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Retail Marijuana Facilities Ordinance 23-009 (ECAF 23-0120)

Hearing Date: March 8, 2023 @ 10:30 a.m.

Council Staff: Ryan Countryman

DPA: Justin Kasting

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EXHIBIT	RECORD TYPE	DATE	RECEIVED FROM	EXHIBIT DESCRIPTION	# OF PAGES
2.0 Planning Commission					
2.0003	Staff Report	09/09/22	Ryan Countryman, Council Staff	Briefing to Planning Commission: Proposed Code Revisions for Marijuana Retail	5
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3.1 ECAF and Materials					
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3.3 Correspondence, Comments, Testimony					
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1 Adopted:
2 Effective:

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 23-009
8

9 RELATING TO GROWTH MANAGEMENT; REVISING REGULATIONS FOR STATE-
10 LICENSED MARIJUANA RETAIL FACILITIES; AMENDING SNOHOMISH COUNTY
11 CODE SECTIONS 30.22.100, 30.22.110, AND 30.28.120
12

13 WHEREAS, Article XI, Section 11 of the Washington Constitution provides that any
14 county may “make and enforce within its limits all such local police, sanitary and other
15 regulations as are not in conflict with general laws,” which grants counties jurisdiction over
16 land use issues like zoning; and
17

18 WHEREAS, Title 30 of the Snohomish County Code (SCC) is known as the Unified
19 Development Code and contains Snohomish County’s (“County”) zoning and development
20 regulations; and
21

22 WHEREAS, under the zoning regulations of Chapter 30.22 SCC, certain uses are
23 “permitted uses” meaning that they are allowed outright, some uses are “administrative
24 conditional uses” meaning they can be approved administratively, and other uses are
25 “conditional uses” which require additional process and a public hearing; and
26

27 WHEREAS, in 1996, the County first adopted a comprehensive plan required under
28 the Growth Management Act, Chapter 36.70A RCW, (GMA) which includes policies in an
29 element known as the General Policy Plan (GPP); and
30

31 WHEREAS, periodic updates of the GPP have occurred since its original adoption;
32 and
33

34 WHEREAS, GPP Goal ED-2 says that the County should “[p]rovide a planning and
35 regulatory environment which facilitates growth of the local economy”; and
36

1 WHEREAS, GPP ED Policy 2.A.3 requires that to “ensure timeliness,
2 responsiveness, and increased efficiency, the county shall develop and maintain a program
3 of periodic review of the permitting process to eliminate unnecessary administrative
4 procedures that do not respond to legal requirements for public review and citizen input”;
5 and

6
7 WHEREAS, the voters of the State of Washington passed Initiative 502 in November
8 2012, providing a framework under which marijuana producers, processors, and retailers
9 can become licensed by the State of Washington; and

10
11 WHEREAS, the Snohomish County Council (“County Council”) first adopted land-
12 use regulations for state-licensed marijuana facilities in Amended Ordinance 13-086, which
13 became effective on November 28, 2013; and

14
15 WHEREAS, under Amended Ordinance 13-086 marijuana retail became a permitted
16 use in Business Park (BP), Clearview Rural Commercial (CRC), Community Business (CB),
17 General Commercial (GC), Heavy Industrial (HI), Light Industrial (LI), Neighborhood
18 Business (NB), Planned Community Business (PCB), Rural Business (RB) and Urban
19 Center (UC) zoning; and

20
21 WHEREAS, the Washington State Legislature enacted the Cannabis Patient
22 Protection Act on April 24, 2015 (Laws of 2015, ch. 70), revising state law concerning
23 medical and recreational marijuana in Chapters 69.50 and 69.51A RCW; and

24
25 WHEREAS, following an analysis estimating the size of the medical cannabis
26 marketplace in Washington State, the Washington State Liquor and Cannabis Board
27 (WSLCB) increased the allocation of retail licenses in unincorporated Snohomish County
28 from 16 to 32; and

29
30 WHEREAS, the WSLCB has continued to review applications and issue licenses for
31 marijuana retail facilities in unincorporated Snohomish County; and

32
33 WHEREAS, in Amended Ordinance 15-009 effective June 15, 2015, the County
34 Council revised SCC 30.22.110 so that marijuana retail was no longer a permitted use in
35 CRC zoning, in part on a finding that “the number of medical marijuana collective gardens in
36 the Clearview area has increased to a level that has generated significant citizen concerns

1 [and that] further increases in the concentration of marijuana businesses, including licensed
2 retailers, in that area would exacerbate the problem”; and
3

4 WHEREAS, in response to concerns about negative impacts to communities
5 resulting from clusters of multiple state-licensed marijuana retail facilities located in close
6 proximity to each other, the County Council enacted Emergency Ordinance No. 16-051, an
7 interim official zoning control under RCW 36.70A.390, that removed the marijuana retail use
8 as a permitted use in all zones on June 22, 2016; and
9

10 WHEREAS, the County Council conducted a public hearing on Emergency
11 Ordinance No. 16-051 on August 10, 2016; and
12

13 WHEREAS, the County Council referred several potential options for permanent
14 regulations on marijuana retail uses to the Snohomish County Planning Commission
15 (“Planning Commission”) for review and consideration; and
16

17 WHEREAS, the Planning Commission was briefed by County planning department
18 staff on August 23, 2016, and September 27, 2016, and conducted a public hearing on
19 September 27, 2016; and
20

21 WHEREAS, at the conclusion of the public hearing, the Planning Commission
22 deliberated on the several options and was unable to provide a recommendation as shown
23 in its recommendation letter dated September 28, 2016, and received by the County
24 Council on October 19, 2016; and
25

26 WHEREAS, with no recommendation available from the Planning Commission, the
27 matter of marijuana retail regulations was transmitted back to the County Council without a
28 proposed ordinance; and
29

30 WHEREAS, the County Council discussed marijuana retail regulations on July 5,
31 2016, and August 2, 2016, and held a public hearing on August 10, 2016; and
32

33 WHEREAS, on December 14, 2016, the County Council adopted Emergency
34 Ordinance No. 16-123, extending the interim official control removing marijuana retail uses
35 as a permitted use in all zones for an additional three months to March 14, 2017; and
36

1 WHEREAS, on February 15, 2017, the County Council adopted Amended Ordinance
2 17-006, which became effective on March 13, 2017, and made marijuana retail a conditional
3 use in BP, CB, GC, HI, LI, NB, PCB, RB and UC zoning; and
4

5 WHEREAS, on January 26, 2018, the Director of Snohomish County Planning and
6 Development Services (PDS) adopted PDS Director Rule 18-01 (“Rule 18-01”) to create
7 “first-in-time” provisions not otherwise addressed in Title 30 SCC for siting marijuana retail
8 facilities in the event that PDS receives two or more conditional use permit applications for a
9 marijuana retail use that may violate the separation requirements or exceed the limit of
10 marijuana retail facilities allowed; and
11

12 WHEREAS, on July 28, 2019, the Washington State Legislature enacted Engrossed
13 Substitute Senate Bill 5318 amending state law regarding compliance and enforcement of
14 marijuana licenses which included new findings stating “the years since the creation of a
15 legal and regulated marketplace for adult use of cannabis, the industry, stakeholders, and
16 stage agencies have collaborated to develop a safe, fully regulated marketplace” and that
17 the “risk taking entrepreneurs who are trying to comply with board regulations should not
18 face punitive consequences for mistakes made during this initial phase of the industry that
19 did not pose a direct threat to public health and safety” (Laws of 2019 ch. 394 § 1); and
20

21 WHEREAS, the County Council agrees that the marijuana industry is a safe, and
22 fully regulated marketplace and that the marijuana retail use should once again be
23 permitted outright in those zones where it was permitted under Amended Ordinance No. 13-
24 086; and
25

26 WHEREAS, on October 25, 2022, the Planning Commission held a public hearing to
27 receive public testimony concerning the code amendments contained in this ordinance; and
28

29 WHEREAS, at the conclusion of the Planning Commission’s public hearing, the
30 Planning Commission recommended adoption of the code amendments contained in this
31 ordinance, specifically that marijuana retail should be allowed as a permitted, rather than a
32 conditional use, in those zones where it was originally permitted under Amended Ordinance
33 No. 13-086; and
34

1 WHEREAS, on _____, 2023, the County Council held a public
2 hearing after proper notice, and considered public comment and the entire record related to
3 the code amendments contained in this ordinance; and
4

5 WHEREAS, following the public hearing, the County Council deliberated on the code
6 amendments contained in this ordinance;
7

8 NOW, THEREFORE, BE IT ORDAINED:
9

10 **Section 1.** The County Council adopts the following findings in support of this
11 ordinance:
12

- 13 A. The foregoing recitals are adopted as findings as if set forth in full herein.
14
15 B. The County Council makes the following findings of fact in support of this ordinance.
16
17 C. This ordinance will amend Title 30 of the SCC to update development regulations
18 related to marijuana retail. The proposed amendments seek to:
19
20 1. Respond to the State Legislature’s finding in 2019 that the marijuana business in
21 general, which includes marijuana retailers, has become a “safe, fully regulated”
22 industry which “should not face punitive consequences for mistakes made during
23 [the] initial phase of the industry” after decriminalization and that marijuana
24 businesses “do not pose a direct threat to public health and safety.”
25
26 2. Allow marijuana retail as a permitted use in the BP, CB, CRC, GC, HI, LI, NB, PCB,
27 RB, and UC zones.
28
29 3. Increase the distance separation requirements for marijuana retail in rural zones to
30 reflect the lower population densities in rural areas and avoid concerns about over-
31 concentrations of marijuana retail uses in rural areas that had been part of the
32 previous basis for not allowing marijuana retail in CRC zoning.
33
34 4. Codify the first-in-time provisions of Rule 18-01 and address circumstances where a
35 permitted marijuana retail business might seek to move locations.
36

1 5. Recognize the findings made by the Washington State Legislature that the marijuana
2 retail industry has matured by streamlining the permitting process and making
3 marijuana retail a permitted use instead of a conditional use in the zones where it is
4 allowed.

5
6 D. In developing the proposed code amendments, the County considered the goals of the
7 GMA codified at RCW 36.70A.020.

8
9 1. This ordinance is consistent with GMA Goal 5: "Economic development. Encourage
10 economic development throughout the state that is consistent with adopted
11 comprehensive plans."

12
13 2. This ordinance is consistent with GMA Goal 7: "Permits. Applications for both state
14 and local government permits should be processed in a timely and fair manner to
15 ensure predictability" by clarifying the process for obtaining approval for marijuana
16 retail businesses."

17
18 E. The County Council agrees with the State Legislature's finding that state-licensed
19 marijuana businesses are not a threat to public health and safety due to the fact that
20 such businesses are rigorously regulated under State law.

21
22 F. In addition to the policies cited above, the proposed amendments will better achieve,
23 comply with, and implement the following policies contained in the GPP.

24
25 1. Land Use Policy LU 6.H.1: "Recognize the existing commercial and residential
26 settlement pattern in the area [with CRC zoning as providing] retail goods and
27 services to the immediate population and a larger surrounding service area..." Retail
28 goods, including marijuana, sold in the CRC zone principally serve the needs to the
29 immediate population and surrounding area.

30
31 2. Land Use Policy LU 6.4.H: "Rural residents should have access to a mix of small-
32 scale retail sales, personal services, and job opportunities within the CRC
33 designation" and zone. By making marijuana retail a permitted use in CRC again
34 local residents will have access to a wider mix of small-scale retail services.
35

1 G. Regarding both prior specific concerns about concentrating too many marijuana
2 retail uses in the CRC-zoned areas and ongoing considerations about how
3 concentrations of marijuana retail uses in rural areas may impact rural areas more
4 generally, the County Council makes two additional findings:
5

- 6 1. The development by PDS of Rule 18-01 in 2018 indicates that PDS determined
7 that applications for marijuana retail either had or would soon reach the
8 maximum of 32 locations in unincorporated Snohomish County and that this is
9 likely still the case.
10
- 11 2. It is appropriate for marijuana retail uses in heavily populated urban areas to be
12 more densely concentrated than in rural areas where population densities are
13 lower.
14
 - 15 a. An existing requirement in SCC 30.28.120(2) currently applies to all
16 marijuana retail locations and states that “a marijuana retail use shall not be
17 located within 2,500 feet of another marijuana retail use.” This creates a
18 minimum separation requirement of almost ½ mile between marijuana retail
19 locations. Most of the zones that currently allow marijuana retail are urban
20 zones (BP, CB, CRC, GC, HI, LI, NB, PCB, and UC). For these urban zones,
21 the 2,500-foot rule provides the minimum separation and allows an
22 appropriate level of concentration in urban areas.
23
 - 24 b. For RB and CRC zoning, both of which only exist outside of urban areas, a
25 larger separation of 10,000 feet, or nearly two miles, is appropriate to prevent
26 over concentration of marijuana retail uses in those rural-zoned areas.
27

28 H. Procedural requirements.
29

- 30 1. The proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
31
- 32 2. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was
33 transmitted to the Washington State Department of Commerce for distribution to
34 state agencies on November 7, 2022, and assigned Submittal ID No. 2022-S-4507.
35

- 1 3. State Environmental Policy Act, Chapter 43.21C RCW, (SEPA) requirements with
2 respect to this non-project action have been satisfied through the completion of an
3 environmental checklist and the issuance of a Determination of Nonsignificance
4 (DNS) on November 18, 2022.
5
6 4. The public participation process used in the adoption of this ordinance has complied
7 with all applicable requirements of the GMA and the SCC.
8
9 5. The Washington State Attorney General last issued an advisory memorandum, as
10 required by RCW 36.70A.370, in September 2018 entitled “Advisory Memorandum
11 and Recommended Process for Evaluating Proposed Regulatory or Administrative
12 Actions to Avoid Unconstitutional Takings of Private Property” to help local
13 governments avoid the unconstitutional taking of private property. Snohomish
14 County used the process outlined in the State Attorney General’s 2018 advisory
15 memorandum in objectively evaluating the regulatory changes proposed by this
16 ordinance.
17

18 **Section 2.** The County Council makes the following conclusions:

- 19
20 A. The proposal is consistent with the goals, objectives and policies of the GPP.
21
22 B. The proposal is consistent with Washington State law and the SCC.
23
24 C. The County has complied with all SEPA requirements in respect to this non-project
25 action.
26
27 D. The regulations proposed by this ordinance do not result in an unconstitutional taking of
28 private property for a public purpose.
29

30 **Section 3.** The County Council bases its findings and conclusions on the entire
31 record of the County Council, including all testimony and exhibits. Any finding, which should
32 be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby
33 adopted as such.
34

35 **Section 4.** Snohomish County Code 30.22.100, last amended by Amended
36 Ordinance No. 22-016 on May 4, 2022, is amended to read:

1
2
3

30.22.100 Urban Zone Categories Use Matrix

TYPE OF USE	R- 9,600 ⁸⁸	R- 8,400 ⁸⁸	R- 7,200 ⁸⁸	T	LDMR	MR	NB	PCB	CB ¹²⁸	GC ¹²⁸	IP ⁷⁶	BP	LI ⁵⁵ , 76	HI ⁵⁵	MHP ¹¹⁴	UC ¹²²
Accessory Dwelling Unit ⁶²	P	P	P	P	P	P										
Adult Entertainment Business/Use ⁶⁷											P		P	P		
Agriculture ^{41, 107}	P	P	P		P	P	P		P	P	P	P	P	P	P	
Airport, Stage 1 Utility ¹	C	C	C						P	P	P	P	P	P		
Airport-All Others											P	P	P	P		
Amusement Facility ^{41, 129}								P	P	P	P		P	P		P
Antique Shop							P	P	P	P			P	P		P
Art Gallery ⁴¹	C	C	C		C	C	P	P	P	P	P	P	P	P		P
Auto Repair, Major								P	P ⁸⁶	P	P	P	P	P		P
Auto Repair, Minor							P	P	P ⁸⁶	P	P	P	P	P		P
Auto Towing													P	P		
Automobile Wrecking and Junkyards													C ⁴⁴	P ⁴⁴		
Bed and Breakfast Guesthouse ⁵⁸	A	A	A	A	A	A									A	
Billboards ⁴⁶																
Non-digital										P			P	P		
Digital										P			P	P		
Boarding House	P ¹⁵	P ¹⁵	P ¹⁵		P	P	P		P	P					P	P

TYPE OF USE	R- 9,600 ⁸⁸	R- 8,400 ⁸⁸	R- 7,200 ⁸⁸	T	LDMR	MR	NB	PCB	CB ¹²⁸	GC ¹²⁸	IP ⁷⁶	BP	LI ⁵⁵ , 76	HI ⁵⁵	MHP ¹¹⁴	UC ¹²²
Boat Launch Facility, Commercial ³¹									C	C			C	C		P
Boat Launch Facility, Non-commercial ³¹	C	C	C		C	C			C	C			C	C		
Caretaker's Quarters							P	P	P	P	P	P	P	P		
Cemetery and Funeral Home	C	C	C		C	C	P	P	P	P	P	P	P	P		P
Church ^{41, 129}	C	C	C		P	P	P	P	P	P	P	P	P	P		P
Clubhouse	C	C	C		C	C	P	P	P	P	P	P	P	P	P	P
Commercial Vehicle Storage Facility										P	P	P	P	P		
Community Facilities for Juveniles ¹⁰³																
1 to 8 Resident Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
9 to 24 Resident Facility	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P	P
Construction Contracting										P	P	P	P	P		p ¹²³
Day Care Center ^{2, 129}	C	C	C		C	C	P	P	P	P	P	P	P	P	A	P
Distillation of Alcohol											P	P	P	P		P
Dock & Boathouse, Private, Non-commercial ^{3, 41}	P	P	P	P	P	P	P		P	P	P	P	P	P		

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RELATING TO GROWTH MANAGEMENT; REVISING REGULATIONS FOR STATE LICENSED MARIJUANA RETAIL FACILITIES; AMENDING SNOHOMISH COUNTY CODE SECTIONS 30.22.100, 30.22.110, AND 30.28.120

TYPE OF USE	R- 9,600 ⁸⁸	R- 8,400 ⁸⁸	R- 7,200 ⁸⁸	T	LDMR	MR	NB	PCB	CB ¹²⁸	GC ¹²⁸	IP ⁷⁶	BP	LI ⁵⁵ , 76	HI ⁵⁵	MHP ¹¹⁴	UC ¹²²
Dwelling, Attached Single Family	P	P	P	P	P	P						p ⁵¹				
Dwelling, Cottage Housing ¹¹⁶	P	P	P	P	P							p ⁵¹				
Dwelling, Duplex	P	P	P	P	P	P						p ⁵¹				
Dwelling, Mobile Home	p ⁶	p ⁶	p ⁶	p ⁶	P	P									P	
Dwelling, Multiple Family					P	P	P	P	P	P		p ⁵¹				P
Dwelling, Single Family	P	P	P	P	P	P						p ⁵¹			p ⁴	
Dwelling, Townhouse ⁵			P	P	P	P	P	P	P	P		p ⁵¹				P
Electric Vehicle Infrastructure																
Electric Vehicle Charging Station - Restricted, Level 1, and Level 2 ¹²¹	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Electric Vehicle Charging Station - Public, Level 1 and Level 2							P	P	P	P	P	P	P	P		P
Electric Vehicle Charging Station, Level 3	C ¹²⁰	C ¹²⁰	C ¹²⁰	C ¹²⁰	C ¹²⁰	C ¹²⁰	P	P	P	P	P	P	P	P		P
Battery Exchange Stations	C ¹²⁰	C ¹²⁰	C ¹²⁰	C ¹²⁰	C ¹²⁰	C ¹²⁰	P	P	P	P	P	P	P	P		P
Explosives, Storage											P			P		

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Fairgrounds										P	P	P	P	P		
Family Day Care Home ⁸	P	P	P	P	P	P	P		P	P					P	
Farm Product Processing																
Up to 5,000 sq ft									P	P			P	P		
Over 5,000 sq ft ⁹⁴									A	P			P	P		
Farm Stand																
Up to 400 sq ft ⁹	P	P	P						P	P			P	P		P
401 to 5,000 sq ft ⁹⁹																
Farmers Market ⁹³							P	P	P	P		P	P	P		P
Fish Farm											P	P	P	P		
Forestry											P		P	P		
Foster Home	P	P	P	P	P	P	P		P	P					P	
Fuel Yard										P	P	P	P	P		
Garage, Detached Private Accessory ⁶⁰																
Up to 2,400 sq ft	P	P	P	P	P	P					P	P	P	P	P	
2,401 - 4,000 sq ft on More than 3 Acres ^{41, 59}	P	P	P	P	P	P					P	P	P	P		
2,401 - 4,000 sq ft on Less than 3 Acres ^{41, 59}	A	A	A	A	A	A					A	A	A	A		
4,001 sq ft and Greater ^{41, 59}	C	C	C	C	C	C					C	C	C	C		

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Garage, Detached Private Non- accessory ⁶⁰																
Up to 2,400 sq ft	P	P	P	P	P	P					P	P	P	P		
2,401 sq ft and greater ^{41, 59}	C	C	C	C	C	C					C	C	C	C		
Golf Course, Driving Range and Country Club	C	C	C													
Government Structures & Facilities ^{27, 41}	C	C	C	C	C	C	C	P	P	P	P	P	P	P		P
Greenhouse, Lath House, & Nurseries							P	P	P	P	P	P	P	P		
Guest House ⁸⁵	P	P	P		P	P									P	
Hazardous Waste Storage & Treatment Facilities, Offsite ⁶⁶											C	C	C	C		
Hazardous Waste Storage & Treatment Facilities, Onsite ⁶⁵							P	P	P	P	P	P	P	P		
Health and Social Service Facilities ⁹⁰																
Level I	P	P	P	P	P	P	P	P	P	P		P			P	P
Level II ^{41, 129}	C	C	C		C	C	C	P	P	P		P			C	P
Level III						C	C	P	P	P	P		P	P	C	P
Home Occupation ¹¹	P	P	P	P	P	P	P		P	P					P	P

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Hotel/Motel					C	C	P ¹³⁶	P	P	P			P ⁸⁹			P
Kennel, ⁴¹ Commercial ¹²	C	C	C						P	P	P	P	P	P		
Kennel, ⁴¹ Private- Breeding ¹³	P	P	P		P	P	P		P	P	P	P	P	P		
Kennel, ⁴¹ Private- Non-Breeding ¹³	P	P	P		P	P	P		P	P	P					
Laboratory							P	P	P	P	P	P	P	P		P
Library ⁴¹	C	C	C		C	C	C	P	P	P	P	P	P	P		P
Lumber Mill											P	P	P	P		
Lumberyard										P	P	P	P	P		
Manufacturing, Heavy ⁸²											P			P		
Manufacturing-All Other Forms Not Specifically Listed ⁸³											P	P	P	P		P ¹²³
Marijuana Processing ^{125, 131}											P	P	P	P		
Marijuana Production ^{125, 131}											P	P	P	P		
Marijuana Retail ^{131, 132}							((€) P	((€) P	((€) P	((€) P		((€) P	((€) P	((€) P		((€) P
Massage Parlor									P	P	P	P	P	P		P
Material Recovery Facility ¹³⁴											C		C	C		
Mini Self-Storage								P	P	P	P	P	P	P		
Mobile Home Park ³⁸					C	C			C	C					P	

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Model Hobby Park 75												A	A	A		
Model House/Sales Office	P	P	P	P	P	P										
Motocross Racetrack 129										C ¹¹³	C ¹¹³	C ¹¹³	C ¹¹³	C ¹¹³		
Museum 41	C	C	C		C	C	C	P	P	P	P	P	P	P		P
Neighborhood Services					A, C ⁸⁶ , 138	A, C ⁸⁶ , , 138	P	P	P ⁸⁶	P	P	P	P	P		P
Office and Banking							P	P	P	P	P	P	P	P		P
Park, Public 14	P	P	P		P	P	P	P	P	P	P	P	P	P		P
Park-and-Pool Lot	C	C	C	C	C	P	P	P	P	P	P	P	P	P		P
Park-and-Ride Lot	C	C	C	C	C	P	P	P	P	P	P	P	P	P		P
Personal Wireless Service Facilities 27, 41, 104, 106	C	C	C	C	C	C	C	C	C	C	P	P	P	P	C	p ¹¹⁹
Printing Plant								P		P	P	P	P	P		p ¹²³
Race Track 24, 41, 129										C	P	P	P	P		
Railroad Right-of-way	C	C	C	C	C	C	P	P	P	P	P	P	P	P		P
Recreational Facility Not Otherwise Listed	C	C	C		C	C	P	P	P	P	P	P	P	P		P
Recreational Vehicle Park									C	C					C	
Recycling Facility 137										C	C		C	C		

ORDINANCE NO. 23-009

RELATING TO GROWTH MANAGEMENT; REVISING REGULATIONS FOR STATE LICENSED MARIJUANA RETAIL FACILITIES; AMENDING SNOHOMISH COUNTY CODE SECTIONS 30.22.100, 30.22.110, AND 30.28.120

TYPE OF USE	R- 9,600 ⁸⁸	R- 8,400 ⁸⁸	R- 7,200 ⁸⁸	T	LDMR	MR	NB	PCB	CB ¹²⁸	GC ¹²⁸	IP ⁷⁶	BP	LI ⁵⁵ , 76	HI ⁵⁵	MHP ¹¹⁴	UC ¹²²
Rendering of Fat, Tallow, or Lard ¹²⁹											P			P		
Restaurant							P	P	P	P	p ⁴⁹	p ⁴⁹	P	P		P
Retail, General						A ¹³⁵	P	P	P	P		p ⁵³	P	P		P
Retirement Apartments				P	P	P	P	P	P	P					P	P
Retirement Housing				P	P	P	P	P	P	P					P	P
Sanitary Landfill ¹²⁹	C	C	C						C	C	C	C	C	C		
Schools																
K-12 & Preschool 41, 68, 129	C	C	C		C	C	C ¹³⁶		P	P	P	P	P	P		P
College ^{41, 68}	C	C	C		C	C	C ¹³⁶		P	P	P	P	P	P		P
Other ^{41, 68}					C	C	C ¹³⁶		P	P	P	P	P	P		P
Service Station ⁴¹							P	P	p ⁸⁶	P			P	P		P
Shooting Range ⁹²											P	P	P	P		
Sludge Utilization ³⁹	C ⁵⁶	C ⁵⁶	C ⁵⁶		C ⁵⁶	C ⁵⁶			C ⁵⁶	C ⁵⁶	C ⁵⁶		C ⁵⁶	P	C ⁵⁰	
Small Animal Husbandry ⁴¹	C ³⁷	C ³⁷	C ³⁷				P		P	P	P	P	P	P		
Small Workshop									p ⁸⁶	P	P	P	P	P		P
Stables	P	P	P		P	P	P	P	P	P	P	P	P	P		
Stockyard or Slaughter House ¹²⁹											P			P		
Storage, Retail Sales Livestock Feed									P	P			P	P		

ORDINANCE NO. 23-009

RELATING TO GROWTH MANAGEMENT; REVISING REGULATIONS FOR STATE LICENSED MARIJUANA RETAIL FACILITIES; AMENDING SNOHOMISH COUNTY CODE SECTIONS 30.22.100, 30.22.110, AND 30.28.120

TYPE OF USE	R- 9,600 ⁸⁸	R- 8,400 ⁸⁸	R- 7,200 ⁸⁸	T	LDMR	MR	NB	PCB	CB ¹²⁸	GC ¹²⁸	IP ⁷⁶	BP	LI ⁵⁵ , 76	HI ⁵⁵	MHP ¹¹⁴	UC ¹²²
Storage Structure, Accessory ⁶⁰																
Up to 2,400 sq ft	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
2,401 - 4,000 sq ft on More than 3 Acres ^{41, 59}	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
2,401 - 4,000 on Less than 3 acres ^{41, 59}	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
4,001 sq ft and Greater ^{41, 59}	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Storage Structure, Non-accessory ⁶⁰																
Up to 2,400 sq ft	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
2,401 sq ft and greater ^{41, 59}	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Studio ⁴¹	C ⁷⁷	C ⁷⁷	C ⁷⁷		C ⁷⁷	C ⁷⁷	P	P	P ⁸⁶	P	P	P	P	P		P
Supervised Drug Consumption Facility																
Swimming/Wading Pool ^{17, 41}	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Television/Radio Stations													P	P		
Temporary Dwelling During Construction	A	A	A	A	A	A	A	A	A	A						A
Temporary Dwelling For Relative ¹⁸	A	A	A	A	A	A	A	A	A	A						

TYPE OF USE	R- 9,600 ⁸⁸	R- 8,400 ⁸⁸	R- 7,200 ⁸⁸	T	LDMR	MR	NB	PCB	CB ¹²⁸	GC ¹²⁸	IP ⁷⁶	BP	LI ⁵⁵ , 76	HI ⁵⁵	MHP ¹¹⁴	UC ¹²²
Temporary Residential Sales Coach ⁷³	A	A	A													A
Transit Center	C	C	C	C	C	P	P	P	P	P	P	P	P	P		P
Ultralight Airpark ²⁰											P					
Utility Facilities, Electromagnetic Transmission & Receiving Facilities ^{27, 129}	C	C	C	C	C	C	C	P	p ⁸⁶	P	P	P	P	P		
Utility Facilities, Transmission Wires, Pipes & Supports ²⁷	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Utility Facilities-All Other Structures ^{27, 41}	C	C	C	C	C	C	C	P	p ⁸⁶	P	P	P	P	P	C	P
Vehicle, Vessel and Equipment Sales and Rental									p ²³	P			P	P		
Veterinary Clinic					C	C	P	P	p ⁸⁶	P	P	P	P	P		P
Warehouse										P	P	P	P	P		p ¹²³
Wholesale Establishment								P	p ⁸⁶	P	P	P	P	P		p ¹²³
Woodwaste Recycling and Woodwaste Storage											A ⁶³		A ⁶³	A ⁶³		

ORDINANCE NO. 23-009

RELATING TO GROWTH MANAGEMENT; REVISING REGULATIONS FOR STATE LICENSED MARIJUANA RETAIL FACILITIES; AMENDING SNOHOMISH COUNTY CODE SECTIONS 30.22.100, 30.22.110, AND 30.28.120

TYPE OF USE	R- 9,600 ⁸⁸	R- 8,400 ⁸⁸	R- 7,200 ⁸⁸	T	LDMR	MR	NB	PCB	CB ¹²⁸	GC ¹²⁸	IP ⁷⁶	BP	LI ⁵⁵ , 76	HI ⁵⁵	MHP ¹¹⁴	UC ¹²²
All other uses not otherwise mentioned											P	P	P	P		

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Section 5. Snohomish County Code 30.22.110, last amended by Amended Ordinance No. 21-060 on October 6, 2021, is amended to read:

30.22.110 Rural and Resource Zone Categories Use Matrix

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
Accessory Dwelling Unit ⁶²	P	P	P	P	P			P	P	P
Agriculture ^{41, 107}	P	P	P	P	P	P	P	P	P	P
Airport: Stage 1 Utility ¹	C	C	C ¹¹⁵					C		
Antique Shop	C		C ^{45, 115}	p ⁷⁹	P					
Art Gallery ⁴¹	C		C ¹¹⁵	p ⁷⁹	P					
Asphalt Batch Plant & Continuous Mix Asphalt Plant										
Auto Repair, Major							P			
Auto Repair, Minor				P	P	P	P			
Auto Towing	C		C							
Auto Wrecking and Junkyards							A ⁴⁴			
Bakery, Farm ⁹⁷	P	P	P	P			P		P	P
Bed and Breakfast Guesthouse ⁵⁸	P		P ¹¹⁵	P				P	P	P
Bed and Breakfast Inn ⁵⁸	P		P ¹¹⁵	P				P	P	P

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
Boarding House	p ¹⁵	p ¹⁵	p ^{15, 115}					p ¹⁵		p ¹⁵
Boat Launch, Commercial ³¹		C							C	
Boat Launch, Non-commercial ³¹	C		C	C				C	C	
Campground								A ^{32,127}	C ³²	
Caretaker's Quarters	P		C	P			P			
Cemetery and Funeral Home	P		C ¹¹⁵							
Church ^{41, 129}	P		C ¹¹⁵	C ³⁶	P					
Clubhouse	C		C ¹¹⁵	P	p ¹³³					
Commercial Vehicle Home Basing			C ³³							
Commercial Vehicle Storage Facility				P	P	P	P			
Community Facilities for Juveniles ¹⁰³										
1 to 8 residents			p ^{102, 115}	P	P					
9 to 24 residents			S ^{103, 115}	P	P					
Construction Contracting				p ^{80, 81}						
Dams, Power Plants, & Associated Uses									P	
Day Care Center ^{2, 129}	P		C ¹¹⁵	P	P	P				
Distillation of Alcohol	C ³⁴		C ^{34, 115}							C ³⁴

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
Dock & Boathouse, Private, Non-commercial ^{3, 41}	P	P	P	P				P	P	P
Dwelling, Duplex	P	P	P					P		P
Dwelling, Mobile Home	P	P	P		p ⁶			P	P	P
Dwelling, Single Family	P	P	P		P			P	P	P
Equestrian Center ^{41, 70, 72}	P	C	C ¹¹⁵					C	P	C ⁷⁰
Excavation & Processing of Minerals ²⁸	A, C	A, C	A, C				A, C	A, P, C	A, C	
Explosives, Storage	C	C	C				C	P	C	
Family Day Care Home ^{8, 130}	P		P ¹¹⁵	P	P			P		P
Farm Product Processing										
Up to 5,000 sq ft	P	P	P ¹¹⁵	P			P	P		P
Over 5,000 sq ft ⁹⁴	A	A	A ¹¹⁵	A			A	A		A
Farm Support Business ⁹⁴	A	A	A ¹¹⁵	A			P			A
Farm Stand										
Up to 400 sq ft ⁹	P	P	P ^{100, 115}	P	P	P	P	P	P	P
401 - 5,000 sq ft ^{99, 100}	P	P	P, A ¹⁰⁰	P	P	P	P	P	P	P
Farm Workers Dwelling										p ¹⁰
Farmers Market ⁹³	P	P	P ¹⁰¹ A ^{101, 115}	P	P	P	P			P
Farmland Enterprises ⁹⁵		A	A ¹¹⁵							A
Fish Farm	P	P	P ¹¹⁵					P	P	P

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
Forestry	P	P	P				P	P	P	P
Forestry Industry Storage & Maintenance Facility	P ³⁰	P					P	P	P	
Foster Home	P	P	P	P				P		P
Fuel Yard⁴³							P			
Garage, Detached Private Accessory⁶⁰										
Up to 2,400 sq ft	P	P	P	P	P	P	P	P	P	P
2,401 - 4,000 sq ft on More than 3 Acres^{41, 59}	P	P	P	P	P	P	P	P	P	P
2,401 - 4,000 sq ft on Less than 3 acres^{41, 59}	A	A	A	A	A	A	A	A	A	A
4,001 sq ft and Greater^{41, 59}	C	C	C		C	C	C	C	C	C
Garage, Detached Private Non-accessory⁶⁰										
Up to 2,400 sq ft	P	P	P	P	P	P	P	P	P	P
2,401 sq ft and greater^{41, 59}	C	C	C	C	C	C	C	C	C	C
Golf Course, Driving Range and Country Club	C		C ¹¹⁵	P						C ⁷⁴
Government Structures & Facilities^{27, 41}	C	C	C ¹¹⁵	C	P		C	C	C	
Greenhouse, Lath House, Nurseries	P	P	P ¹¹⁵	P	P		P	P		P
Guest House⁸⁵	P	P	P	P				P	P	P

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
Hazardous Waste Storage & Treatment Facilities Onsite ⁶⁵	P			P		P	P	P	P	
Health and Social Service Facility ⁹⁰										
Level I	P	P	P ¹¹⁵	P	P			P	P	
Level II ^{41, 91, 129}			C ¹¹⁵	C						
Level III										
Home Occupation ¹¹	P	P	P	P	P			P	P	P
Homestead Parcel ⁴⁰	C		C ¹¹⁵							C
Hotel/Motel				P		P				
Kennel, ⁴¹ Commercial ^{12, 130}	P	P	P ¹¹⁵					P		C
Kennel, ⁴¹ Private-Breeding ¹³	P	P	P					P		P
Kennel, ⁴¹ Private-Non-Breeding ¹³	P	P	P	P				P		P
Kitchen, farm	P	P	P	P			P			P
Laboratory				P			P			
Library ⁴¹	C		C ¹¹⁵	P						
Livestock Auction Facility	C ⁴⁸		C ^{48, 115}		P		P			C ⁴⁸
Lumber Mill	C ²⁶	C ²⁶	C ^{26, 115}				P	P	P	
Lumberyard							P			
Manufacturing - All Other Forms Not Specifically Listed ⁸³				C			C			
Marijuana Processing ^{124, 131}							P			P

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
Marijuana Production ^{124, 131}							P			P
Marijuana Retail ^{131, 132}				((€) <u>P</u>	<u>P</u>					
Mini-equestrian Center ^{41, 72}	P	P	P ¹¹⁵	P			P	P	P	P ⁷¹
Mini Self-Storage				P		P	P			
Model Hobby Park ^{75, 130}			A ¹¹⁵							A
Model House/Sales Office	P	P	P ¹¹⁵					P	P	
Motocross Racetrack ¹²⁹			C ¹¹³						C ¹¹³	
Museum ^{41, 130}	C		C ¹¹⁵	P						C ⁶¹
Neighborhood Services				P	p ¹³³					
Office and Banking				P	p ¹³³					
Off-road vehicle use area, private									C ¹⁰⁹	
Park, Public ^{14, 130}	P	P	P	P	P		P	P	P	P
Park-and-Pool Lot				P	P	P	P			
Park-and-Ride Lot	C	C	C	P		P		C	C	
Personal Wireless Service Facilities ^{27, 41, 104, 106, 130}	C	C	C	C	C	C	C	C	C	C
Public Events/Assemblies on Farmland ⁹⁶										P
Race Track ^{24, 41, 129}			C ¹¹⁵							
Railroad Right-of-way	C	C	C ¹¹⁵		P		P	C	C	C
Recreational Facility Not Otherwise Listed ⁹⁸	C		C ¹¹⁵		P		P ⁷⁹	A, C ¹²⁷	A, C ¹²⁷	C

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
Recreational Vehicle ¹⁹	P	P	P					P	P	P
Recreational Vehicle Park									C	
Resort									C	
Restaurant				p ⁸⁰	P	P				
Retail, General				P	p ¹³³	p ⁸⁰				
Rural Industries ⁴¹	p ²⁵									
Sanitary Landfill ¹²⁹	C	C	C ¹¹⁵					C		
Schools										
K-12 & Preschool ^{41, 68, 129}	C		C ¹¹⁵	P						
College ^{41, 68}	C		C ¹¹⁵							
Other ^{41, 68}				C			C			
Service Station ⁴¹				P	P	P				
Shooting Range ⁹²	C	C	C					C		
Sludge Utilization ³⁹	C	C, p ⁵⁰	C ¹¹⁵					C		C
Small Animal Husbandry ⁴¹	P		P		P			P	P	P
Small Workshop				P			P			
Stables	P	P	P	P			P	P	P	P
Stockyard or Slaughter House ¹²⁹							C ⁴⁸			
Storage, Retail Sales Livestock Feed			p ^{54, 115}	P			P			P
Storage Structure, Accessory ⁶⁰										
Up to 2,400 sq ft	P	P	P	P	P	P	P	P	P	P

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
2,401 - 4,000 sq ft on More than 3 Acres ^{41, 59}	P	P	P	P	P	P	P	P	P	P
2,401 - 4,000 sq ft on Less than 3 acres ^{41, 59}	A	A	A	A	A	A	A	A	A	A
4,001 sq ft and Greater ^{41, 59}	C	C	C		C	C	C	C	C	C
Storage Structure, Non-accessory ⁶⁰										
Up to 2,400 sq ft	P	P	P	P	P	P	P	P	P	P
2,401 sq ft and greater ^{41, 59}	C	C	C	C	C	C	C	C	C	C
Studio ⁴¹	C ⁷⁷		C ^{77, 115}							
Supervised Drug Consumption Facility										
Swimming/Wading Pool ^{17, 41}	P	P	P					P	P	P
Temporary Dwelling During Construction	A	A	A	A	A	A	A	A	A	A
Temporary Dwelling For Relative ¹⁸	A	A	A					A	A	A
Temporary Logging Crew Quarters								P	P	
Temporary Residential Sales Coach ⁷³	A		A ¹¹⁵							
Transit Center	C	C	C ¹¹⁵	P		P		C	C	
Ultralight Airpark ²⁰	C	C	C ¹¹⁵					C		

TYPE OF USE	Rural Zones							Resource Zones		
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10
Utility Facilities, Electromagnetic Transmission & Receiving Facilities ^{27, 129}	C	C	C	C	P	C	P	C	C	C
Utility Facilities, Transmission Wires or Pipes & Supports ²⁷	P	P	P	P	P	P	P	P	P	P
Utility Facilities - All Other Structures ^{27, 41, 130}	C	C	C	C	P	C	P	C	C	C
Vehicle, Vessel and Equipment Sales and Rental					p ²³					
Veterinary Clinic	P		C ¹¹⁵	P	P					C
Warehouse							P			
Wedding Facility ^{87, 130}		P	p ¹¹⁵							P
Woodwaste Recycling and Woodwaste Storage	A ⁶³	C ⁵⁷	C ⁵⁷				A ⁶³	A ⁶³		
P - Permitted Use	<p>A blank box indicates a use is not allowed in a specific zone.</p> <p>Note: Reference numbers within matrix indicate special conditions apply; see SCC 30.22.130.</p> <p>Check other matrices in this chapter if your use is not listed above.</p>									
A - Administrative Conditional Use										
C - Conditional Use										
S - Special Use										

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1 **Section 6.** Snohomish County Code 30.28.120, added by Amended Ordinance No.
2 17-006 on February 15, 2017, is amended to read:

3
4 **30.28.120 Marijuana Retail Requirements.**

5 (1) A marijuana retail use shall not be located within 1,000 feet of the perimeter of the
6 grounds of any primary or secondary school or any property owned by a school district and
7 identified in a six-year capital facility plan for construction of a primary or secondary school.

8 (2) ~~((A)) In urban zones, a marijuana retail use shall not be located within 2,500 feet of~~
9 ~~another marijuana retail use. In rural and resource zones, a marijuana retail use shall not be~~
10 ~~located within 10,000 feet of another marijuana retail use. Compliance with ~~((this))~~ these~~
11 ~~separation ~~((requirement))~~ requirements shall be determined by measuring the distance~~
12 ~~horizontally following the shortest straight line from the property line where a state-licensed~~
13 ~~marijuana retailer is located to the property line of any property, regardless of jurisdiction,~~
14 ~~where another state-licensed marijuana retailer is located.~~

15 (a) Legal nonconforming marijuana retail uses in existence on or before June 21,
16 2016, are exempt from ~~((this))~~ the separation ~~((requirement))~~ requirements.

17 (b) ~~((An application for a))~~ A marijuana retail use ~~((submitted to the county after~~
18 ~~March 13, 2017,))~~ is exempt from ~~((this))~~ the separation ~~((requirement))~~ requirements when
19 the following conditions have been met:

20 (i) The county received a Notice of Marijuana License Application for that
21 location, site, or tax parcel from the Washington State Liquor and Cannabis Board on or
22 before June 21, 2016, ~~((and))~~ the county did not issue a written objection to the Notice of
23 Marijuana License Application~~((;))~~ and

24 ~~((ii) No)~~ no marijuana retail use existed on the site proposed in the
25 ~~((application))~~ Notice of Marijuana License Application for a marijuana retail use ~~((to the~~
26 ~~county))~~ at any time between June 22, 2016, and March 13, 2017~~((;))~~ ; or

27 ~~((c) An application for a marijuana retail use submitted to the county after March~~
28 ~~13, 2017, is exempt from this separation requirement when the following conditions have~~
29 ~~been met:~~

30 ~~((i))~~ (ii) The applicant owned real property that included the site proposed in the
31 application or signed a lease for the site proposed in the application on or before June 21,
32 2016~~((; and~~

33 ~~((ii) The)~~ the applicant previously operated a medical marijuana collective
34 within the county~~((;))~~ and

1 ~~((iii) No)~~ no marijuana retail use existed on the site proposed in the
2 ~~((application))~~ Notice of Marijuana License Application for a marijuana retail use ~~((to the~~
3 ~~county))~~ at any time between June 22, 2016, and March 13, 2017.

4 (3) No more than 32 state-licensed marijuana retail facilities shall be allowed in
5 unincorporated Snohomish County.

6 (4) If two or more retail marijuana facilities are proposed to be located within 2,500 feet
7 from each other in urban zones or within 10,000 feet from each other in rural zones, or if
8 more than 32 marijuana retailers attempt to locate in unincorporated Snohomish County,
9 the department shall consider “first-in-time” the marijuana retailer who has priority to site a
10 marijuana retail use. A priority marijuana retailer shall be determined by the department
11 using the following order of priority:

12 (a) An existing permitted marijuana retailer proposing to relocate shall have priority
13 over an applicant for a new marijuana retail location;

14 (b) If two or more permit applications are submitted to the Washington State Liquor
15 and Cannabis Board and determined to be complete on the same date, a “first-in-time”
16 determination will be based on the date and time the Washington State Liquor and
17 Cannabis Board issued a license or conditional license, for the marijuana retail use.

18
19 **Section 6.** Effective date and implementation. This ordinance shall take effect 15
20 days following adoption by the County Council. The Snohomish County Department of
21 Planning and Development Services is authorized to take such actions as may be
22 necessary to implement this ordinance on its effective date.

23
24 **Section 7.** Severability and Savings. If any section, sentence, clause or phrase of
25 this ordinance shall be held to be invalid by the Growth Management Hearings Board
26 (“Board”), or unconstitutional by a court of competent jurisdiction, such invalidity or
27 unconstitutionality shall not affect the validity or constitutionality of any other section,
28 sentence, clause or phrase of this ordinance. Provided, however, that if any section,
29 sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by the
30 Board or court of competent jurisdiction, then the section, sentence, clause or phrase in
31 effect prior to the effective date of this ordinance shall be in full force and effect for that
32 individual section, sentence, clause or phrase as if this ordinance had never been adopted.

33
34 PASSED this _____ day of _____, 20__.

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SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Council Chair

ATTEST:

Asst. Clerk of the Council


- APPROVED
- EMERGENCY
- VETOED

DATE:

County Executive

ATTEST:

Approved as to form only:

 12/20/22

Deputy Prosecuting Attorney



Snohomish County Council

Committee: Planning & Community Development **Analyst:** Ryan Countryman
ECAF: 2023-0120
Proposal: Ordinance 23-009 **Date:** February 7, 2023

Consideration

Proposed Ordinance 23-009 relates to regulations for state-licensed marijuana retail facilities and would amend Snohomish County Code (SCC) sections 30.22.100, 30.22.110 and 30.28.120.

Background

Ordinance 23-009 contains the Planning Commission's recommendations in response to Motion 22-337. Motion 22-337 was a proposal sponsored by Councilmember Jared Mead. The motion contained three proposed changes. During its public hearing on the changes contained in Motion 22-337, the Planning Commission discussed and settled on a recommendation to add a fourth change to regulations for state-licensed marijuana retail facilities. Analysis of the the four proposed changes in Ordinance 23-009 follows this background section.

The voters of the State of Washington passed Initiative 502 in November 2012, providing a framework for the legal production and sale of marijuana and related products. The County Council first adopted land use regulations for state-licensed marijuana facilities in 2013. Revisions to state and county requirements have taken place several times since then as the industry has evolved.

The original adoption of marijuana retail regulations in 2013 allowed marijuana retail as a permitted use in several commercial zones (approval of permitted uses is an administrative process by Planning and Development Services (PDS)). Zones allowing marijuana retail at that time included the Clearview Rural Commercial (CRC) zone. However, in 2015, the County Council revised SCC 30.22.110 so that marijuana retail was no longer a permitted use in CRC zoning. This was in part on a finding that "the number of medical marijuana collective gardens in the Clearview area has increased to a level that has generated significant citizen concerns [and that] further increases in the concentration of marijuana businesses, including licensed retailers, in that area would exacerbate the problem".

In 2017, partly to address concerns about concentration of marijuana businesses, the County Council adopted a 2500-foot separation requirement between marijuana retail locations. This

distance of nearly ½ mile is currently the same in both urban and rural parts of the county. The 2017 ordinance in 2017 also made the approval process require a conditional use permit, which involves a public hearing and decision by the Hearing Examiner rather than an administrative approval by PDS.

State requirements include a maximum number of marijuana retail locations in unincorporated Snohomish County. County Code does not address what happens when PDS receives two or more permit applications for a marijuana retail use which may exceed the limit of marijuana retail facilities allowed. As Snohomish County was approaching the state limit in 2018, PDS adopted Director Rule 18-01 (Rule 18-01). Rule 18-01 was in part to clarify and implement “first-in-time” provisions for siting of marijuana retail facilities when Snohomish County reached the maximum number of locations. This rule is silent on the scenario where an existing permitting business might wish to move locations.

Analysis

Ordinance 23-009 proposes four types of changes. It would:

1. Re-allow marijuana retail in the Clearview Rural Commercial zone (see proposed change in SCC 30.22.110);
2. Increase the distance separation requirements in rural zones to 10,000 feet, or nearly two miles to address concerns about business concentration in rural areas (SCC 30.28.120);
3. Codify first-in-time rules in Rule 18-01 and give priority to existing permitted businesses seeking to relocate (SCC 30.28.120); and
4. Revert the permitting process for marijuana retail facilities back to the permitted use process rather than current conditional use permit process (SCC 30.22.100 and 30.22.110).

The first three changes were part of the proposal attached to Motion 22-337. The Planning Commission recommended the fourth change on its own initiative.

Current Proposal

Summary: Ordinance 23-009 would amend three code section to provide for four types of changes related to marijuana retail location (SCC 30.22.100, SCC 30.22.110, and SCC 30.28.120).

Handling: Marked as normal but to be expedited to General Legislative Session (GLS) on February 8 because the February 15 GLS meeting has been cancelled.

Executive Recommendation: APPROVE

Request: Move to General Legislative Session on February 8 to set time and date for a public hearing. Suggested time and date: March 8, 2023 at 10:30.



Snohomish County Council

To: Snohomish County Planning Commission

From: Snohomish County Council
Ryan Countryman, Senior Legislative Analyst

Memo Date: September 9, 2022

Briefing Date: September 27, 2022

Subject: Staff Report on Referral Motion 22-337
Proposed Code Revisions for Marijuana Retail

Consideration

The County Council wishes to obtain a recommendation from the Planning Commission regarding proposed code amendments related to marijuana retail. Motion 22-337, passed on August 24, 2022, makes the formal request. It also includes a draft of the proposed ordinance attached as Exhibit A. The motion requests a response by February 28, 2023.

Background

Councilmember Jared Mead sponsored Motion 22-337. As drafted, the ordinance attached to the motion would address gaps in code and changed circumstances related to retail marijuana.

The voters of the State of Washington passed Initiative 502 in November 2012, providing a framework for the legal production and sale of marijuana and related products. The County Council first adopted land use regulations for state-licensed marijuana facilities in 2013. Revisions to state and county requirements have taken place several times since.

Zoning requirements. The first county regulations become effective on November 28, 2013. Several commercial zones allowed marijuana retail as a permitted use, which meant that PDS staff could administratively approve permits for a retail location. This included the Clearview Rural Commercial (CRC) zone. However, in 2015, the County

Council revised SCC 30.22.110 so that CRC zoning no longer allowed new marijuana retail locations. This was in part on a finding that “the number of medical marijuana collective gardens¹ in the Clearview area has increased to a level that has generated significant citizen concerns [and that] further increases in the concentration of marijuana businesses, including licensed retailers, in that area would exacerbate the problem”.

On June 22, 2016, in response to concerns about negative impacts to communities resulting from clusters of multiple state-licensed marijuana retail facilities located in close proximity, the County Council enacted an emergency ordinance removing the marijuana retail use as a permitted use in all zones.

On February 15, 2017, the County Council adopted a new ordinance that made marijuana retail a conditional use in all the zones that previously allowed marijuana retail as a permitted use, except for CRC. Approval of conditional uses requires a public hearing before the Hearing Examiner.

Distance Separation: Local requirements in Title 30 SCC included adoption of a 2500-foot separation requirement between marijuana retail locations. This distance of nearly ½ mile is the same in both urban and rural parts of the county.

First-in-time. State requirements include a maximum number of marijuana retail locations in unincorporated Snohomish County. Snohomish County Code (SCC) Title 30 does not address what happens when Planning and Development Services (PDS) receives two or more permit applications for a marijuana retail use which may exceed the limit of marijuana retail facilities allowed. In 2018, as the number of permitted marijuana retail locations was approaching the state limit, the PDS director adopted PDS Director Rule 18-01 (Rule 18-01) in part to clarify and implement “first-in-time” provisions for siting of marijuana retail facilities when reaching the maximum number of locations.

Analysis

This analysis looks at the changes from a logical perspective first, and then in the order of sections in the proposed ordinance.

Logical Perspective. The proposed ordinance would make three types of changes:

¹ “Marijuana Collective Garden” is a now-obsolete term that is roughly synonymous with Marijuana Retail for the purposes of this staff report and proposed ordinance. While Marijuana Collective Garden was current terminology in 2015, more recent State Legislation altered both terminology and definitions. This report notes that there are subtle differences, but the main point is that changing state-legislation both illustrates and results in the rapid co-evolution of legal requirements and industry practices.

1. The amendments would codify the first-in-time provisions in Rule 18-01. They would also address the potential circumstance where a permitted marijuana retail business might seek to move locations. The proposal gives existing permitted retail locations priority over prospective new business locations.
2. The distance separation in rural zones would increase to 10,000 feet (nearly two miles) in rural zones. This reflects the lower rural residential densities compared to urban areas. The intent is to respond to prior concerns about the concentration of marijuana businesses in rural areas.
3. Marijuana retail would become permitted in CRC zoning again through the conditional use permit process. This is the same process as now required for marijuana retail in other zones where that allow it.

Under Motion 22-337, Council staff has direction to work with Planning Commission and others to refine the proposed ordinance. Council staff will report back to the County Council providing a summary of the proposal and recommendations made by the Planning Commission. This may refinements to the proposed ordinance. The County Council would then consider taking further action.

By Ordinance Section. Sections 1 – 3 adopt recitals, findings of fact, and conclusions, and state that the County Council based its findings and conclusions on the entire record of Snohomish County Planning Commission and the County Council.

Section 4 makes Marijuana Retail a conditional use in CRC zoning by amending the rural and resource zone categories use matrix in SCC 30.22.110. This done by adding an underlined “C” (highlighted below) in the appropriate place on the table. (Underlines in an ordinance indicate inserted changes.)

TYPE OF USE	Rural Zones							Resource Zones			
	RD	RRT-10	R-5	RB ²⁶	CRC	RFS	RI	F	F&R	A-10	MC
Marijuana Retail ^{131, 132}				C	<u>C</u>						
Mini-equestrian Center 41, 72	P	P	P ¹¹⁵	P			P	P	P	P ⁷¹	
Mini Self-Storage				P		P	P				
Model Hobby Park ^{75, 130}			A ¹¹⁵							A	
Model House/Sales	P	P	P ¹¹⁵					P	P		

Section 5 makes two types of changes in SCC 30.28.120. First, changes in SCC 30.28.120(2) would increase the distance separation in rural zones as shown by proposed insertions (underlines) and deletions (with double parentheses and strikeouts):

(2) ~~((A))~~In urban zones, a marijuana retail use shall not be located within 2,500 feet of another marijuana retail use. In rural and resource zones, a marijuana retail use shall not be located within 10,000 feet of another marijuana retail use. ~~Compliance with ((this))~~these separation requirements shall be determined by measuring the distance horizontally following the shortest straight line from the property line where a state-licensed marijuana retailer is located to the property line of any property, regardless of jurisdiction, where another state-licensed marijuana retailer is located.

(a) Legal nonconforming marijuana retail uses in existence on or before June 21, 2016, are exempt from ~~((this))~~the separation requirements.

(b) An application for a marijuana retail use submitted to the county after March 13, 2017, is exempt from ~~((this))~~the separation requirements when the following conditions have been met:

(i) The county received a Notice of Marijuana License Application for that location, site, or tax parcel from the Washington State Liquor and Cannabis Board on or before June 21, 2016, and the county did not issue a written objection to the Notice of Marijuana License Application; and

(ii) No marijuana retail use existed on the site proposed in the application for a marijuana retail use to the county at any time between June 22, 2016, and March 13, 2017.

Second, the insertions of new subsections (4) through (6) would codify the first-in-time provisions in Rule 18-01. They would also address the potential circumstance where a permitted marijuana retail business might seek to move locations:

(4) An applicant for a new marijuana retail location shall provide evidence that there are less than 32 state-licensed marijuana retail facilities in unincorporated Snohomish County as set forth subsection (3). The applicant shall also provide evidence that the location identified in the permit application satisfies the requirements set forth in subsections (1) and (2).

(5) If there are already 32 state-licensed marijuana retail facilities in unincorporated Snohomish County, an applicant who wishes to move a permitted retail location to a new location may provide documentation of their intent to vacate the original location. The hearing examiner shall condition approval and occupancy of the new location on verification that the previous location is no longer in use. The applicant shall provide evidence that the location identified in the permit application satisfies the distance requirements from schools and from other state-licensed marijuana retailers as set forth in subsections (1), (2) and, if applicable, (4).

(6) In the event that two or more retail marijuana facilities are proposed to be located within 2,500 feet from each other in urban zones or 10,000 feet from each other in rural zones, or there is the potential to exceed the limit of 32 state-licensed marijuana retail facilities for unincorporated Snohomish County, the Department shall consider "first-in-time"

the applicant who has priority to site a marijuana retail use. A priority applicant shall have its permit application processed by the Department based on the following criteria:

(i) First to submit a complete application for a new permit based on the date and time of submittal to the Department. An applicant looking to move locations has priority over an applicant looking to establish a new location.

(ii) In the event two or more permit applications are submitted to the Department and determined to be complete on the same date and time, a "first-in-time" determination will be based on the date and time the Washington State Liquor and Cannabis Board issued a license or conditional license, for the marijuana retail use.

Request

Motion 22-337 requests that the Planning Commission consider the proposed amendments, hold a public hearing, and make a recommendation to the County Council by February 28, 2023.



Snohomish County

SNOHOMISH COUNTY PLANNING COMMISSION

November 1, 2022

Snohomish County Council
County Administration Building
3000 Rockefeller Avenue, M/S 609
Everett, WA 98201-4046

SUBJECT: Planning Commission recommendations on proposed code amendments related to Marijuana Retail

Dear Snohomish County Council:

On behalf of the Snohomish County Planning Commission, I am forwarding our recommendation to amend Snohomish County Code under the proposed Marijuana Retail ordinance. The Planning Commission had a briefing on this topic on September 27, 2022 and conducted a public hearing and deliberated on October 25, 2022.

The proposed ordinance considered by the Planning Commission would amend code by:

1. Allowing marijuana retail in the Clearview Rural Commercial (CRC) zone with a conditional use permit;
2. Increasing the separation requirement for marijuana retail in rural zones from 2,500 feet to 10,000 feet, and
3. Codifying first-in-time provisions from Director's Rule 18-01 while also addressing the scenario where an existing permitted marijuana retail business might seek to move locations and still retaining their first-in-time status

There were no written comments received by the Planning Commission from the public before the October 25, 2022 hearing. The hearing was open for public comment, but no one from the public commented at the hearing.

PLANNING COMMISSION RECOMMENDATION

At the October 25, 2022 Planning Commission meeting, Commissioner Ash made a motion, seconded by Commissioner Pederson, recommending APPROVAL of the proposed ordinance. This included proposed code amendments as presented by staff with supported findings and conclusions. By amendment made in a secondary motion and supported by the planning

commission, the commission recommends further amendment to the codes related to Marijuana Retail. Although not specifically discussed during the planning commission hearing, some of the findings and conclusions presented by staff may need updating by staff to reflect the secondary motion.

VOTE:

8 in favor (*Ash, Brown, Campbell, Eck, Everett, Larsen, Moore, Pederson*)

0 opposed

0 abstention

Main Motion PASSED

A **Motion** was made by Commissioner Ash and seconded by Commissioner Campbell amending the proposal to allow retail marijuana as a permitted use rather than as a conditional use in all zones where it is allowed.

VOTE:

8 in favor (*Ash, Brown, Campbell, Eck, Everett, Larsen, Moore, Pederson*)

0 opposed

0 abstention

Secondary Motion PASSED

This recommendation was made following the close of the public hearing and after due consideration of information presented. It is based on the findings and conclusions presented in the September 27, 2022, staff briefing and as supported by the Staff Report dated September 9, 2022.

Respectfully submitted,


Robert Larsen (Nov 1, 2022 19:31 PDT)

SNOHOMISH COUNTY PLANNING COMMISSION
Robert Larsen, Chair

cc: Dave Somers, Snohomish County Executive
Mike McCrary, Director, Planning and Development Services

Executive/Council Action Form (ECAF)

ITEM TITLE:

..Title

Ordinance 23-009, relating to Growth Management; revising regulations for State-Licensed Marijuana Retail Facilities; amending Snohomish County Code Sections 30.22.100, 30.22.110, and 30.28.120

..body

DEPARTMENT: Council

ORIGINATOR: Ryan Countryman for Jared Mead

EXECUTIVE RECOMMENDATION: TBD

PURPOSE: This proposed ordinance would modify codes for marijuana retail (MJR) in four ways. 1. Allow MJR in Clearview Rural Commercial zoning again. 2. Increase distance separation requirements in rural zones. 3. Codify first-in-time rules and give priority to existing businesses. 4. Make MJR a permitted use rather than a conditional use for the approval process.

BACKGROUND: This ordinance contains the Planning Commission’s recommendations in response to Motion 22-337. Motion 22-337 was a proposal sponsored by CM Mead that contained the first three changes described above. The fourth change to make MJR a permitted use was proposed as an amendment by the Planning Commission.

FISCAL IMPLICATIONS:

EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2ND YR	1ST 6 YRS
None			
TOTAL			

REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	1ST 6 YRS
None			
TOTAL			

DEPARTMENT FISCAL IMPACT NOTES: Click or tap here to enter text.

OTHER DEPARTMENTAL REVIEW/COMMENTS: Click or tap here to enter text.

ECAF NO.:
ECAF RECEIVED:

**ORDINANCE
INTRODUCTION SLIP**

SNOHOMISH COUNTY COUNCIL

EXHIBIT # 3.1.003

FILE ORD 23-009

TO: Clerk of the Council

TITLE OF PROPOSED ORDINANCE:

~~~~~  
Jared Mead  
Councilmember Date

Clerk's Action: Proposed Ordinance No. \_\_\_\_\_

Assigned to: \_\_\_\_\_ Date: \_\_\_\_\_

~~~~~  
STANDING COMMITTEE RECOMMENDATION FORM

On _____, the Committee considered the item and by ____ Consensus /
____ Yeas and ____ Nays, made the following recommendation:

_____ Move to Council to schedule public hearing _____

Public Hearing Date _____ **at** _____

_____ Move to Council as amended to schedule public hearing

_____ Move to Council with no recommendation

This item ____ should/ ____ should not be placed on the Consent Agenda.

(Consent agenda may be used for routine items that do not require public hearing and do not need discussion at General Legislative Session)

This item ____ should/ ____ should not be placed on the Administrative Matters Agenda

(Administrative Matters agenda may be used for routine action to set time and date for public hearings)

N. Nelson
Committee Chair

EXHIBIT 3.2.002

Planning & Community Development Committee Meeting – 02/07/23

[Minutes](#) and [Video](#)