

TOWN OF EATONVILLE

Agenda Staff Report

Agenda Item No.:	_____	Meeting Date:	<u>January 14, 2019</u>
Subject:	<u>Resolution No. 2019-A Referring to the</u> <u>Planning Commission A Proposed</u> <u>Zoning Code Amendment Banning the</u> <u>Production, Processing and Sale of</u> <u>Recreational Marijuana</u>	Prepared by:	<u>Gregory A. Jacoby</u> <u>Town Attorney</u>
		Atty Routing No:	<u>042-18</u>
		Atty Review Date:	<u>January 3, 2019</u>

Summary: The November 2018 general election ballot included a nonbinding advisory vote for the voters of Eatonville on the question of whether the town should ban the production, processing, and retail sale of recreational marijuana within town limits. The election results have been certified and the voters approved the ban (556 to 546).

If the town council intends to proceed with the marijuana ban, then the council will need to amend the town's zoning code. EMC 18.09.050 provides that amendments to the text of the zoning code must first be referred to the planning commission (sitting as the board of adjustment). The planning commission is required to hold a public hearing and make a recommendation to the town council.

Staff has prepared Resolution No. 2019-A which, in accordance with EMC 18.09.050, directs the planning commission to hold a public hearing on the proposed amendment and to submit to the town council a report of the planning commission's findings and recommendation. A copy of the proposed amendment to the zoning code is attached as Exhibit A to the Resolution.

Recommendation: Staff recommends adoption of Resolution No. 2019-A

Motion for consideration: I move to adopt Resolution No. 2019-A which refers to the planning commission a proposed amendment to the zoning code that would ban the production, processing, and sale of recreational marijuana within town limits.

Fiscal Impact: None.

Attachments: Resolution No. 2019-A, together with Exhibit A.

RESOLUTION NO. 2019 - A

**A RESOLUTION OF THE TOWN OF EATONVILLE,
WASHINGTON, REFERRING TO THE PLANNING
COMMISSION A PROPOSAL TO AMEND THE ZONING CODE
BY BANNING THE PRODUCTION, PROCESSING, AND SALE
OF RECREATIONAL MARIJUANA WITHIN TOWN LIMITS**

WHEREAS, the November 6, 2018 general election ballot included a nonbinding advisory vote for the voters of Eatonville on the question of whether the town should ban the production, processing, and retail sale of recreational marijuana within town limits; and

WHEREAS, the 2018 general election results have been certified and the voters of Eatonville approved the ban by a vote of 556 to 546; and

WHEREAS, in order to implement the marijuana ban, staff has drafted text that would amend the town's zoning code, Title 18 EMC, a copy of which is attached hereto as Exhibit A; and

WHEREAS, EMC 18.09.050 provides that before the town council can vote to amend the text of the zoning code the planning commission shall first hold a public hearing on the proposed amendment, after which the planning commission shall submit its findings and recommendation to the town council; now, therefore;

**THE TOWN COUNCIL OF THE TOWN OF EATONVILLE,
WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

THAT: In accordance with EMC 18.09.050, the planning commission is hereby directed to hold a public hearing on the proposed amendment to ban the production, processing, and sale of recreational marijuana within town limits (attached as Exhibit A) and to submit to the town council its findings and recommendation.

PASSED by the Town Council of Town of Eatonville and attested by the Town Clerk in authentication of such passage this 14th day of January, 2019.

Mike Schaub, Mayor

ATTEST:

Kathy Linnemeyer, Town Clerk

EXHIBIT A

Chapter 18.12

RECREATIONAL MARIJUANA LAND USES PROHIBITED

Sections:

- 18.12.010 Purpose.
- 18.12.020 Definitions.
- 18.12.030 Prohibited activities.
- 18.12.040 Uses not permitted in any zone.
- 18.12.050 Violations.
- 18.12.060 Enforcement.

18.12.010 Purpose.

A. The purpose of this chapter is to enact a prohibition of all recreational marijuana production, processing, and retailing, including those marijuana businesses licensed by the Washington State Liquor and Cannabis Board.

B. It is also the purpose of this chapter to stem the negative impacts and secondary effects associated with all marijuana uses, whether medical or recreational, including but not limited to the demands that have been or will be placed upon scarce City policing, legal, policy and administrative resources; neighborhood disruption, increased transient visitors; the exposure of school-age children and other sensitive residents to marijuana, and the potential for increased illegal sales to minors.

C. No part of this chapter is intended to or shall be deemed to conflict with federal or state law, including but not limited to, the Controlled Substances Act, 21 U.S.C. §800 *et seq.*, and the Uniform Controlled Substances Act, chapter 69.50 RCW.

18.12.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

“Marijuana” shall mean all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. For the purposes of this Ordinance, “cannabis” or “marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or industrial hemp as defined in RCW 15.120.010.

“Marijuana-infused products” shall mean products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration no greater than ten percent. The term “marijuana-infused products” does not include useable marijuana.

“Marijuana processor” shall mean a person licensed by the State Liquor and Cannabis Board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, usable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, usable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

“Marijuana producer” shall mean a person licensed by the State Liquor and Cannabis Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana retailer” shall mean a person licensed by the State Liquor and Cannabis Board to sell marijuana concentrates, usable marijuana, and marijuana-infused products in a retail outlet.

18.12.030 Prohibited activities.

A. It is unlawful to own, establish, site, operate, use or permit the establishment, siting, operation, or use of a marijuana or marijuana-infused production, processing, or retail facility within town limits, regardless of whether it has a license from the Washington State Liquor and Cannabis Board.

B. It is unlawful to lease to, rent to, or otherwise allow the operation of any marijuana or marijuana-infused production, processing, or retailing business, whether it is located outdoors, indoors, in any building, structure, premises, location or on land in the town and regardless of whether the activity has been licensed by the Washington State Liquor and Cannabis Board.

C. The town shall not issue any business license for any marijuana or marijuana-infused product businesses regardless of whether the business has been licensed by the Washington State Liquor and Cannabis Board. Any business license obtained in error or through misrepresentation of the activities conducted by the individual business shall be invalid and of no force and effect.

18.12.040 Uses not permitted in any zone.

The use of any building, structure, premises, location or land for marijuana or marijuana-infused production, processing, or retailing is not allowed in the town, and such uses and activities are not permitted uses in any zone.

18.12.050 No vested or nonconforming rights.

Neither this chapter nor any other town ordinance, town action or failure to act, statement, representation, certificate, approval, or permit issued by the town or its departments, or their respective representatives, agents, employees, attorneys or assigns,

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Introduced: _____, 2019
Adopted: _____, 2019

shall create, confer, or convey any vested or nonconforming right or benefit regarding any marijuana or marijuana-infused producer, processor, or retailer, even if licensed by the Washington State Liquor and Cannabis Board.

18.12.060 Violations.

Any violations of this chapter may be enforced as set forth in chapter 18.10 EMC or, as applicable, the Uniform Controlled Substances Act, chapter 69.50 RCW. In addition, violations of this chapter may be deemed to be a public nuisance and may be abated by the town under the procedures set forth in EMC chapter 8.10 for the abatement of land use nuisances.

DRAFT