



INFORMATIONAL MEMORANDUM

TO: Planning & Community Development Committee
FROM: Laurel Humphrey, Legislative Analyst
CC: Mayor McLeod
DATE: May 1, 2024
SUBJECT: Cannabis Retail Zoning Considerations

ISSUE

The City Council requested a briefing on considerations regarding expanding zoning for cannabis retail establishments.

BACKGROUND

Initiative 502 passed in November 2012 and created a comprehensive regulatory approach on cannabis with state-licensed producers, processors and retailers. Initiative 502 received a yes vote in all but one Tukwila precinct. HB 2870 created a Marijuana Social Equity Program in 2020 to address historic racial inequity in enforcement of marijuana laws. In 2022 2SHB 1210 replaced all references to “marijuana” in state statutes and regulations with the word “cannabis.”

- On September 3, 2013, the City Council adopted Ordinance 2407 to implement Initiative 502, determining that cannabis retailers, producers and processors are permitted uses in Tukwila Valley South and Heavy Industrial Zones, subject to the 1,000-foot exclusion rule.
- In 2015, 2SSB 5052 and HB 2136 allowed cities to reduce buffers from 1000 to 100 feet around all entities except elementary and secondary schools and public playgrounds.
- In 2017, the City Council received two separate requests to expand permitted cannabis retail zones but denied both on February 13, 2017.
- In September 2019, the Finance Committee discussed revenue and zoning considerations and decided against recommending any changes to the City Council at that time.
- In June 2021, the Finance & Governance Committee discussed revenue potential and decided against recommending any changes to the City Council.

DISCUSSION

Zoning

Currently, cannabis retail, production and processing are only permitted in the Tukwila Valley South and Heavy Industrial Zones. ([Read more in the 8/26/13 staff report](#)).

Current Licenses

Through the I-502 rulemaking process, the Liquor and Cannabis Board adopted regulations on the number of retail store licenses for jurisdictions, determining a maximum of two for Tukwila. All cannabis licensing is regulated and enforced by the Washington State Liquor and Cannabis Board. There are currently active licenses for Tukwila’s two retail allotments: Mount Baker Retail Partnership, LLC (12539 E Marginal way S) and Dash & Wrigley LLC (13003 Tukwila International Boulevard). Neither of these are operating. Licensed retailers are required to be open and operational, but licenses can be held without opening if they obtain a title certificate relieving them of the requirement to be open based on a moratorium, ban, or other zoning restriction, or if the business is temporarily discontinued while they move locations.

Sales and Excise Tax Revenue

The state cannabis excise tax and its distribution has changed over time and can be altered in any future legislative session. The State currently taxes cannabis through a single excise tax of 37% at the time of retail sale, in addition to the regular state and local sales tax, and \$30M of that revenue is shared with cities, towns and counties. There are two components to the distributions: 1) per capita share to all jurisdictions that allow the siting of producers, processors and retailers; 2) retail share to all jurisdictions where licensed retailers are physically located and in proportion to total statewide retail sales. Tukwila does not have any cannabis businesses and therefore does not receive sales-based revenue. Tukwila’s per capita distribution has been:

Year*	Revenues
2023	36,302
2022	32,334
2021	24,013
2020	23,479
2019	23,123
2018	23,364

*State Fiscal Year: July 1 – June 30

Beyond the excise tax, cannabis retail operations would generate sales tax. For every \$1 million in cannabis sales, the City could expect to receive \$8,585 in sales tax revenue. Staff looked up average retail sales within 5-miles of a cannabis retailer in the Ikea District of Renton, and for Jan-December 2023 the average per store was \$4.1 million. Hypothetically, if two retailers in Tukwila had combined yearly sales of \$8M, the City would receive \$68,680 of sales tax in addition to the increased excise revenue described above.

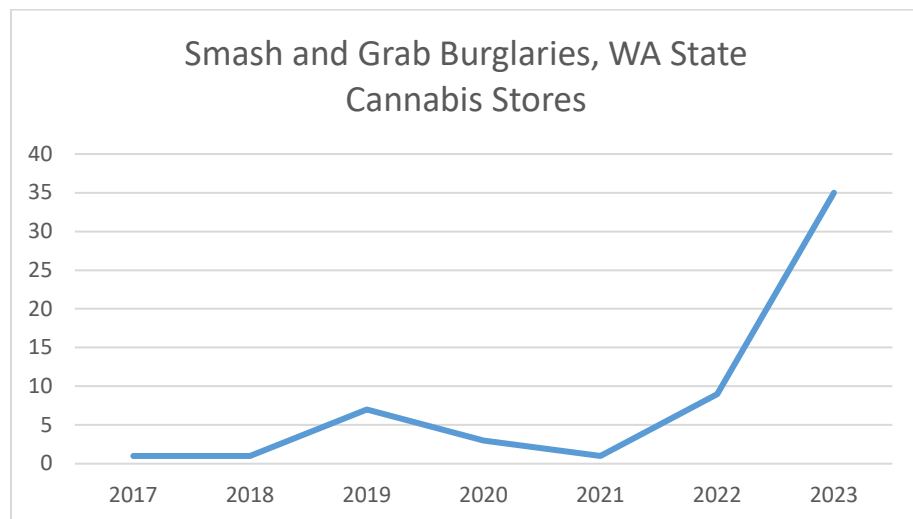
It is difficult to estimate what Tukwila would receive for its tax share if the two state-issued licenses were active businesses. The excise tax formula depends not only on population but also on cannabis retail sales as a proportion of total retail sales, as well as the number/total population of cities and counties that prohibit marijuana. MRSC used to offer an estimate calculator but discontinued it due to complexity of the formula. While the revenue potential is difficult to predict, we can look to neighboring jurisdictions for insight, while recognizing that their larger residential populations result in greater shares than Tukwila would receive in similar circumstances. The chart below shows the 2023 cannabis excise revenue for neighboring cities with open retailers:

City (number of locations)	Population	2023 Cannabis Revenue*
Burien (2)	50,216	\$163,047
Auburn (4)	83, 757	\$246,135
Des Moines (2)	32, 177	\$123,131
Renton (4)	102,716	\$295,597

*State Fiscal Year: July 1 – June 30

Crime & Safety around Retail Locations

Cannabis stores are frequent targets for theft, typically in the form of armed robberies or smash and grab burglaries, due to federal banking restrictions that require them to do business primarily in cash. Congress has been working on the SAFER (Secure and Fair Enforcement Regulation) Banking Act which would address this issue, and has shown bipartisan support. In Washington State, a bill that would have added a 12-month sentence enhancement for smash and grab convictions was introduced but not passed in the most recent state legislative session.



Source: [Uncle Ike's i502 Robbery Tracker](#)

The below table shows calls for service at certain retailers in nearby cities from 2019-2023.

	Auburn			Burien		Des Moines	Renton			
	Evergreen Market	Lucid	The Stash Box	The Joint	Kush 21	Greenside	Buddy's	Emerald Haze	Evergreen Market North	Evergreen Market South
2019	47	22	16	17	33	83	20	35	38	33
2020	36	39	20	19	44	78	13	40	17	36
2021	48	15	21	18	34	69	17	30	13	39
2022	56	14	16	21	36	52	20	28	12	30
2023	55	18	14	16	20	64	17	33	14	35

Through the code update process the City Council could consider establishing permitting requirements designed to address theft and crime concerns.

RECOMMENDATION

This is intended to provide a discussion opportunity for the Committee. If a majority of the City Council wishes to update the zoning for cannabis-related business, it is a significant work item that would require ordinance development, Planning Commission review, and a public outreach and hearing process. This could be added to the Department of Community Development work plan for the second half of 2025, following the adoption of the Comprehensive Plan and updated middle housing regulations.

ATTACHMENTS

Cannabis Excise Tax Excerpt from Revenue Guide for Washington Cities & Towns Map (distributed separately)

CANNABIS (MARIJUANA) EXCISE TAX

Quick Summary

- A portion of the state’s cannabis excise tax is distributed to cities and counties depending on their cannabis policies.
- Two separate components:
 - **Per capita share** distributed to all cities and counties that do not prohibit cannabis businesses.
 - **Retail share** distributed to cities and counties where cannabis retailers are located, in proportion to statewide cannabis revenues.
- No clear guidance on use of revenues, but stated intent of I-502 is that cannabis legalization will “[allow] law enforcement resources to be focused on violent and property crimes [and generate] new state and local tax revenue for education, health care, research, and substance abuse prevention.”

RCW: [69.50.540\(2\)\(g\)](#)

Initiative 502 (I-502), which was approved by voters in 2012, legalized recreational cannabis and authorized cannabis excise taxes. Cannabis excise taxes are imposed and collected by the State of Washington; as of 2022, the state imposes a 37% cannabis excise tax on the retail sale of cannabis, cannabis concentrates, and cannabis-infused products ([RCW 69.50.535](#) and [WAC 314-55-089](#)).

Cities and counties may *not* impose additional local excise taxes upon the sale of cannabis. However, the state shares some of the excise tax revenues with cities and counties, as mandated by I-502.⁴⁴ Beginning in 2022, counties receive a percentage of the excise tax revenues (after various deductions), which means these revenues will fluctuate with cannabis sales activity. Previously, the excise tax distributions were fixed by legislative appropriation.

Cannabis excise tax distributions depend in significant part upon local cannabis policies and regulations. The regulatory approach that each county adopts, as well as the number of cannabis retailers located within each county’s unincorporated areas, will determine whether the county receives any cannabis excise tax revenue (and how much).

Eligibility and Distribution Formula

There are two separate components to cannabis excise tax distributions:

- **Per capita share:** Distributed on a strictly per capita (population) basis to all cities, towns, and counties that allow the siting of cannabis producers, processors, AND retailers. Any jurisdiction that prohibits cannabis producers, processors, OR retailers is not eligible.
- **Retail share:** Distributed to all cities, towns, and counties where licensed cannabis retailers are physically located, and in proportional share to total statewide cannabis retail sales. For counties, the retail share only includes unincorporated areas only and does not include any retailers physically located in any city located within the county.

⁴⁴ The intent of I-502 states, among other things, that it will “[generate] new state *and local* tax revenue” [emphasis added], although it does not specify how the revenue will be shared with local governments or how much will be shared.

The different distribution formulas mean that some jurisdictions will receive both the per capita and retail distributions, while others may receive only one or the other, and some jurisdictions will receive neither. The chart below shows a few hypothetical scenarios to illustrate the differences.

Hypothetical Cannabis Excise Tax Distribution Scenarios	Eligible for per capita share?	Eligible for retail share?
County allows cannabis production, processing, and retail and has at least one retailer located within the unincorporated area.	Yes	Yes
County prohibits cannabis entirely and has no retailers located within the unincorporated area.	No	No
County took no action to prohibit cannabis, but no cannabis retailers are located within the unincorporated area.	Yes	No
County prohibits cannabis producers and processors but allows retailers and has at least one retailer located within the unincorporated area.	No	Yes
County currently prohibits new cannabis businesses but has existing retailers within unincorporated areas that are grandfathered in.	No	Yes
County prohibits cannabis retail and has no retailers within the unincorporated area but allows cannabis production and processing.	No	No

Each year by September 15, the LCB must provide the state treasurer with the annual distribution amount for each county and city. For the most recent legislative appropriations and distribution estimates, refer to our annual [Budget Suggestions publication](#), released every year at the end of July.

Use of Revenues

The restrictions on the use of cannabis excise tax revenues are somewhat murky, as there is no clear statute stating how the funds must be used. However, the notes in [RCW 69.50.540](#) reference [RCW 69.50.101](#) and the stated intent of I-502, which states that cannabis legalization will “[allow] law enforcement resources to be focused on violent and property crimes [and generate] new state and local tax revenue for education, health care, research, and substance abuse prevention.”

Timing of Receipts

Payments are distributed quarterly on the last business day of March, June, September, and December. The State Treasurer’s Office distributes both the “per capita” and “retail” shares together in one payment using the same BARS code.