

Project title: An Ordinance Increasing the Number of Permitted Recreational Marijuana Retail Stores to Not More than Eight, Amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended)

Council Bill # *interoffice use*
CB 2009-49

Agenda dates requested:
9/23/20; 10/7/20; 10/14/20

Briefing X
Proposed action
Consent
Action
Ordinance X
Public hearing 10/14/20
 X Yes No

Budget amendment:
 Yes X No

PowerPoint presentation:
 Yes X No

Attachments:
Opt 1. Ordinance with Exhibits
Opt 2. Ordinance with Exhibits

Department(s) involved:
Planning
Legal

Contact person:
David Stalheim, Interim Planning Director

Phone number:
425-257-8731

Email:
dstalheim@everettwa.gov

Initialed by:

Department head
DS
Administration

Council President

Project: Amendment of recreational marijuana zoning regulations

Partner/Supplier : n/a

Location: City-wide

Preceding action: May 9, 2018: City Council decided to not increase the number of permitted retail marijuana stores

Fund: n/a

Fiscal summary statement:

n/a

Project summary statement:

EMC 19.39.145.B.13 limits the number of retail marijuana stores in the city to five.

In the late winter and spring of 2020, the Public Safety Committee of the City Council reviewed information related to tax revenues generated by retail marijuana stores, calls for police service for retail stores in comparison to other types of businesses, and the current regulations for where retail marijuana stores can be located.

The Public Safety Subcommittee asked staff to bring forward an ordinance allowing the number of permitted stores to be increased to not more than eight, and requiring that any retail store hereafter established be certified by the Washington State Liquor and Cannabis Board as a medical marijuana provider.

The City Council held the following briefings on this issue before delaying action due to COVID-19:

- 2/12/20 – Briefing and 1st reading of ordinance
- 2/19/20 – 2nd reading of ordinance (no comments)
- 3/11/20 – 2nd reading of ordinance (some citizen comments)
- 3/18/20 – 2nd reading of ordinance (discussion about postponing the public hearing and 3rd and final reading until a later date and council resumes normal council meetings)

After the February 19th meeting, an alternative ordinance was sent to council – without any recommendation, that would reduce the minimum required separation between retail marijuana stores from 2,500 feet to 500 feet.

We are providing two ordinance options for the City Council to consider:

1. Option 1. An ordinance increasing the number of retail marijuana stores to eight with a requirement that they are a medical marijuana provider. (Original Ordinance)
2. Option 2. An ordinance increasing the number of retail marijuana stores to eight with a requirement that they are a medical marijuana provider and reducing the minimum separation distance between retail marijuana stores from 2,500 feet to 500 feet.

Recommendation (exact action requested of Council):

Adopt Ordinance increasing the number of permitted Recreational Marijuana Retail Stores to not more than Eight, amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended)



ORDINANCE NO. _____

An ORDINANCE Increasing the Number of Permitted Recreational Marijuana Retail Stores to Not More than Eight, Amending Section C of Ordinance No. 3486-16 (EMC 19.39.145, as amended)

WHEREAS,

- A.** 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;
- B.** The Washington State Liquor and Cannabis Board (WSLCB) will allow up to ten recreational marijuana stores within the Everett city limits;
- C.** 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;
- D.** 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;
- E.** The Planning Commission held a public hearing on April 3, 2018, to consider information provided by City staff and to take additional public testimony;
- F.** The Planning Commission recommended that the City Council increase the permitted number of retail marijuana store to ten;
- G.** The City Council held a public hearing on May 9, 2018, to consider the recommendation of the Planning Commission, but decided at that time not to change the permitted number of recreational marijuana stores or change the minimum separation requirement between stores;
- H.** In 2019, the Public Safety Committee of the City Council conducted a review of the permitted number of recreational marijuana retail stores, and after considering police department data and information from the Washington State Liquor and Cannabis Board, asked staff to prepare an ordinance for consideration by the full City Council to increase the permitted number of recreational marijuana stores from five to eight, provided that any new store shall commit to being certified by the Washington State Liquor and Cannabis Board as a medical marijuana provider;

- I. The City Council held a public hearing on October 14, 2020, to take public testimony concerning the recommendation from the Public Safety Committee;
- J. 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;
- K. The proposed amendment bears a substantial relation to public health, safety or welfare; and
- L. 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, as amended (codified at EMC 19.39.145.C.13), is amended as follows, with strikeouts deleted and underlining added:

C. Retailers. Marijuana retailers may operate in the city pursuant to the following restrictions:

13. The maximum number of retail marijuana stores allowed in the city of Everett shall not exceed five eight. Any retail marijuana store hereafter established shall be certified as a medical marijuana provider by the Washington State Liquor and Cannabis Board.

Section 2. The City Clerk and the codifiers of this Ordinance are 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 internal references.

Section 3. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 4. 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 5. 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.

Cassie Franklin, Mayor

ATTEST:

Sharon Fuller, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



ORDINANCE NO. _____

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

WHEREAS,

- A.** 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;
- B.** The Washington State Liquor and Cannabis Board (WSLCB) will allow up to ten recreational marijuana stores within the Everett city limits;
- C.** 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;
- D.** 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;
- E.** The Planning Commission held a public hearing on April 3, 2018, to consider information provided by City staff and to take additional public testimony;
- F.** The Planning Commission recommended that the City Council increase the permitted number of retail marijuana store to ten and decrease the required separation between retail marijuana stores from two thousand five-hundred feet to five-hundred feet;
- G.** The City Council held a public hearing on May 9, 2018, to consider the recommendation of the Planning Commission, but decided at that time not to change the permitted number of recreational marijuana stores or change the minimum separation requirement between stores;
- H.** In 2019, the Public Safety Committee of the City Council conducted a review of the permitted number of recreational marijuana retail stores, and after considering police department data and information from the Washington State Liquor and Cannabis Board, asked staff to prepare an ordinance for consideration by the full City Council to increase the permitted number of recreational marijuana stores from five to eight, provided that any new store shall commit to being certified by the Washington State Liquor and Cannabis Board as a medical marijuana provider;

- I. The City Council held a public hearing on October 14, 2020, to take public testimony concerning the recommendation from the Public Safety Committee;
- J. 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;
- K. The proposed amendment bears a substantial relation to public health, safety or welfare; and
- L. 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, as amended (codified at EMC 19.39.145.C.6), is amended as follows, with strikeouts deleted and underlining added:

C. Retailers. Marijuana retailers may operate in the city pursuant to the following restrictions:

- 6. Marijuana retailers may not locate within ~~two thousand~~ five hundred feet of any other legally established marijuana retailer;

Section 2. Section 2 of Ordinance No. 3486-16, as amended (codified at EMC 19.39.145.C.13), is amended as follows, with strikeouts deleted and underlining added:

C. Retailers. Marijuana retailers may operate in the city pursuant to the following restrictions:

- 13. The maximum number of retail marijuana stores allowed in the city of Everett shall not exceed ~~five~~ eight. Any retail marijuana store hereafter established shall be certified as a medical marijuana provider by the Washington State Liquor and Cannabis Board.

Section 3. The City Clerk and the codifiers of this Ordinance are 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 internal references.

Section 4. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 5. 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. 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.

Cassie Franklin, Mayor

ATTEST:

Sharon Fuller, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____