2. The Washington State Liquor and Cannabis Board (WSLCB) will allow up to ten recreational marijuana stores within the Everett city limits;
3. Subsection c.13 of Section 2 of Ordinance No. 3486-16, provided for review of the number of retail stores to be permitted by June 1, 2018;
4. The Planning Commission held a public workshop on February 20, 2018, at which they requested additional information from City staff regarding a variety of standards in the City's current regulations for recreational marijuana retail stores, and took public testimony about the current regulations;
5. The Planning Commission held a public hearing on April 3, 2018, to consider information provided by City staff and to take additional public testimony;
6. The information provided by City staff indicates that:
 - a. only one other city in Washington that allows for recreational marijuana retail stores allows fewer stores than allowed by the WSLCB;
 - b. other cities do have minimum separation requirements between recreational marijuana retail stores, but none as large as Everett's standard of 2,500 feet;
 - c. the Police Department review of calls for service from or about recreational marijuana stores in the City of Everett is not conclusive about any increase in calls service in comparison to other retail uses in the vicinity of recreational marijuana retail stores.

WHEREAS, the City Council concludes the following:

1. Although there are no policies in the Comprehensive Plan related to recreational marijuana retail stores, the proposed amendment to the Zoning Code is not inconsistent with the Everett Growth Management Comprehensive Plan;
2. The proposed amendment bears a substantial relation to public health, safety or welfare;
3. The proposed amendment to the Zoning Code provides for the best long-term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 2 of Ordinance No. 3486-16 (EMC 19.39.145, as amended), which reads as follows:

- C. Retailers. Marijuana retailers may operate in the city pursuant to the following restrictions:
1. Marijuana retailers must comply with all requirements of state law, Washington State Liquor and Cannabis Board and the city;
 2. Marijuana retailers may locate only within the B-2, B-3, BMU, C-1, C-1R, C-2, E-1, E-1MUO, and M-2 zones;
 3. Marijuana retailers may not locate in neighborhood business (B-1) zones;
 4. Marijuana retailers may not locate in a building in which nonconforming retail uses have been established in residential zones (R-S, R-1, R-1(A), R-2, R-2(A), R-3, R-3(L), R-4, and R-5 zones);
 5. Marijuana retailers may not locate within one thousand feet of any parcel containing an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;
 6. Marijuana retailers may not locate within two thousand five hundred feet of any other legally established marijuana retailer;

7. Customer parking for marijuana retailers must be on the public street side of the structure in which the marijuana retailer is located and may not be off of or adjacent to an alley. However, staff parking and business deliveries may occur on the alley side of the structure;
8. Vehicular access to the parking lot for a marijuana retailer shall be from the public street frontage and may not be from an alley. Any property located on a street from which vehicular access to the site from the street is prohibited by the city engineer shall not be allowed for use as a marijuana retailer;
9. Marijuana retailers shall not be allowed on any parcel containing a residential use;
10. Marijuana retailers shall not be allowed on any parcel that is contiguous to a parcel containing residential use, unless the planning director, using Review Process II as described in Title [15](#), finds the following:
 - a. There is a physical separation between the two uses, such as another commercial building, or a substantial change in topography;
 - b. The retail use is located in a shopping center as one of multiple tenants with adequate parking for all uses and access as stated above;
 - c. The building in which the retail use is located faces the commercial street and the residential use faces a residential street in the opposite direction, without a shared alley between the two;
 - d. The residential use is located at least one hundred feet from the common lot line between the two uses;
11. In reviewing a proposed marijuana retailer under this section, the planning director shall have the authority to require improvements including, but not limited to, fencing or landscaping to screen the retail use from the residential use;
12. The front facade of retail stores shall consist of storefront window(s), doors, and durable, quality building materials consistent with the design standards of the zone in which the property is located. Transparency requirements for windows shall apply unless in conflict

with Washington State Liquor and Cannabis Board regulations. If located in a zone without design standards, at least three of the following shall be provided:

- a. Special treatment of windows and doors, other than standard metal molding/framing details, around all ground floor windows and doors, decorative glazing, or door designs.
- b. Decorative light fixtures with a diffuse visible light source or unusual fixture.
- c. Decorative building materials, such as decorative masonry, shingle, brick, or stone.
- d. Individualized patterns or continuous wood details, decorative moldings, brackets, trim or lattice work, ceramic tile, stone, glass block, or similar materials.
- e. Use of a landscaping treatment as part of the building's design, such as planters or wall trellises.
- f. Decorative or special railings, grill work, or landscape guards.
- g. Landscaped trellises, canopies, or weather protection.
- h. Sculptural or hand-crafted signs.
- i. Special building elements, such as pilasters, entablatures, wainscots, canopies, or marquees that exhibit nonstandard designs.
- j. Other similar features or treatment that satisfies the intent of the guidelines as approved by the city;

13. The maximum number of retail marijuana stores allowed in the city of Everett shall not exceed five. Provided, the city shall review the maximum number of retail marijuana stores allowed before June 1, 2018, to determine whether this maximum number should be changed.

Is hereby amended to read as follows:

- C. Retailers. Marijuana retailers may operate in the city pursuant to the following restrictions:
 1. Marijuana retailers must comply with all requirements of state law, Washington State Liquor and Cannabis Board and the city;

2. Marijuana retailers may locate only within the B-2, B-3, BMU, C-1, C-1R, C-2, E-1, E-1MUO, and M-2 zones;
3. Marijuana retailers may not locate in neighborhood business (B-1) zones;
4. Marijuana retailers may not locate in a building in which nonconforming retail uses have been established in residential zones (R-S, R-1, R-1(A), R-2, R-2(A), R-3, R-3(L), R-4, and R-5 zones);
5. Marijuana retailers may not locate within one thousand feet of any parcel containing an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;
6. Marijuana retailers may not locate within ~~two thousand~~ five hundred feet of any other legally established marijuana retailer;
7. Customer parking for marijuana retailers must be on the public street side of the structure in which the marijuana retailer is located and may not be off of or adjacent to an alley. However, staff parking and business deliveries may occur on the alley side of the structure;
8. Vehicular access to the parking lot for a marijuana retailer shall be from the public street frontage and may not be from an alley. Any property located on a street from which vehicular access to the site from the street is prohibited by the city engineer shall not be allowed for use as a marijuana retailer;
9. Marijuana retailers shall not be allowed on any parcel containing a residential use;
10. Marijuana retailers shall not be allowed on any parcel that is contiguous to a parcel containing residential use, unless the planning director, using Review Process II as described in Title [15](#), finds the following:
 - a. There is a physical separation between the two uses, such as another commercial building, or a substantial change in topography;

b. The retail use is located in a shopping center as one of multiple tenants with adequate parking for all uses and access as stated above;

c. The building in which the retail use is located faces the commercial street and the residential use faces a residential street in the opposite direction, without a shared alley between the two;

d. The residential use is located at least one hundred feet from the common lot line between the two uses;

11. In reviewing a proposed marijuana retailer under this section, the planning director shall have the authority to require improvements including, but not limited to, fencing or landscaping to screen the retail use from the residential use;

12. The front facade of retail stores shall consist of storefront window(s), doors, and durable, quality building materials consistent with the design standards of the zone in which the property is located. Transparency requirements for windows shall apply unless in conflict with Washington State Liquor and Cannabis Board regulations. If located in a zone without design standards, at least three of the following shall be provided:

a. Special treatment of windows and doors, other than standard metal molding/framing details, around all ground floor windows and doors, decorative glazing, or door designs.

b. Decorative light fixtures with a diffuse visible light source or unusual fixture.

c. Decorative building materials, such as decorative masonry, shingle, brick, or stone.

d. Individualized patterns or continuous wood details, decorative moldings, brackets, trim or lattice work, ceramic tile, stone, glass block, or similar materials.

e. Use of a landscaping treatment as part of the building's design, such as planters or wall trellises.

f. Decorative or special railings, grill work, or landscape guards.

g. Landscaped trellises, canopies, or weather protection.

h. Sculptural or hand-crafted signs.

- i. Special building elements, such as pilasters, entablatures, wainscots, canopies, or marquees that exhibit nonstandard designs.
- j. Other similar features or treatment that satisfies the intent of the guidelines as approved by the city;

13. The maximum number of retail marijuana stores allowed in the city of Everett shall not exceed five ten. ~~Provided, the city shall review the maximum number of retail marijuana stores allowed before June 1, 2018, to determine whether this maximum number should be changed.~~

Section 2. Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 3. Severability. Should any section, subsection, paragraph, sentence, clause, phrase, or portion of this Ordinance or its application to any person or situation, be declared unconstitutional, invalid for any reason, or preempted by state or federal law or regulations, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other persons or situations. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, paragraph, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, phrases, or portions be declared unconstitutional, invalid, or preempted.

Section 4. General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees, or agents.

Section 5. Savings. The enactment of this Ordinance shall not affect any case, proceeding, appeal, or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 6. Corrections. The City Clerk is authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any references thereto.

Cassie Franklin, Mayor

ATTEST:

Sharon Fuller, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

