

KING COUNTY MARIJUANA REPORT

LAND USE IMPACTS IN UNINCORPORATED AREAS



December 2018



King County

ACKNOWLEDGEMENTS

The following individuals contributed to or played a critical role in the development of this report:

Jake Tracy | Associate Planner | Department of Permitting and Environmental Review

Lauren Smith | Director of Regional Planning | Office of Performance, Strategy & Budget

Ty Peterson | Rural Commercial Product Line Manager | Department of Permitting and Environmental Review

Lindsey Greto | Project/Program Manager III | Department of Public Health

Kirsten Wysen | Project Manager | Department of Public Health

For inquiries regarding this report, please contact Jim Chan, Interim Director of the Department of Permitting and Environmental review, at jim.chan@kingcounty.gov

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EXECUTIVE SUMMARY

In November 2012, the voters of Washington State approved Initiative 502, which legalized the production, processing, and retail sale of marijuana for use by adults 21 years of age or older. The Washington State Liquor Control Board, now known as the Washington State Liquor and Cannabis Board (WSLCB), was charged with the regulation and taxation of marijuana under this new system, but local jurisdictions maintained zoning authority for the siting of marijuana retailers, producers, and processors.

In August 2016, the King County Council passed Ordinance 18326, which adopted new regulations for marijuana businesses. The ordinance also asked the County Executive to study a number of topics, which can be summarized as follows:

- Analysis of:
 - Locations of retailers, producers, and processors;
 - Amount of land available for marijuana businesses (and whether it is enough to meet the County’s allocation of licenses from the state); and
 - Impacts of marijuana businesses on unincorporated area residents.
- Whether additional regulations are needed to:
 - Mitigate impacts on unincorporated area residents;
 - Provide a predictable, fair, and equitable review process for marijuana businesses; and
 - Incentivize medical marijuana endorsements for retail stores.
- Whether marijuana retailers should be allowed in the Neighborhood Business Zone, and what development conditions would be necessary.
- Whether marijuana retailers, producers, and processors should be allowed in the Urban Reserve Zone, and what development conditions would be necessary.

RETAIL – CURRENT LOCATIONS AND AVAILABLE ZONING

The WSLCB allocated marijuana retailer licenses among cities and unincorporated areas, giving larger cities their own allotment, while grouping smaller cities and unincorporated areas into an “at-large” allotment of licenses. In King County, 22 retail licenses were allocated to unincorporated areas and 22 small cities. Of the 22 cities, nine have prohibited marijuana uses and an additional six are presumed to have no sites for marijuana businesses due to state-mandated youth-oriented use buffers and local zoning regulations.

Partly because of this, 17 of the 22 licensees have located in unincorporated areas rather than in other at-large cities. Marijuana retailers have clustered in the highest-density commercially-zoned areas of unincorporated King County. These areas also have high equity and social justice (ESJ) scores (4.5 out of 5), meaning they have higher percentages of people of color, of people who speak English as a second language, and of lower-income families. Comparatively, the at-large cities that have prohibited or taken no action on marijuana uses have a median ESJ score of 2.33, below the County average.

To prevent further clustering of marijuana businesses and begin to remedy this inequitable situation, the Executive transmitted and the King County Council passed Ordinance 18326, which required new marijuana retailers to locate at least 1,000 feet from any existing marijuana retailer, and adopted shorter timelines for abandonment of non-conforming locations. Since that

time, two non-conforming retailers have moved to conforming locations, one to Vashon-Maury Island and one to the City of Lake Forest Park.

DPER determined that there are currently 56 parcels in unincorporated areas that are theoretically available (meeting zoning requirements and outside of youth-oriented buffers) for a retail marijuana business. Due to the 1,000-foot separation requirement in King County Code, these 56 parcels could house a maximum of 10 marijuana retailers. These theoretically available parcels are located in Fairwood, Coalfield, Fall City, North Highline, Vashon-Maury Island, and Snoqualmie Pass.

As only two of the 22 at-large retailers have not found locations allowed by zoning, these 56 parcels allowing for 10 new locations provide sufficient capacity to meet the state's allocation. These theoretically available parcels are generally in areas with lower ESJ scores than the areas in which retailers are currently located.

PRODUCTION AND PROCESSING – CURRENT LOCATIONS AND AVAILABLE ZONING

The WSLCB did not allocate marijuana producer and processor licenses to specific jurisdictions, instead allowing them to locate and move freely about the state. As of June 2018, there were 27 producers/and or processors licensed in unincorporated King County, with an additional three pending licensure. Twenty-three of these businesses had recorded sales as of February 2018.

Marijuana producers and processors are allowed in a number of zones, subject to different conditions in each zone. DPER analyzed which parcels are outside of youth-oriented buffers, have a zoning designation that allows producer/processor businesses, and meet minimum lot size requirements (i.e. are “theoretically available”). King County Code separates producer/processor businesses into two categories:

- Producer/Processor I – Processing limited to trimming, drying, packaging
- Producer/Processor II – Processing may include extraction, infusion, mechanical and chemical processing.

Using these criteria, there are 4,240 parcels totaling over 75,000 acres that are theoretically available for producer/processor I businesses.

Some zones also have minimum setbacks for marijuana production and processing operations. In order to determine if parcels had a viable area meeting this standard, each of the 4,240 properties would have to be individually analyzed. However, even if 90% of these properties do not have areas that would meet the setback requirements, there would still be zoning for 14 times as many producer/processor businesses as are currently licensed or pending licensure in unincorporated King County.

Analysis of lands available for producer/processor II businesses found that 172 properties are theoretically available under current zoning, with two producer/processor IIs currently operating in unincorporated King County.

DPER therefore concludes that there is sufficient land theoretically available for producer/processor businesses under current zoning.

IMPACTS TO UNINCORPORATED AREA RESIDENTS

Through public comments made during marijuana-related conditional use permit reviews, as well as through a public outreach campaign over the summer of 2018, DPER heard a number of concerns about potential impacts of marijuana businesses on unincorporated area residents. Crime and odor from production and processing facilities were major topics of discussion. Given these concerns and the Council's request, DPER used a data-based approach to determine if and where impacts were occurring.

CODE ENFORCEMENT COMPLAINTS

Since 2013, DPER has initiated eight code enforcement cases against licensed marijuana businesses. In each case, code enforcement was initiated due to the business' failure to obtain the necessary permits and/or licenses. In each case, the business either closed or applied for the necessary permits. No cases were related to violation of regulations pertaining to water, wildlife, traffic, glare, or noise – all of which have been community concerns.

CRIME

For both marijuana retailers and producer/processors, police patrols and alarm responses increased significantly when a marijuana business opened on a site. Marijuana retailers are also targeted for robberies, burglaries, and thefts, more so than the businesses (or vacant storefronts) they replaced. This is partly because marijuana retailers are predominantly cash-based, since financial institutions are generally reluctant to work with these businesses due to federal marijuana prohibition.

Noise disturbances and civil complaints also increased slightly when a marijuana retailer located on a site, although the overall number of complaints remained low. No significant trends were seen for producer/processor sites.

ODOR

The Puget Sound Clean Air Agency (PSCAA) regulates odor from marijuana producer and processor businesses, requiring a Notice of Construction Permit for any such operation. This permit requires the business to implement best available control technology (BACT) in order to prevent odor impacts, and also requires both self- and third-party monitoring of odors.

Between 2014 and June 2018, PSCAA received 56 odor complaints about four producer/processor businesses in unincorporated King County. 75% of all odor complaints were against two properties owned by Cloud Bud LLC.

Of the four locations concerned, only one had received all necessary approvals from King County and PSCAA at the time of the complaint. In that case, it was determined that the required carbon filters needed to be replaced. It therefore appears that PSCAA's permit requirements adequately mitigate odor impacts to neighboring properties.

CODE AND POLICY RECOMMENDATIONS

RETAILERS

1. The at-large allotment system devised by the Liquor and Cannabis Board, combined with the prohibition policies adopted by nine of 22 at-large cities, has contributed to the concentration of marijuana businesses in unincorporated King County.

Recommendation: Request that the WSLCB lower the at-large retail allotment by nine (equal to the number of cities that have prohibited marijuana uses). When existing licenses are forfeited or cancelled, they would not be regenerated.

2. Under current zoning, a number of Regional Business (RB)-zoned parcels in the eastern and northern parts of the North Highline area are currently theoretically available for marijuana retailers. These areas are between one and two miles from the nearest unincorporated area retailer. While relocation of a license from an existing 1,000-foot cluster to one of these parcels would be a positive step toward dispersion, the location of a license not currently within a cluster would represent further concentration of marijuana retailers in North Highline. Further, if youth-oriented uses move or close, additional Community Business (CB) zoning could become theoretically available in North Highline or West Hill.

Recommendation: Add a special overlay to CB and RB properties in North Highline and West Hill, limiting the number of marijuana retailers to four in each area. Existing businesses would be considered legal-nonconforming.

3. The King County Council asked that DPER recommend ways to encourage medical retail through the development regulations. King County code currently incentivizes medical retail by allowing retailers with a medical endorsement from the WSLCB to occupy an additional 1,000 square feet of space as a permitted use.

As the medical marijuana system has been merged into the overall legal marijuana industry, the primary differences between a retailer with a medical endorsement and a retailer without one is that individuals between the age of 18 and 21 can shop there, and anyone with a medical authorization can buy product tax-free. A majority (59%) of licensees in unincorporated King County have medical endorsements. Stores with medical endorsements are located throughout unincorporated King County, and development regulations already incentivize medical marijuana by allowing additional square footage.

Recommendation: No changes to medical marijuana regulations needed at this time.

PRODUCER/PROCESSORS

1. Currently, marijuana producers and processors are allowed in all CB zones, including ones with pedestrian-oriented special district overlays or property-specific development conditions. These include parts of White Center (SO-090) and Vashon-Maury Island (VS-P29). Marijuana producers and processors are not pedestrian-oriented uses – they are not accessible to the public and generally have no signage or indication that the business is there.

Recommendation: Prohibit marijuana producers and processors from locating within pedestrian-oriented areas in White Center and Vashon (SO-090 and VS-P29).

2. The King County Council asked DPER to recommend whether to allow producers and processors in the RA-10 zone, and to recommend development conditions that could be used to assist with limiting the impact of marijuana uses in the RA zones. Production and processing are already allowed in the RA-10 zone, and the data analyzed in this report show that overall, the impacts of these businesses on surrounding communities have been minimal. Code enforcement complaints have been limited to unpermitted work, the

businesses are not attracting crime, and in terms of odor, the vast majority of complaints were against two properties being operated by the same person, who was operating without the necessary approvals from DPER and PSCAA. When businesses obtain the required approvals, PSCAA's requirements adequately mitigate odor impacts.

Recommendation: No changes to allowed uses or development conditions in the RA-10 zone.

MARIJUANA RETAIL IN THE NEIGHBORHOOD BUSINESS ZONE

The King County Council asked DPER to recommend whether to allow retail marijuana businesses in the neighborhood business (NB) zone, and if so, what conditions should apply. The Council also asked DPER to recommend a limited number of sites on which to allow marijuana retailers.

DPER analyzed NB-zoned parcels for both theoretical availability (whether they are outside of youth-oriented buffers) and practicable availability (whether they would be likely to be developed as a marijuana retailer, given existing uses and ownership, site dimensions, and other factors).

Out of a total of 196 parcels with NB zoning, 31 were both theoretically and practicably available, with an additional 105 theoretically, but not practicably, available.

DPER then turned to the question of whether marijuana retail is a use that meets the code-defined purpose of the NB zone. The zone's definition states that uses are to "provide convenient daily retail and personal services for a limited service area," and must "serve the everyday needs of a surrounding urban or residential area."

More than 85% of respondents to the King County Marijuana Questionnaire who had ever shopped at a marijuana retailer stated that they visit such a business once a month or less. A monthly-or-less need does not fit the "daily retail" and "everyday needs" purpose of the NB zone. Such uses meet the definition and purpose of, and are allowed in, in the CB and RB zones.

The closest analogue to a marijuana retailer is a liquor store. Both stores sell intoxicating products for consumption by adults. Liquor stores are not allowed in the NB zone unless accessory to a winery or brewery, and bars and other drinking places are also not allowed. This further supports the conclusion that marijuana retail does not fit the definition and purpose of the NB zone.

Additionally, the available lands analysis found that there is adequate zoning capacity under current code to accommodate the two remaining licensees that are in areas not allowed by zoning, as well as to allow for dispersion of the existing clusters of marijuana retailers. Therefore, there is no pressing need to allow this use in the NB zone.

Recommendation: No changes to allowed uses in the NB zone.

MARIJUANA RETAIL, PRODUCTION AND PROCESSING IN THE URBAN RESERVE ZONE

The King County Council also asked DPER to recommend whether to allow marijuana retail, production and processing in the Urban Reserve (UR) zone. This zone is comprised of low-density unincorporated urban areas, until the necessary urban services can be provided by an annexing jurisdiction. The exception to this is the Novelty Hill area, which is comprised of three urban planned developments (UPDs) currently governed by a developer agreement. DPER

recently initiated a process to assign permanent zoning to Novelty Hill. When this process is complete, the UR zoning designation will be removed from this area and each property will receive a permanent zoning designation.

According to the code-stated purpose of the UR zone, non-residential uses in the zone are limited to rural, agricultural and other low-density uses. Marijuana retail sales are not considered agricultural products sales by King County code, and the code does not allow retail in general in the UR zone, with very few exceptions.

While marijuana production is allowed in both urban and rural areas, the development conditions in each area are very different. Allowing marijuana production and processing outdoors or in a marijuana greenhouse may fit the more rural character of the UR zones in their current state, but would be out of place in the dense residential neighborhoods these zones are intended to become. On the other hand, building a large warehouse, characteristic of urban producers and processors, would be out of place in the current landscape and would not be “interim” per the code, so as to allow for future residential development.

Recommendation: No changes to allowed uses in the UR zone.

INTRODUCTION

In the four years since legal marijuana retailers opened in Washington State, the industry continues to evolve. Multiple agencies at the state and local levels continue to fine-tune regulations, and although the Washington State Liquor and Cannabis Board (WSLCB) has set a finite amount of licenses, marijuana producers, processors, and retailers continue to open, merge, transfer ownership, and go out of business.

In 2016, the King County Council instructed the King County Department of Permitting and Environmental Review (DPER) to study a number of topics related to the marijuana industry in unincorporated King County. These included:

- An analysis of the land available under the county's land use code to determine if there is sufficient capacity to absorb the number of licenses the state has allocated to King County;
- A map of the known retail and producer and processor locations and any potential locations;
- An analysis of the impacts of legal marijuana retail and processing on unincorporated residents for the period 2014-2018, including the number, location and nature of complaints made to DPER; crimes attributable to marijuana businesses; an assessment of how regulations governing light and odor are being implemented; and a summary of public comment made during five conditional use permit reviews;
- An assessment of the equity and social justice impacts of how the marijuana industry is developing in unincorporated King County;
- Recommendations for ways to meet the county's obligations under the new regulated state framework and adopt development regulations that are fair and predictable to the industry and that minimize the impact of marijuana retail stores and processing facilities on residents;
- Recommendations for ways to use development regulations to incentivize the location of medical retail establishments in King County;
- An overview of the state of the marijuana industry in the state and county based on what is learned in this report, as well as information available through state, federal and privately funded studies;
- A table showing the land use rules for all jurisdictions in Washington where such information is readily available.
- Recommendation on whether to allow marijuana retailers in the NB zone, and if so, what development conditions should apply.
- Discussion of regulatory options for marijuana retail uses in NB zones, including development conditions and any property or area specific conditions that could be used to assist with compatibility of marijuana retailer uses;
- A proposed ordinance allowing marijuana retail uses in 10 existing NB-zoned areas, along with appropriate development conditions, allowing marijuana retail uses in no more than two NB-zoned areas per council district.
- Recommendation on whether to allow marijuana producers, processors and retailers in the UR zone and, if so, what development conditions should apply.
- Recommendation whether to allow marijuana producers and processors in the RA-10 zone generally, and discussion of regulatory options for marijuana producers and

processors in RA zones, and recommended development conditions that could be used to assist with limiting the impact of marijuana retailer uses.

This study provides a snapshot of a continuously-changing industry at one point in time. The study finds that so far, King County's regulations have adequately provided for the industry while minimizing impacts to residents, although this report does recommend additional policy and regulatory changes. As the industry and state regulations evolve, King County will continue to monitor the effectiveness of its own regulations, and be prepared to change as the industry does.

**SECTION ONE
MARIJUANA BUSINESSES AND ZONING – EXISTING CONDITIONS**

THE STATE OF THE LEGAL MARIJUANA INDUSTRY IN WASHINGTON

TIMELINE OF EVENTS – I-502 TO PRESENT

In November 2012, the voters of Washington State approved Initiative 502, which legalized the production, processing, and retail sale of marijuana for use by adults 21 years of age or older. King County voters approved the measure by a margin of 63.5% to 36.5%, a higher approval margin than any other county except for Jefferson and San Juan.

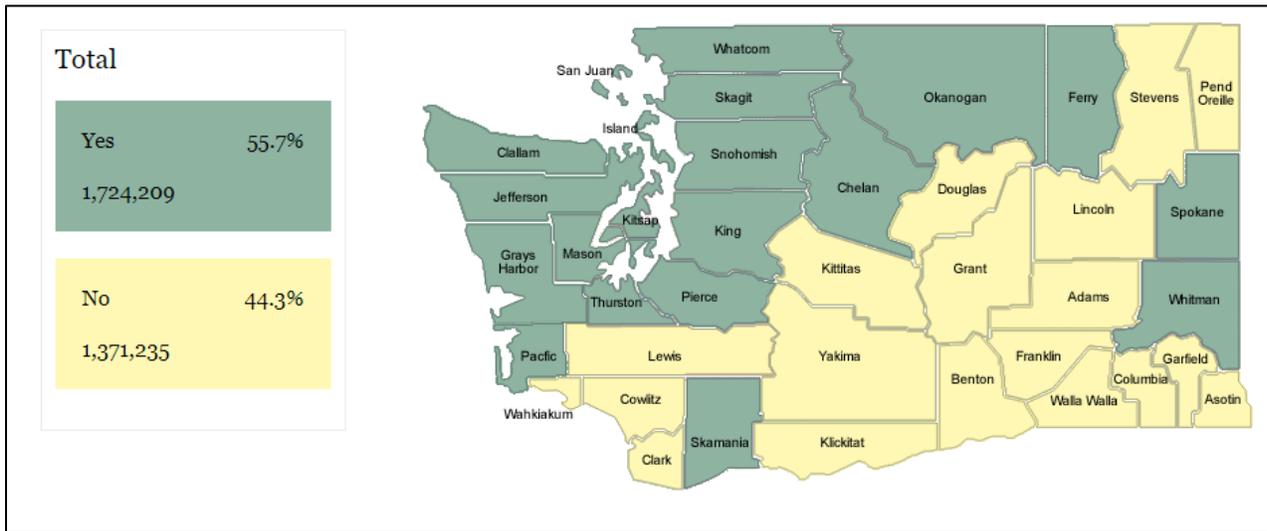


Figure 1 – I-502 Results by County. Source: Washington Secretary of State

Voters in unincorporated areas of the County also supported I-502, by a slightly smaller margin of 57% to 43%. Figure 2 below shows the level of support in unincorporated areas, by voting district.

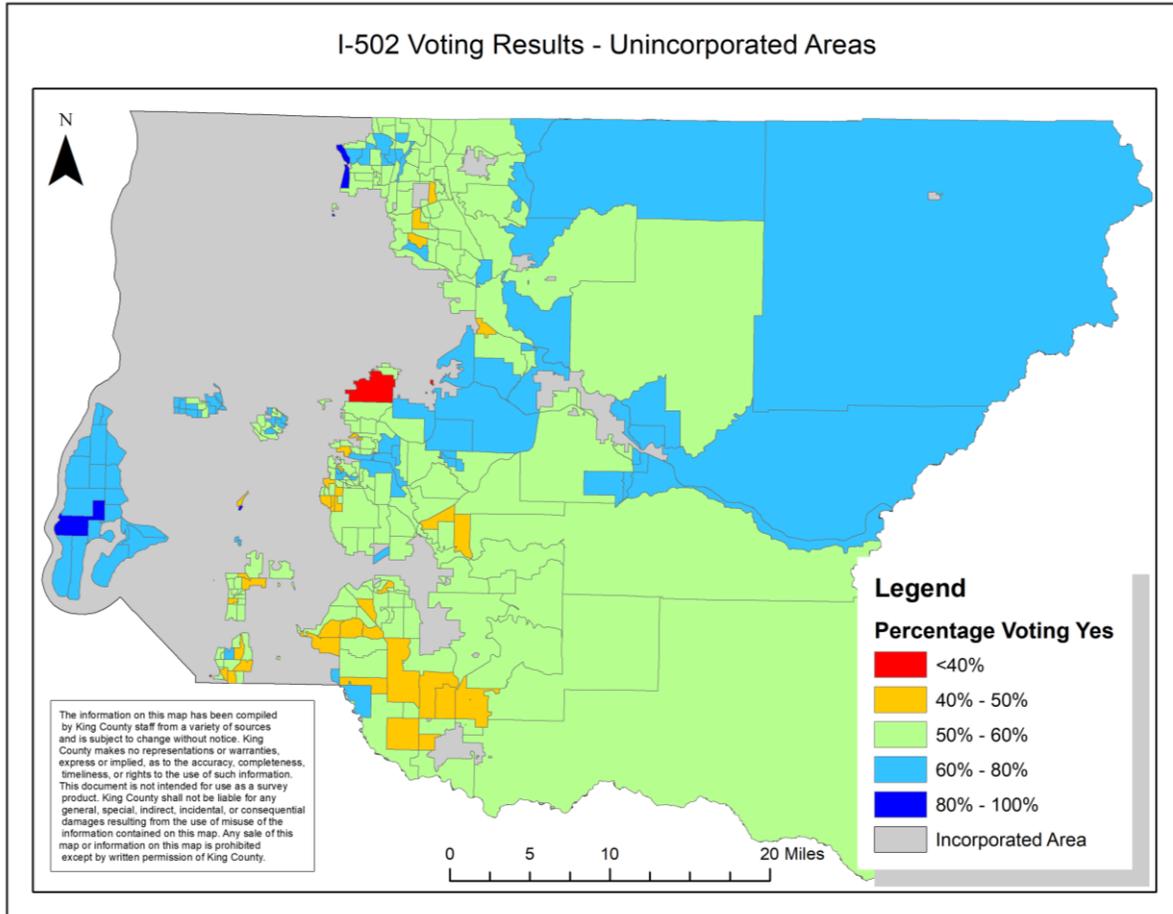


Figure 2 – I-502 Voting Results in Unincorporated Areas of King County.

The Washington State Liquor Control Board, now known as the Washington State Liquor and Cannabis Board (WSLCB), was charged with the regulation and taxation of marijuana under this new system. While non-medical use of marijuana officially became legal in December 2012, licensed businesses did not begin operation until 2014, with the first retailers opening in July of that year. In the case of retail businesses, the WSLCB made a set number of licenses available, and allocated a specific number of licenses to each of the most populous cities within each county. Smaller cities and unincorporated areas received a shared allotment of “at-large” licenses.

Producer and processor licenses were not limited in number or by jurisdiction, with all qualified applicants who applied during a 30-day window receiving licenses.

In broad terms, the authority for licensing and regulating marijuana businesses was retained by the State through the WSLCB, but the siting of individual businesses within cities or counties fell under the zoning authority of each local jurisdiction. As will be discussed further in this report, this led to a patchwork of regulations and policies across the state, as well as within King County.

In 2015, the Washington State Legislature adopted changes to the marijuana regulatory system. These changes eliminated the separate legal framework for medical marijuana businesses, which had been operating in a quasi-legal state for more than a decade. Rules for medical marijuana

were folded into the legal marijuana system, and as a result, a large number of quasi-legal businesses were forced to close. At the same time, the WSLCB increased the retail allocations in most jurisdictions to allow some of the medical marijuana businesses to convert to the legal framework. These changes became effective on July 1, 2016 and brought the industry to the levels present at the time of this report.

Since the summer of 2016, the state legislature has continued to refine laws concerning marijuana businesses, with advertising, signage, and product traceability being major topics of change.

DISTRIBUTION OF MARIJUANA BUSINESSES STATEWIDE

As of June 2018, there were a total of 606 marijuana retail licenses issued or pending in Washington State. King County, the most populous county in the state, has by far the most licenses with 135. Snohomish and Pierce Counties follow with 66 and 45, respectively. Figure 3 below shows the distribution of marijuana retail licenses across the state. The number of licenses in each county was determined by the WSLCB.

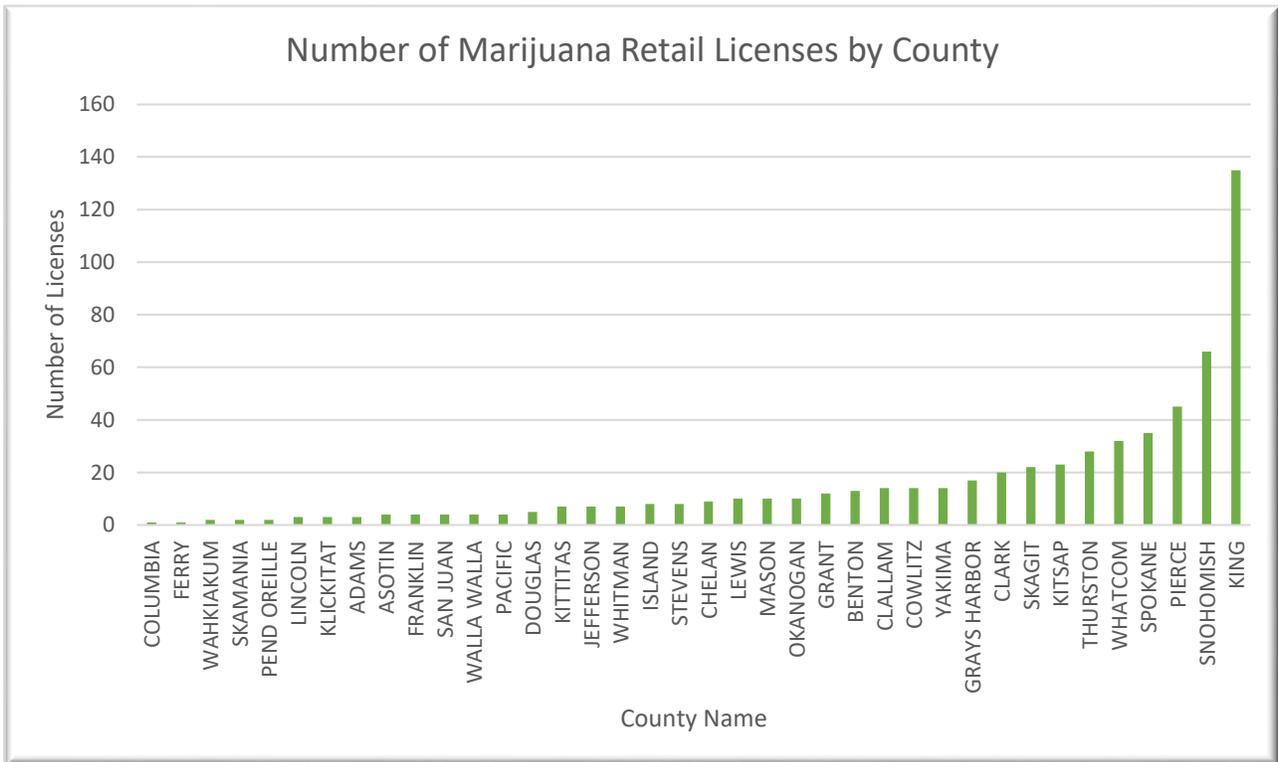


Figure 3 – Number of Marijuana Retailer Licenses by County.

The distribution and number of marijuana producers and processors came about solely through market forces rather than being allocated by the WSLCB. Figure 4 shows the distribution of marijuana producers and processors, with Spokane County having the most licenses. It should be noted that most producers also hold a processor license, which is why there is a relative balance between producers and processors in each county. The one notable exception is King County, which has a far greater number of marijuana processor licenses than it does producer licenses. This is likely because a number of stand-alone marijuana processors are located in Seattle’s industrial areas (close to retailers).

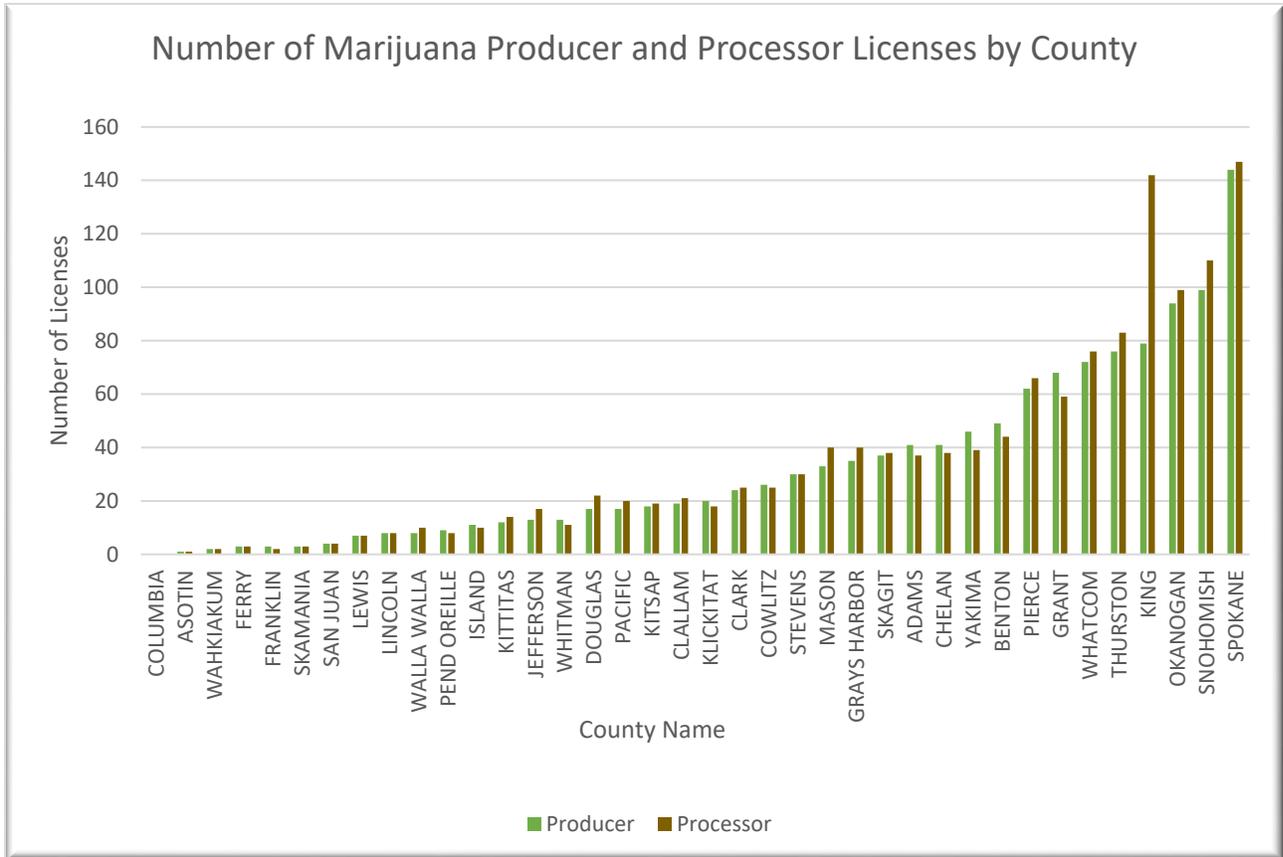


Figure 4 – Number of Marijuana Producer and Processor Licenses by County. Source: WSLCB

It should be noted that not all businesses with a license issued from the WSLCB are actually in operation. Bans, moratoria, zoning regulations, and the challenges of new entrepreneurship are just a few of the reasons why a marijuana licensee might not be operating.

STATEWIDE TRENDS

PRODUCTION, SALES, AND TAX REVENUE

The first harvest of legally-produced marijuana was sold to retailers in June 2014, shortly before the first retailers opened their doors in July. As Figure 5 below shows, production levels were relatively low in the first year, and for the first several months in particular. Indeed, Cannabis City, the first marijuana retailer in King County, was forced to close after only three days of operation because they had sold out of all available product. Over the next several months, the market was characterized by shortages, and high retail prices were the natural result.

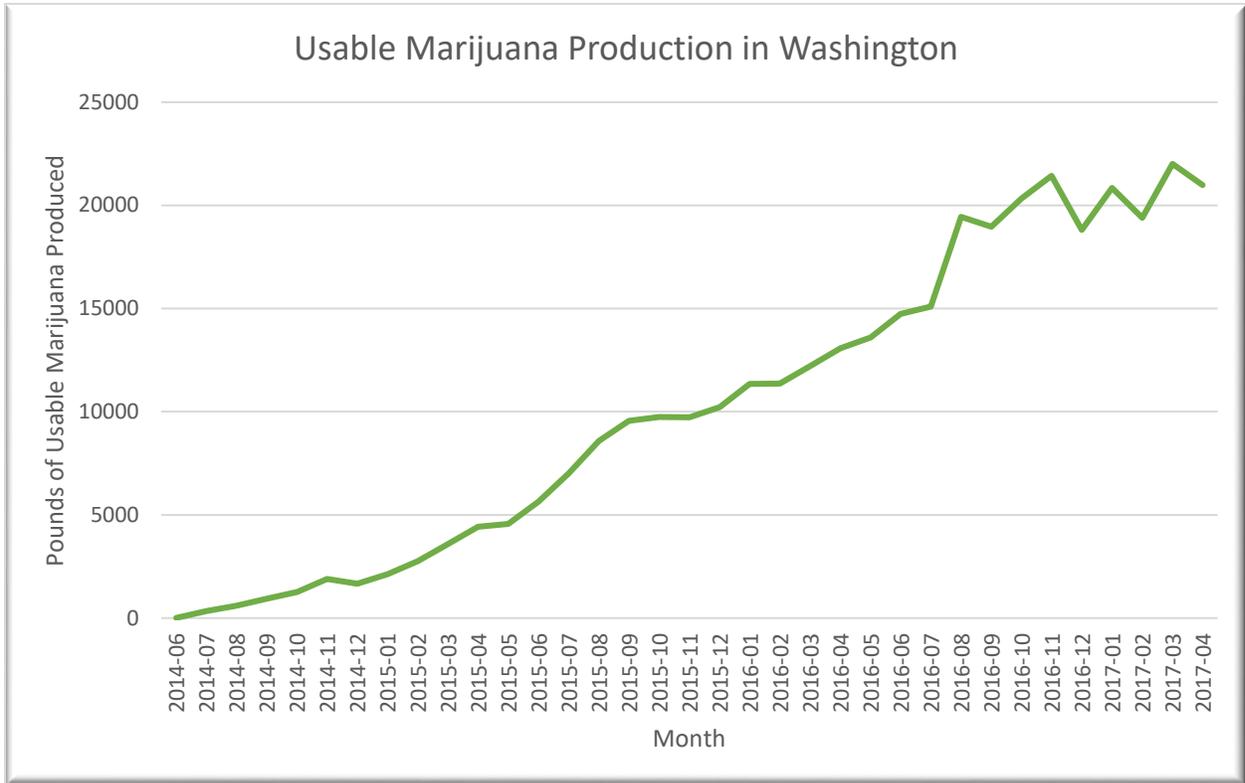


Figure 5 – Usable Marijuana Production in Washington State. Source: WSLCB

Although producer license applications were only accepted during a one-month period in 2013, it took many months, and years in some cases, for applicants to demonstrate compliance with WSLCB’s standards and receive a license. Over 7,000 applications were received, and as of spring 2018, a small number of those applications were still under review. Even after being approved, several producers have not yet reported any sales, suggesting that, while licensed, they have not yet completed a harvest.

Nonetheless, even with production below full capacity, the market has changed drastically from the early days of undersupply. Figure 6 demonstrates that supply has now outstripped demand, leading to rapidly declining retail prices for marijuana flower through mid-2015, and gradually declining retail prices thereafter, despite increased overall sales. Anecdotally, producer/processors in King County have stated that the low prices that have characterized the market in recent years have made it increasingly difficult to turn a profit.

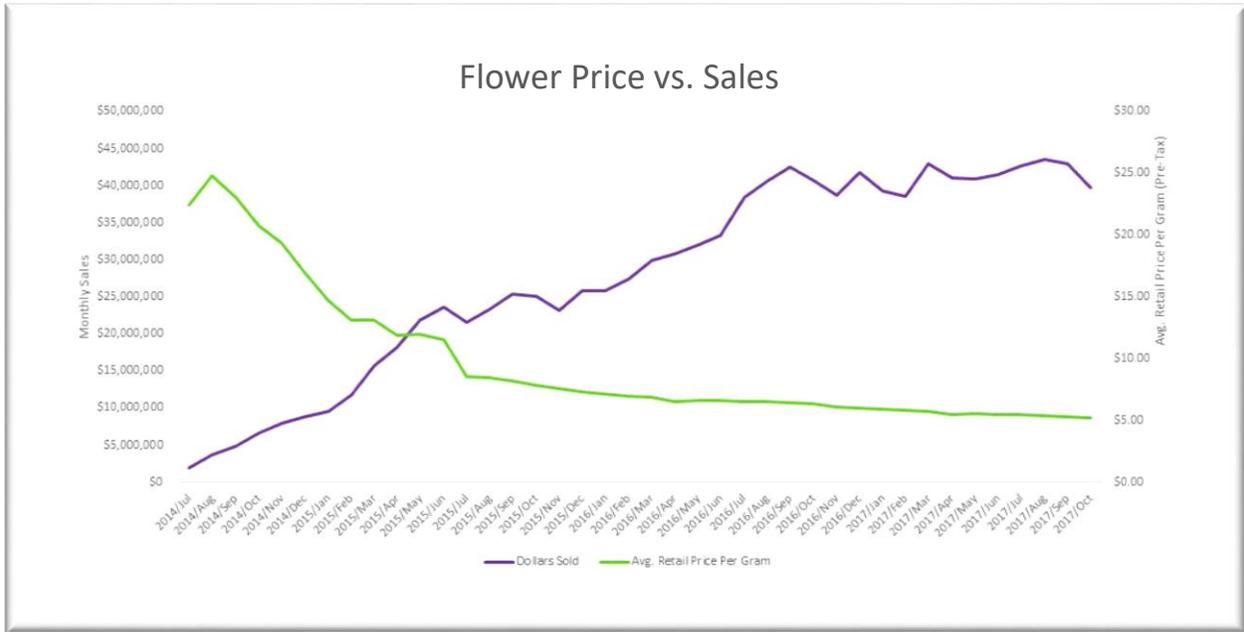


Figure 6 – Marijuana Flower Price per Gram vs. Sales. Source: BSD Analytics

I-502 imposed a 25% excise tax on all sales by marijuana producers, processors, and retailers. In April 2015, the legislature changed the excise tax structure, replacing the three-tier system with a single 37% excise tax on retail sales. In 2017, the excise tax generated roughly \$314.8 million statewide, as shown in Figure 8.



Figure 7 – Marijuana Flower for Sale at a King County Marijuana Retailer

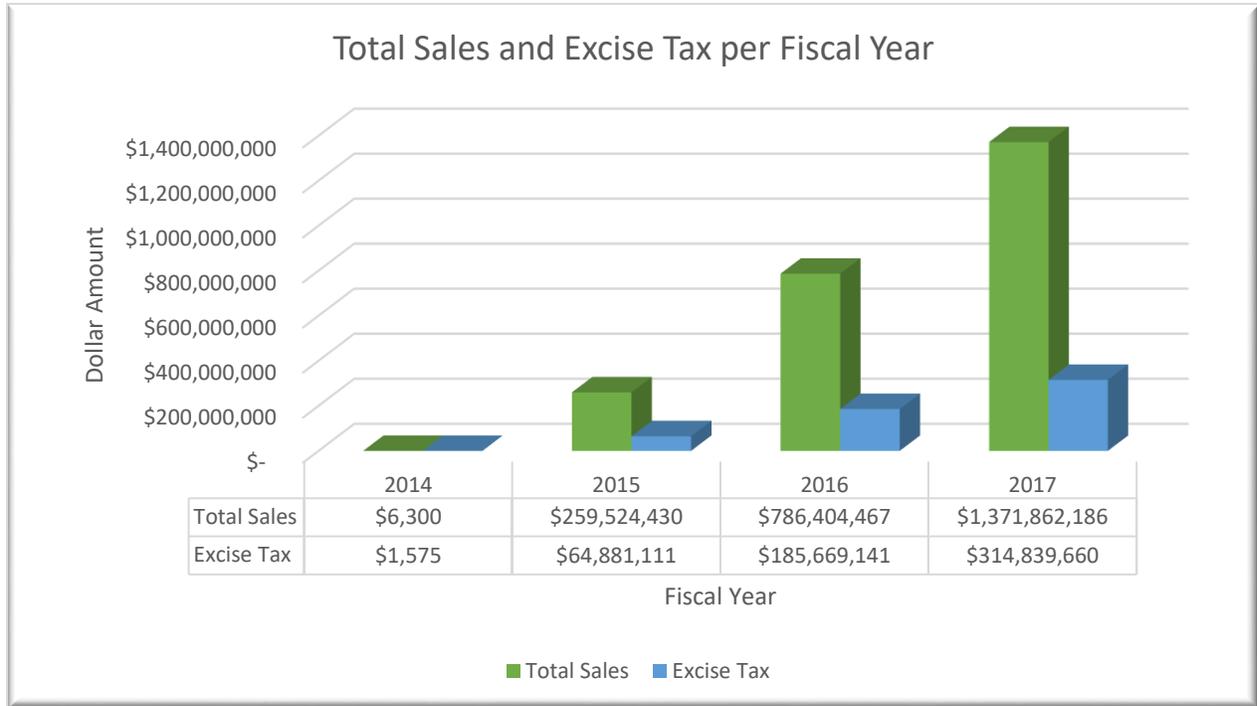


Figure 8 – Total Sales and Excise Tax per Fiscal Year.

Of the \$314.8 million collected statewide, \$92.1 million, or 29%, was generated within King County. 4% of the revenue generated annually is divided among local jurisdictions. For fiscal year 2018, King County received 3.6 million, as shown in Figure 9 below.

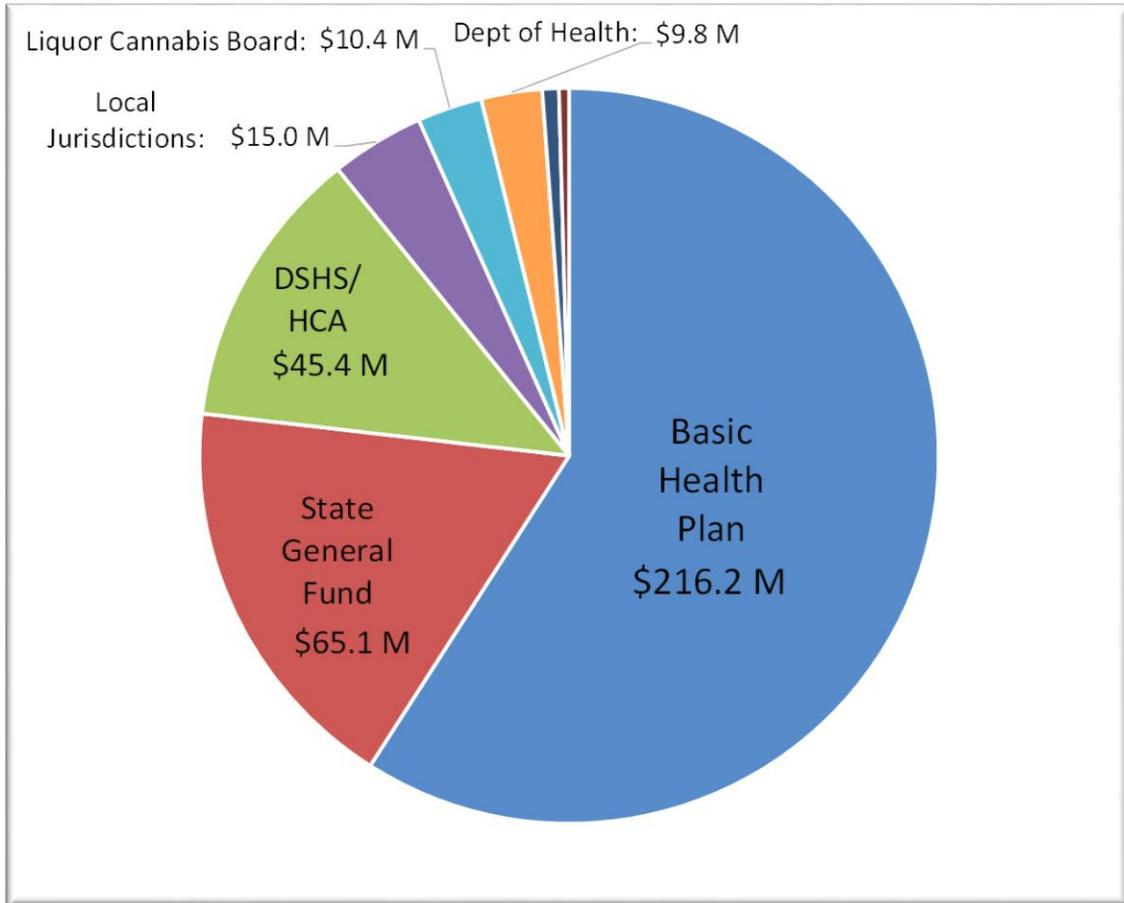


Figure 9 – Allocation of Excise Tax Revenue, Highlighting King County Portions, State Fiscal Year 2018. Source – WSLCB

Note: The two unlabeled slivers include appropriations for various uses including: youth survey, WSIPP, UW public education materials, UW and WSU research, and OSPI.

Table 1 shows how the King County distribution is used, with funds split among the King County Sheriff’s Office (KCSO), the Department of Permitting and Environmental Review (DPER) and the Department of Public Health (DPH). DPH also receives marijuana-related funding from other sources, as shown in the table.

State Source	RCW Subsection	Initial Receiving Fund	Expending Agency		Purpose	(est.)		2017-2018 Total
			2017	2018				
Liquor and Cannabis Board (calculates amount for state treasurer)	(2)(g) - proportional distribution of revenue to counties, cities, and towns	General Fund	KCSO		General enforcement and public safety	861,000	2,734,000	3,595,000
			DPER		Code Enforcement FTE to help with monitoring code compliance for marijuana facilities	111,000	116,000	227,000
			DPH		Portion of FTE to support King County Cannabis Interbranch Team	25,000	50,000	75,000
			Subtotal		997,000	2,900,000	3,897,000	
Department of Health	(2)(b) - Creation, implementation, operation, and management of a marijuana education and public health program	Public Health	DPH		Marijuana youth prevention grant	132,000	377,000	509,000
			DCHS		Subcontract with DCHS for youth prevention grant	113,000	113,000	226,000
			Subtotal		245,000	490,000	735,000	
Department of Social and Health Services Division of Behavioral Health and Recovery	(2)(a) - Programs and practices to prevent or reduce substance use among youth and pregnant and parenting women	Behavioral Health	DCHS		Substance Use Disorder Group Care Enhancement (for youth)	554,191	554,191	1,108,382
			DCHS		Collaborative School Based Behavioral Health Services (for Middle and High School Students)	227,072	227,072	454,144
			Subtotal		781,263	781,263	1,562,526	
			Total All Sources		2,023,263	4,171,263	6,194,526	

Table 1 – Marijuana Excise Tax Revenues Received by King County and How Expended, 2017-2018 (calendar years). Source: King County Office of Performance, Strategy, and Budget

YOUTH USE & PERCEPTIONS

As illustrated above, the Department of Public Health (DPH), in partnership with the Department of Community & Human Services, receives funding from the Washington State Department of Health (DOH) for youth prevention activities. This initiative, called the King County Youth Marijuana Prevention and Education Program, is guided by a five-year strategic plan, which was developed by DPH, DCHS, and advised by community partners.

Youth prevention is an important component of the regulatory and policy structure in Washington. Many of the WSLCB regulations are intended to keep marijuana out of the hands of kids, and local programmatic efforts support this goal. Marijuana use can have long-term effects on the developing brain when use begins in adolescence, especially with regular or heavy use.¹ According to the Centers for Disease Control, marijuana use at an early age can affect memory, school performance, attention, and learning, and can increase risk for mental health problems. It also increases the chance of addiction; one in 10 marijuana users will become addicted, but for people who begin using before the age of 18, that number rises to one in six.²

The King County Youth Marijuana Prevention and Education Program seeks to reduce marijuana use rates among youth by providing educational materials, trainings, and youth leadership opportunities.³

¹ National Institute on Drug Abuse, “What are marijuana's long-term effects on the brain?” November 16, 2016.

²US Center for Disease Control, “Marijuana Fast Facts and Fact Sheets,” 2017, <https://www.cdc.gov/marijuana/fact-sheets.htm>

³ King County Department of Public Health, “Youth Health and Marijuana,” <https://www.kingcounty.gov/depts/health/marijuana-health/youth.aspx>

The Washington State Institute for Public Policy is tasked with evaluating the impacts of legalization, including substance use, health, traffic safety, criminal justice, education, and workplace safety/productivity. The most recent report, released in 2017, included preliminary findings related to youth and adult substance use, cannabis abuse treatment admissions, and drug-related criminal convictions.⁴ The 2017 report found “no evidence of effects of the amount of legal cannabis sales on indicators of youth cannabis use in grades 8, 10, and 12.” The next report is due to be released in 2022.

In King County, the proportion of students reporting past 30-day marijuana use throughout 2004–2016 was lowest among students in grade 6 and increased with grade level in school (Figure 10). In 2016, past 30-day marijuana use was reported by 0.6% of grade 6 students, 4.1% of grade 8 students, 13.9% of grade 10 students, and 25.5% of grade 12 students. Among students in grade 6, past 30-day marijuana use declined continually, and was statistically significant over the survey years. There was no statistically significant trend among students in grade 8; however, among students in grades 10 and 12, past 30-day use increased from 2004–2012, and then declined.

⁴ Washington State Institute for Public Policy, “I-502 Evaluation and Benefit-Cost Analysis Second Required Report,” September 2017, http://www.wsipp.wa.gov/ReportFile/1670/Wsipp_I-502-Evaluation-and-Benefit-Cost-Analysis-Second-Required-Report_Report.pdf

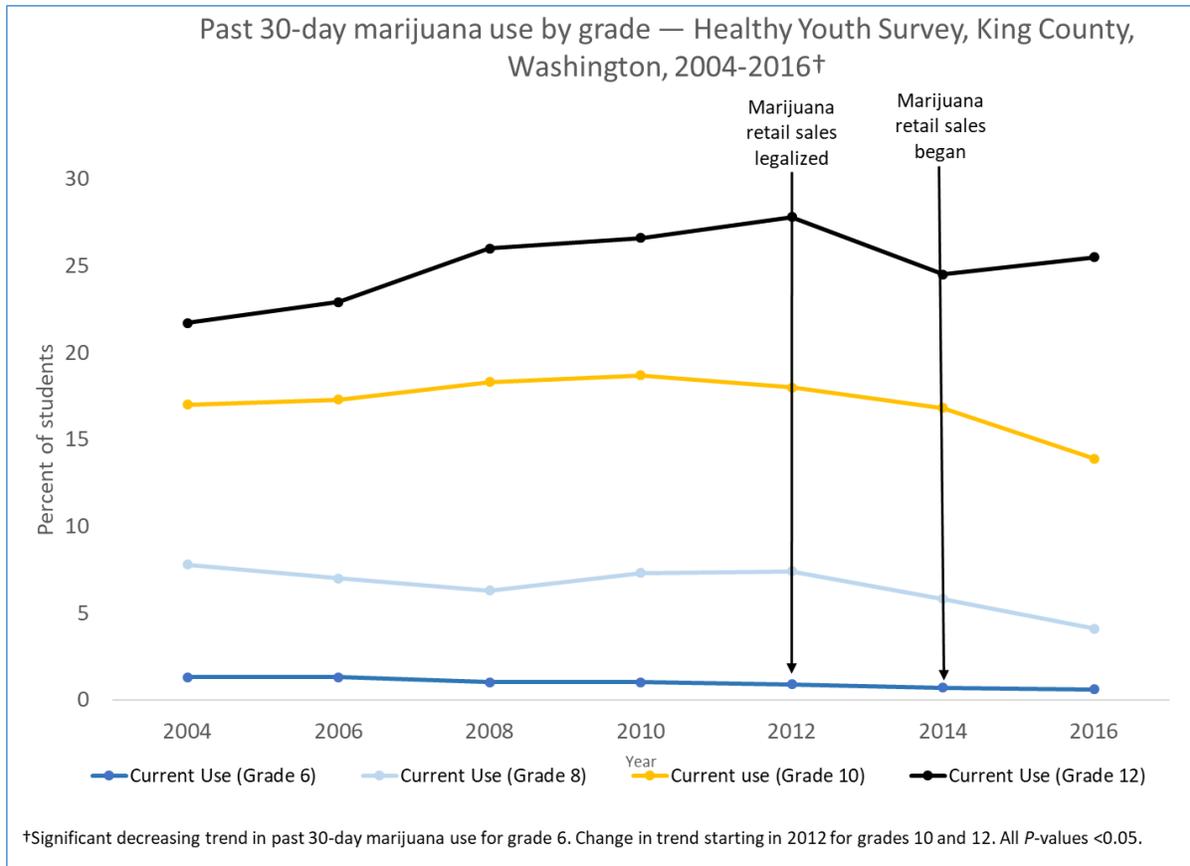


Figure 10 – Past 30-day King County Youth Marijuana Use by Grade. Source: Public Health – Seattle & King County, Assessment, Policy Development & Evaluation Unit.

In early 2018, the King County Youth Marijuana Prevention and Education Program worked with community partners survey from youth about their attitudes, knowledge and beliefs related to marijuana use. Findings included:

- Most teens do not think marijuana use is a problem, have little concern for its risks and think that marijuana is very easy to obtain.
- Marijuana is usually accessed through social media or personal connections, especially peers, siblings, or a person they know who sells, not through retail stores.
- They incorrectly believe that most of their peers use marijuana.
- They want more unbiased health information about marijuana presented in non-judgmental ways and rely on media, peers, school, and parents for their information.

A critical component of King County Youth Marijuana Prevention and Education Program's efforts moving forward is to address the misperception that youth marijuana use does not involve risk. Since 2004, Healthy Youth Survey data in King County has shown a steady decrease in youth perceptions of harm from regular marijuana use. In 2016, only 26.7% of students in grade 12 perceived regular marijuana use as harmful, whereas more than half had reported this

perception in 2004. This finding is consistent with those nationally, and was echoed throughout the listening sessions in youth attitudes towards use.

DUI

The Washington Traffic Safety Commission's 2018 *Marijuana Use, Alcohol Use, and Driving in Washington State* report found that driving under the influence of marijuana increases vehicle crash risk, although estimates vary on how much the risk increases when a subject is under the influence of marijuana alone. However, the combined use of marijuana and alcohol increases the crash risk beyond that for either of the two drugs alone.⁵

Figure 11 shows that, between 2008 and 2016, drivers involved in fatal crashes who tested positive for any drug most commonly had two or more substances in their system, the most common combination being alcohol and THC (the psychoactive substance in marijuana). Figure 12 further shows that poly-drug use in fatal crash-involved drivers steadily increased since 2011.

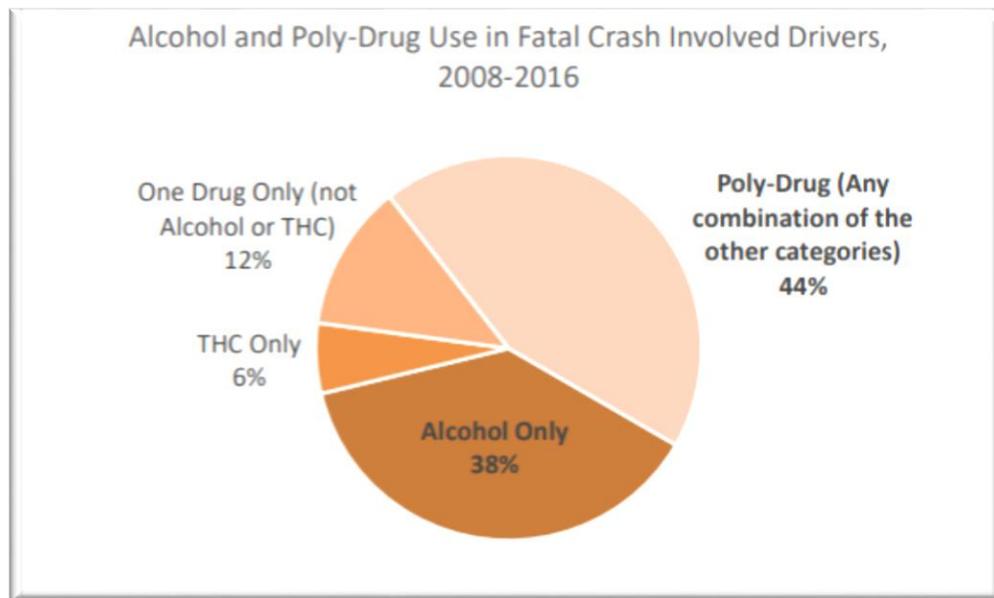


Figure 11 – Alcohol and Poly-Drug Use in Fatal Crash Involved Drivers. Source: WA Traffic Safety Commission

⁵ Washington Traffic Safety Commission. "Marijuana Use, Alcohol Use, and Driving in Washington State: Emerging Issues with Poly-drug Use on Washington Roadways," April 2018, 3-4, http://wtsc.wa.gov/wp-content/uploads/2018/04/Marijuana-and-Alcohol-Involvement-in-Fatal-Crashes-in-WA_FINAL.pdf.

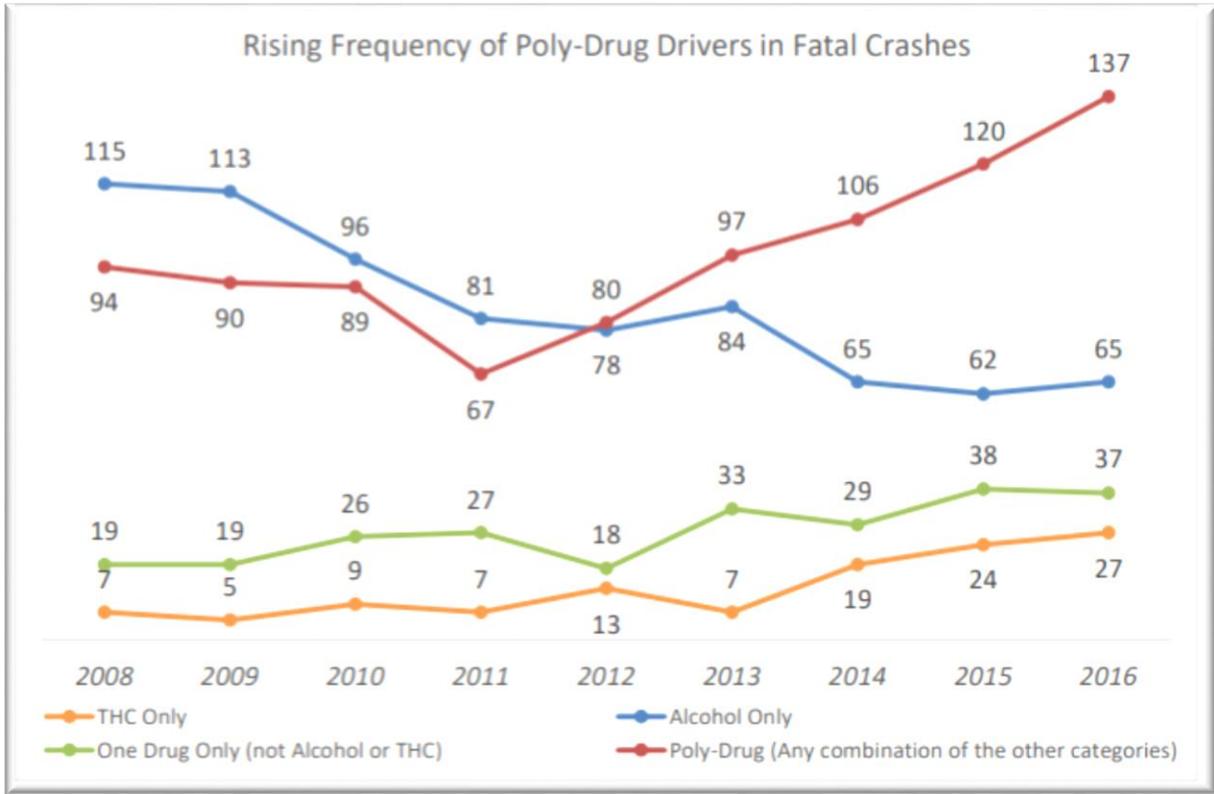


Figure 12 – Rising Frequency of Poly-Drug Drivers in Fatal Crashes. Source: WA Traffic Safety Commission

The report also reviewed a number of self-report surveys, which found that driving after marijuana use is fairly common, and that many drivers – particularly younger ones – do not believe marijuana use impairs driving.⁶ Clearly, further public awareness campaigns by health and traffic safety agencies are needed to raise awareness of the increased crash risk associated with marijuana use, and in particularly with the combined use of marijuana and alcohol.

MARIJUANA BUSINESSES IN KING COUNTY

OVERVIEW OF MARIJUANA BUSINESS REGULATIONS AND LOCATIONS

LOCAL MARIJUANA REGULATIONS

Since the passage of I-502 in 2012 and the subsequent commencement of retail sales in the summer of 2014, marijuana retailers, producers, and processors have spread across the western half of King County, from Vashon-Maury Island to Fall City and from Shoreline to the Enumclaw plateau.

⁶ Washington Traffic Safety Commission. *Marijuana Use, Alcohol Use, and Driving in Washington State: Emerging Issues with Poly-drug Use on Washington Roadways*, April 2018, 32, http://wtsc.wa.gov/wp-content/uploads/2018/04/Marijuana-and-Alcohol-Involvement-in-Fatal-Crashes-in-WA_FINAL.pdf.

Jurisdictions within King County have chosen to implement marijuana regulations in a variety of ways, resulting in a patchwork approach to regulation. Table 2 and Figure 13 summarize these regulations into three categories:

- Allowed – Marijuana uses are allowed within the jurisdiction
- Prohibited – Marijuana uses are prohibited within the jurisdiction
- No Action – The jurisdiction has not implemented marijuana regulations, but due to zoning considerations or state-required buffers from sensitive uses, there is little or no land available for marijuana uses

Jurisdiction	Marijuana Zoning Status
Auburn	Allowed
Bellevue	Allowed
Bothell	Allowed
Burien	Allowed
Carnation	Allowed
Covington	Allowed
Des Moines	Allowed
Issaquah	Allowed
Kenmore	Allowed
King County (unincorporated)	Allowed
Kirkland	Allowed
Lake Forest Park	Allowed
Maple Valley	Allowed
Normandy Park	Allowed
North Bend	Allowed
Redmond	Allowed
Renton	Allowed
Seattle	Allowed
Shoreline	Allowed
Tukwila	Allowed
Beaux Arts	No Action
Clyde Hill	No Action
Duvall	No Action
Mercer Island	No Action

Jurisdiction	Marijuana Zoning Status
Hunt’s Point	No Action
Skykomish	No Action
Yarrow Point	No Action
Algona	Prohibited
Black Diamond	Prohibited
Enumclaw	Prohibited
Federal Way	Prohibited
Kent	Prohibited
Medina	Prohibited
Milton	Prohibited
Newcastle	Prohibited
Pacific	Prohibited
Sammamish	Prohibited
SeaTac	Prohibited
Snoqualmie	Prohibited
Woodinville	Prohibited

Table 2 – Marijuana Zoning Status of King County Jurisdictions

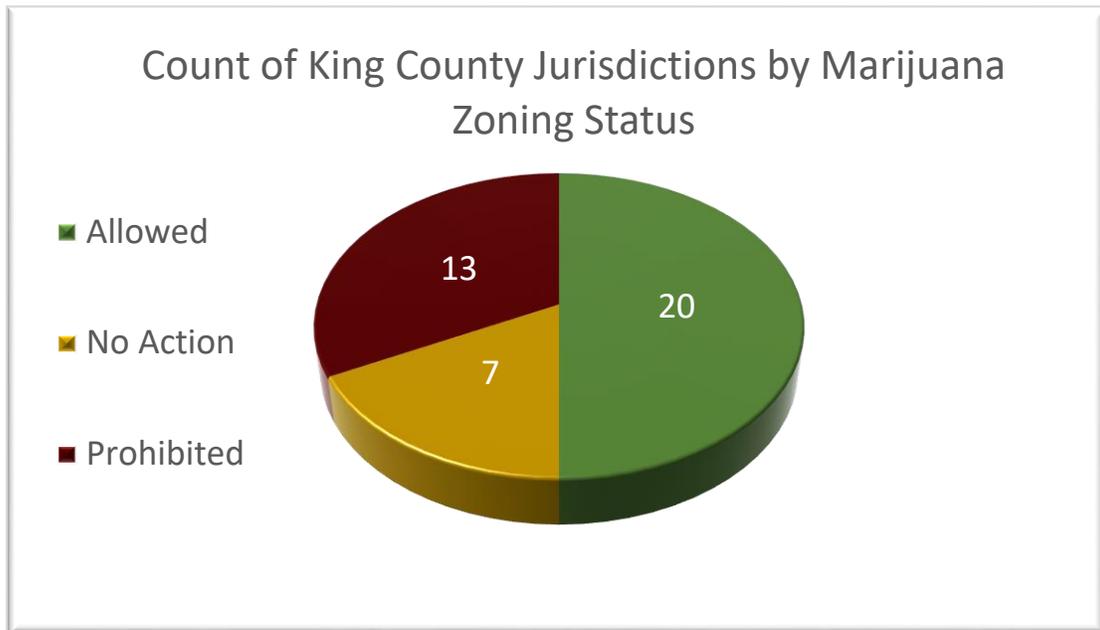


Figure 13 – Count of King County Jurisdictions by Marijuana Zoning Status

MARIJUANA RETAILERS IN KING COUNTY

The WSLCB’s process for issuing retail marijuana licenses was to allot a certain number of licenses to each large city within the county. The licensees were then restricted to operating within their licensed jurisdiction, and while they are allowed to change locations within that jurisdiction, they are not allowed to transfer their license to another jurisdiction.

Smaller cities and unincorporated areas were grouped together and given an “at-large” allotment of their own. As a whole, these small cities and unincorporated areas were treated as one jurisdiction for the purpose of license allotment. Licensees can establish themselves within any jurisdiction designated “at-large,” and move between them, but cannot transfer their license to a jurisdiction that has its own retail allotment.

Figure 14 below shows the current retail allotments for jurisdictions within King County. Areas without a number are included in the “at-large” allotment of 22 licenses.

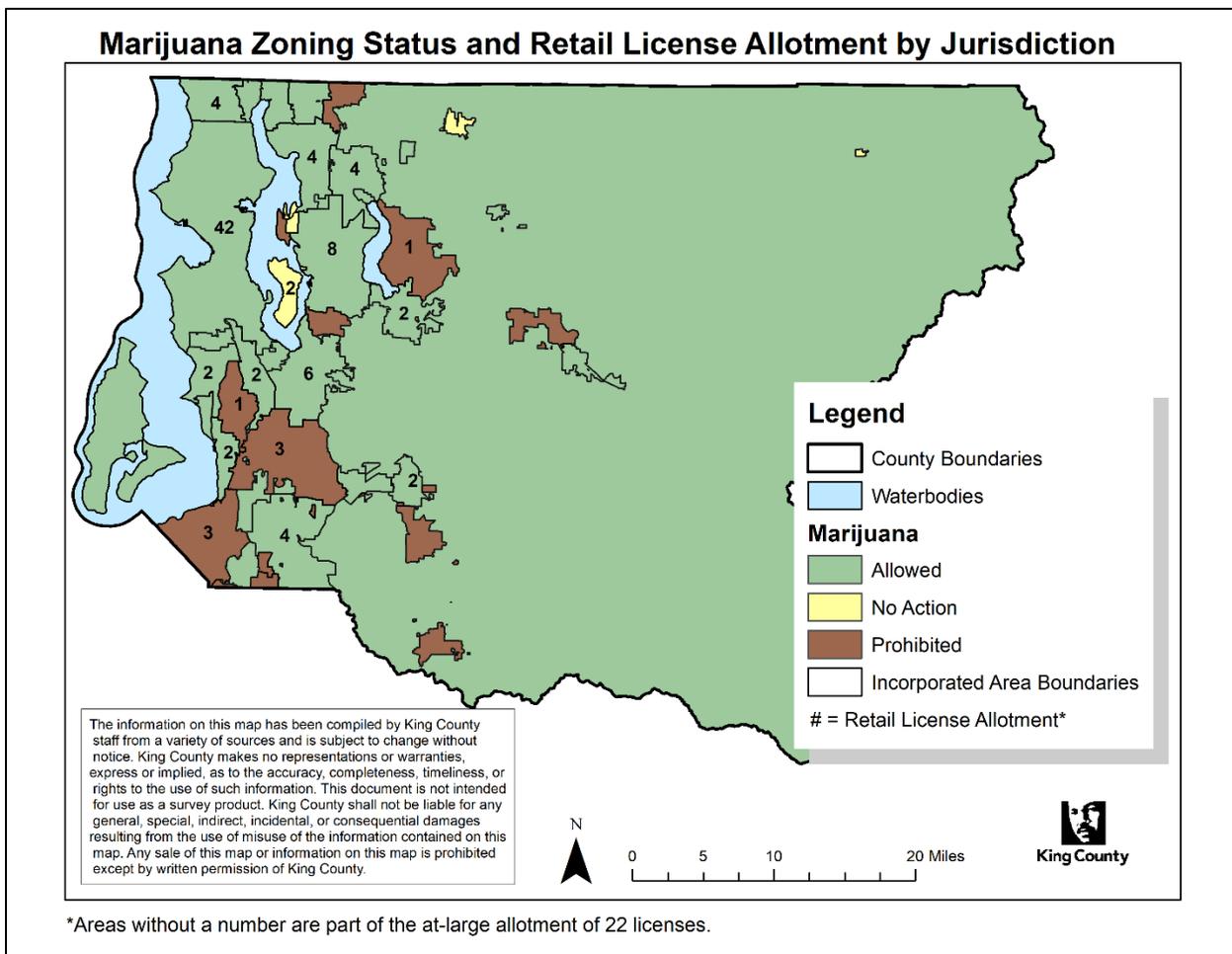


Figure 14 – Marijuana Zoning Status and Retail License Allotments by Jurisdiction.

As Figure 14 shows, a number of jurisdictions have prohibited marijuana businesses, but still are part of an allotment, either specific or at-large. The implications of this will be discussed later in this section.

Figure 15 below shows the location of all issued and pending retail marijuana licenses within King County as of June 2018. As of June 2018, there were 110 retail licenses issued and 25 retail licenses pending in King County.

Location of Retail Marijuana Licenses in King County

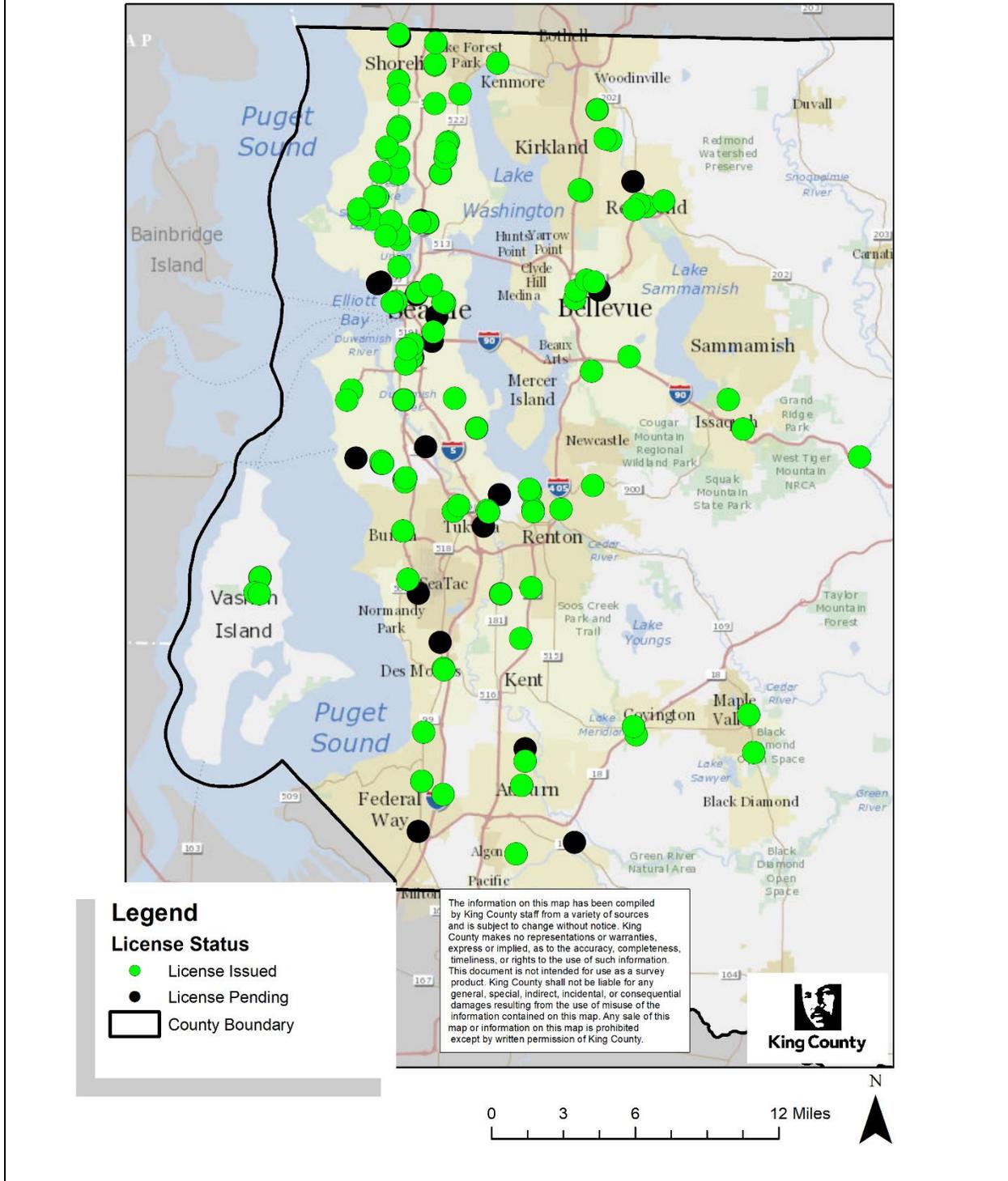


Figure 15 – Marijuana Retailer Licenses in King County as of June 2018

It should be noted that a number of businesses that have been issued licenses are not in operation. While there are several reasons why a licensed business may not be operating, a common reason is that the business' location does not meet local zoning regulations. WSLCB does not consider local zoning when issuing licenses, so a number of businesses are licensed in cities that have prohibited marijuana, or in zoning classes that do not allow for the use. In both cases, the businesses, despite being licensed, cannot begin operation.

Figure 16 shows which retail marijuana businesses are actually operating as of April 2018. Whether a business was operating was determined by whether it had recorded more than \$1,000 in sales between January and April 2018, the most recent sales data available. At that time, 88 retailers were operating in King County.

Location of Operating Retail Marijuana Businesses in King County

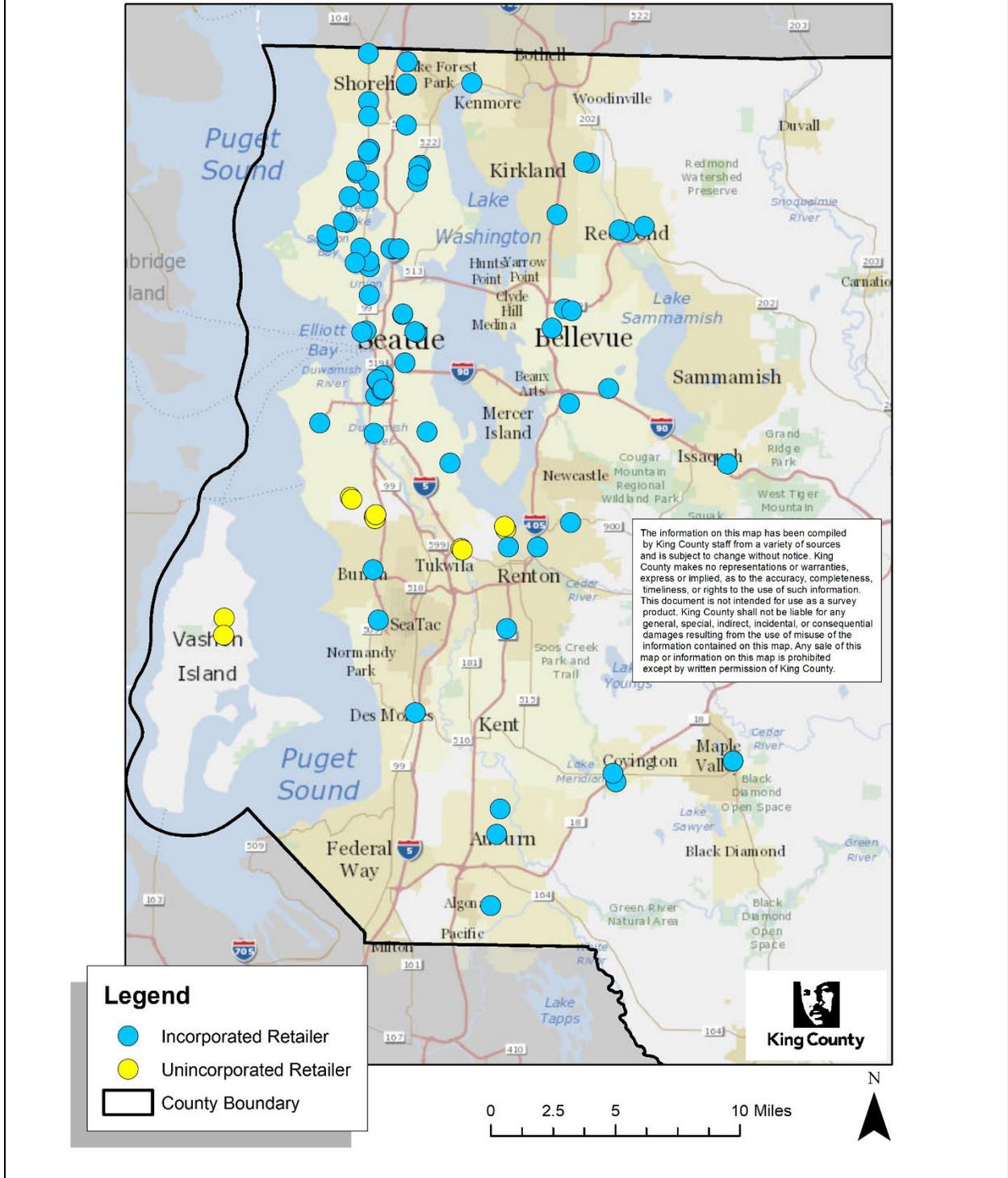


Figure 16 – Location of Operating Retail Marijuana Businesses in King County

RETAIL CLUSTERING

Prior to the adoption of King County Ordinance 18326, 13 of the 22 at-large retail licenses were located in one of four 1,000-foot clusters – Downtown White Center, Top Hat, SW West Hill, and NE West Hill. In response to this clustering, the King County Executive proposed and the King County Council adopted a requirement that new retail marijuana business to be located at least 1,000 feet from any existing retail marijuana business. This regulation has decreased the density of retail marijuana businesses in White Center, as two businesses that failed to open at their state-licensed location in White Center have moved elsewhere within the County.

Perhaps the biggest driver of retail clustering in unincorporated King County is the fact that nine of the 22 at-large cities have prohibited marijuana retailers within their jurisdiction, and another six cities are presumed not to have any available zoning for retail marijuana. This outcome, which was presumably unforeseen at the time the WSLCB created the allotment system, drastically decreased the amount of potential sites for the 22 at-large licensees. Table 3 below lists these at-large jurisdictions, their marijuana zoning status, the number of retail licenses issued, and the number of businesses in each operating or licensed in a location allowed by zoning.

Jurisdiction	Marijuana Zoning Status	# of Retail Licenses Issued or Pending	# of Retail Businesses Operating or in a Location Allowed by Zoning
Bothell (portion within King County)	Allowed	0	0
Carnation	Allowed	0	0
Covington	Allowed	2	2
Kenmore	Allowed	1	1
King County (Unincorporated)	Allowed	17	15
Lake Forest Park	Allowed	2	2
Normandy Park	Allowed	0	0
North Bend	Allowed	0	0
Beaux Arts	No Action	0	0
Clyde Hill	No Action	0	0
Duvall	No Action	0	0
Hunt's Point	No Action	0	0
Skykomish	No Action	0	0
Yarrow Point	No Action	0	0
Algona	Prohibited	0	0
Black Diamond	Prohibited	0	0
Enumclaw	Prohibited	0	0
Medina	Prohibited	0	0
Milton	Prohibited	0	0
Newcastle	Prohibited	0	0
Pacific	Prohibited	0	0
Snoqualmie	Prohibited	0	0
Woodinville	Prohibited	0	0

Table 3 – Marijuana Zoning Status and Number of Licenses Issued in Shared-Allotment Cities

As the table shows, only five of the 22 licenses are issued in the at-large cities that have allowed retail marijuana. No licenses are located in North Bend, Normandy Park, Carnation, or the King County portion of Bothell, all of which have laws allowing retail marijuana uses.

The City of Seattle also experienced clustering of retail marijuana businesses when licensed retailers began opening in 2014. Seattle adopted additional marijuana zoning standards in 2016 in order to address the clustering issue. Seattle's approach was a two-pronged one:

- Reduce youth-oriented buffers from child care centers, game arcades, libraries, public parks, public transit centers, or recreation centers or facilities from 1,000 feet to 500 feet (or 250 feet in certain areas), in order to provide more potential business locations.
- Allow no more than two retail businesses to locate within 1,000 feet of each other. Any third business would need to maintain a 1,000 foot distance from the existing two.

By simultaneously requiring retail separation and opening more properties for potential marijuana uses, Seattle has seen clustered businesses begin to disperse.⁷

In order to look holistically at the distribution of retail marijuana businesses countywide, DPER analyzed retail density, defined as the number of operating marijuana retailers per 100 persons, as part of this study. The spatial unit of analysis was the 2010 U.S. tract, with population data from the 2012-2016 American Communities Survey estimates. A census tract is a multi-block geographic area with an approximate population of 5,000. There are 398 census tracts in King County. A marijuana business was determined to be "operating" if it had recorded more than \$1,000 in sales between January 2018 and April 2018. Figure 17 below shows the results of this analysis, with darker colors representing a higher retail density.

⁷ Cherie MacLeod (Strategic Advisor, City of Seattle), personal communication with Jake Tracy, May 2018.

Marijuana Retail Density by Census Tract

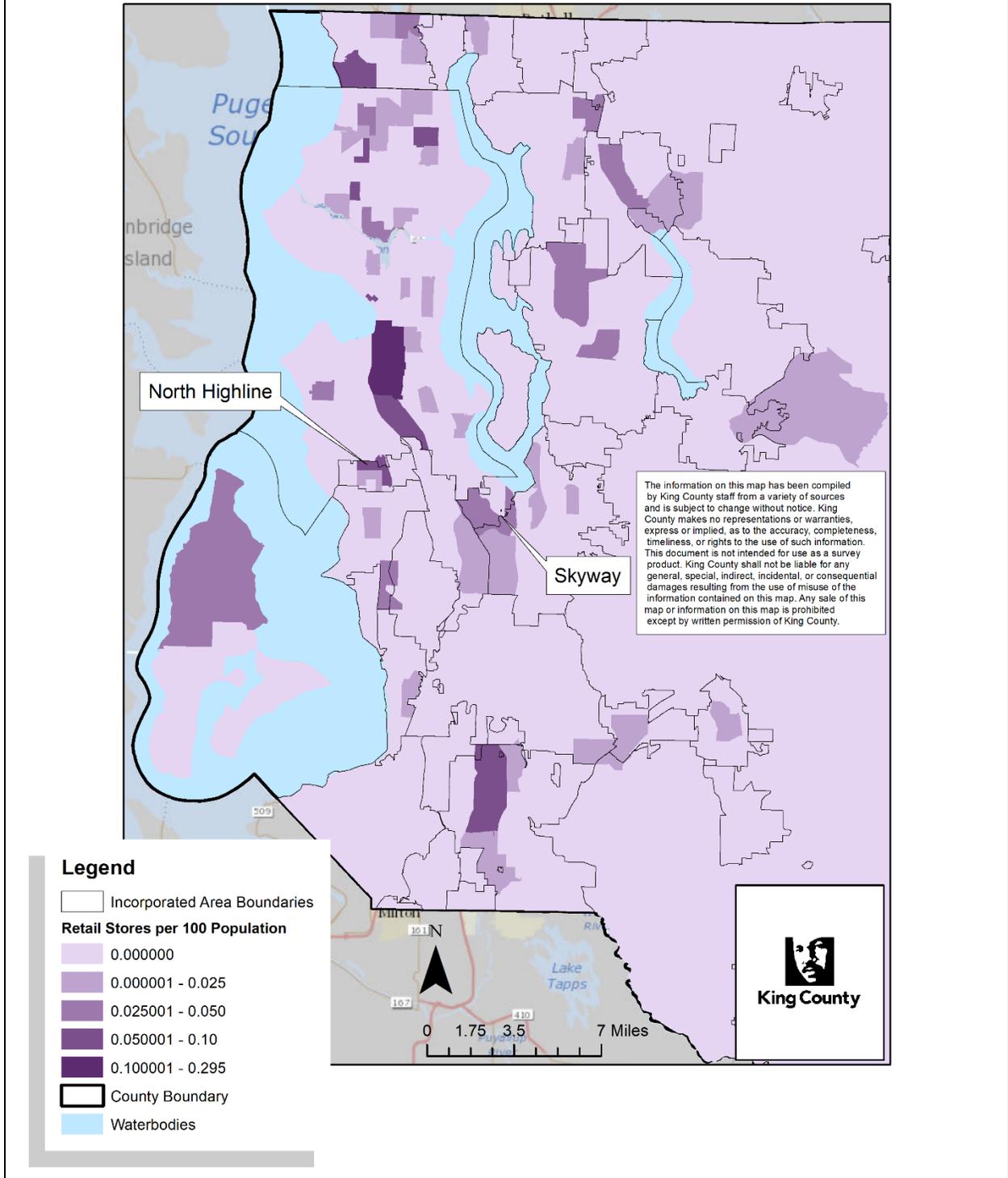


Figure 17 – Marijuana Retail Density by Census Tract

By this measure, the following 10 census tracts have the highest ratio of marijuana retailers per hundred persons:

Tract Number	General Area	Density (stores/100 pop.)
53033009300	SoDo (Seattle)	.2947
53033026500	North Highline	.0918*
53033010900	Georgetown (Seattle)	.0917
53033001100	Victory Heights (Seattle)	.0734
53033008002	Downtown (Seattle)	.0572
53033030501	North-Central Auburn	.0567
53033020900	Aurora Ave. - Shoreline	.0560
53033003400	Phinney (Seattle)	.0541
53033001000	Lake City (Seattle)	.0508
53033001701	Greenwood (Seattle)	.0487

*Another retailer opened in this tract in August 2018, after the study data was obtained.

Table 4 – Marijuana Retail Density by Census Tract

As Table 4 and Figure 17 show, the census tract that encompasses much of downtown White Center, as well as the commercial strip along 1st Ave S. / Myers Way S., has one of the highest marijuana retail densities in the County by this measure. This tract is the only one in unincorporated King County that makes the top ten. The census tract encompassing the western edge of West Hill and a portion of the City of Renton ranks 12th in terms of retail density, with .0460 stores per 100 persons, North Vashon ranks 15th at .0382, and eastern West Hill ranks 22nd with a retail density of .0267. When combining the three census tracts making up West Hill (plus portions of Renton within those tracts that also contain operating marijuana retailers), the density per 100 population falls to .0273.

However, there are limitations to measuring retail density in this way. Census tracts vary widely in size, so a large, low-population density tract may have two retailers a mile apart but have a higher retail density than a small, high-population-density area with two retailers next door to each other.

In order to show spatial density of retailers, Figure 18 shows areas with two or more retailers within 1,000 feet of each other (“clusters”). As with the population density analysis, data used in this analysis is current as of April 2018. At that time, two of four areas with three-retailer clusters were in unincorporated areas. With the opening of Mr. Buds in August 2018, three of five areas with three-retailer clusters are in unincorporated areas.

Retail Marijuana Clusters in King County

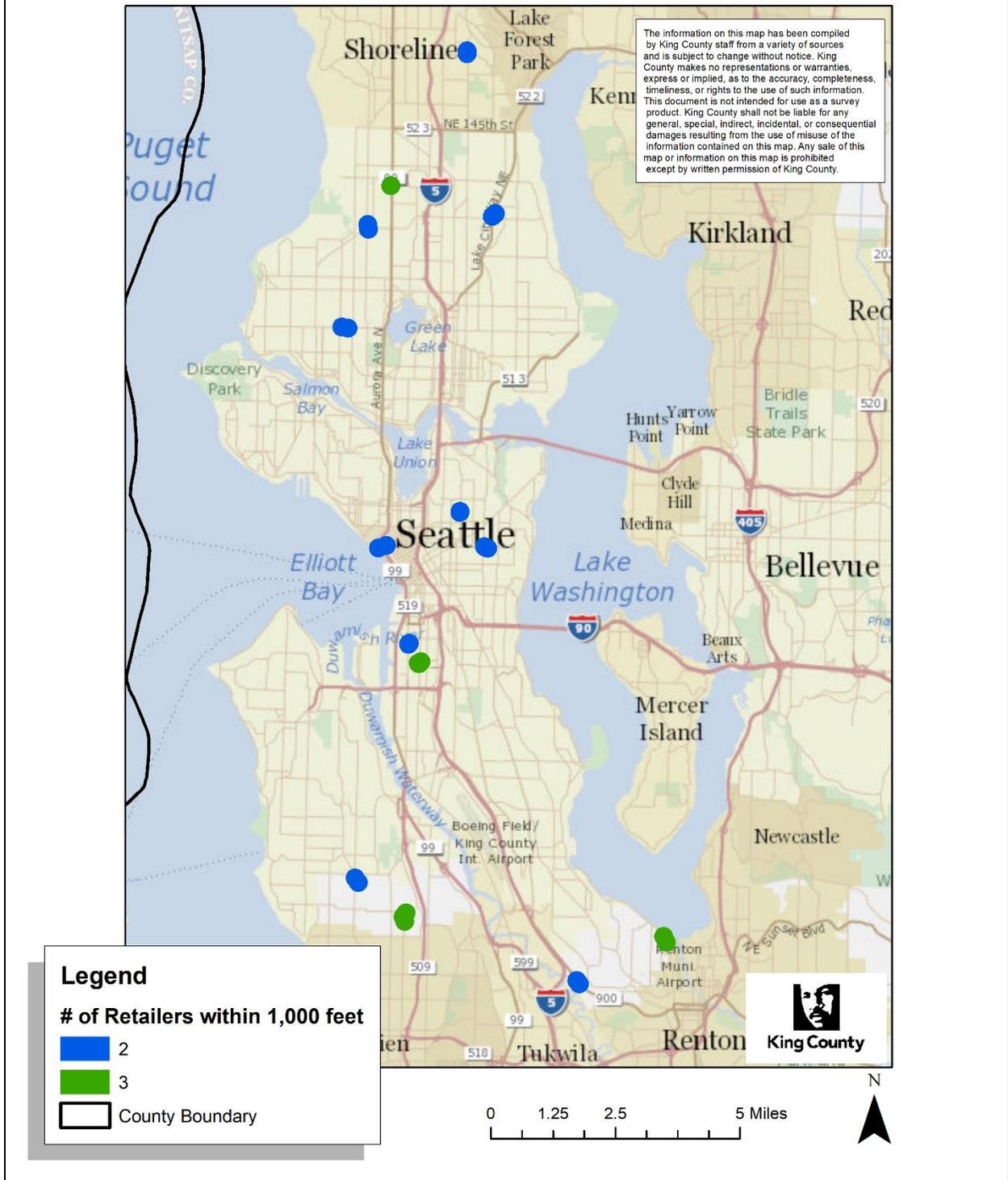


Figure 18 – Spatial Density of Marijuana Retailers in King County

MARIJUANA BUSINESSES IN UNINCORPORATED KING COUNTY

LEGISLATIVE HISTORY

King County adopted its first zoning regulations concerning legal marijuana on December 12, 2013, via Ordinances 17710 and 17725. Among other provisions, those ordinances allowed production and processing in the Agricultural, Rural Area, Regional Business, Community Business, and Industrial zones, and allowed retailing in the Regional Business and Community Business zones.

King County further amended the marijuana regulations in June 2014 with Ordinance 17841. Along with a number of minor language clarifications, this ordinance limited marijuana producers to a total canopy of 30,000 square feet.

In 2016, the WSLCB increased retail license allotments to all jurisdictions. Around the same time, King County received notice that many additional license applications had been submitted to the WSLCB for marijuana retailers seeking to locate in urban areas of unincorporated King County. This led to increased community concerns that King County's adopted zoning regulations neither sufficiently addressed the impact of retailer density in close proximity to low-income residential areas nor assessed patient access to medical marijuana in rural areas.

Additionally, many producer/processor businesses that had applied for licenses in 2014 were receiving their licenses by early 2016. Many of these businesses proposed to locate in rural- and agriculturally-zoned areas of unincorporated King County, leading to increased concerns that King County's adopted zoning regulations neither adequately complied with King County Comprehensive Plan policies to preserve rural character, nor sufficiently addressed the impacts and proliferation of these businesses in unincorporated King County.

These concerns prompted the King County Council to enact a temporary, four-month moratorium for new marijuana producers, processors, and retailers on April 25, 2016, so that the County could evaluate marijuana zoning regulations in light of these factors. Following that evaluation and discussion, the King County Council enacted Ordinance 18326 on July 26, 2016, which provided amendments to the County's original zoning regulations for marijuana-related businesses. The ordinance also requested three studies, which have been consolidated into this Marijuana Land Use Report. Major changes written into code with Ordinance 18326 included:

- Instituting a 1,000-foot required separation between new retail marijuana businesses and existing marijuana businesses;
- Disallowing new marijuana production and processing businesses from locating in the RA-5 zone (except on Vashon-Maury Island), and;
- Instituting additional setback requirements for producers and processors from property lines and residential buildings.

Since Ordinance 18326 passed, there have been no further changes to marijuana zoning regulations for unincorporated King County.

MARIJUANA RETAILERS IN UNINCORPORATED KING COUNTY

In unincorporated areas, retail marijuana businesses are allowed in the Community Business (CB) and Regional Business (RB) zones. As of October 2018, there are 13 retail marijuana stores operating in unincorporated King County, with four more licensed by, or pending licensure with, the state but not operating. Table 5 summarizes information on these stores. Of those four, two are licensed in areas where marijuana retail is not allowed by zoning, and those businesses will therefore not be able to open on their currently-identified properties.

Name	Area	Medical Endorsement	Conditional Use Permit?*	Average Monthly Sales**	Status
III King Company	West Hill	No	No	\$112,157	Operating
Western Bud (formerly World of Weed)	West Hill	Yes	No	\$17,970	Operating
West Coast Engine Design	West Hill	Yes	Unknown	NA	License Pending, Not Operating
Clutch Cannabis	West Hill	Yes	No	\$270,862	Operating
Green Life NW	West Hill	No	No	\$25,185	Operating
Have a Heart	West Hill	Yes	Yes	\$509,206	Operating, Conditional Use Permit in Process
Euphorium 420	Vashon	Yes	No	\$65,285	Operating
Kahd Holding	Vashon	No	NA	NA	Not Operating, Not Allowed by Zoning
Kush 21	Vashon	No	No	\$28,766	Operating
Modern Creations	Federal Way	No	No	NA	License Issued, Permits in Process
Bud Nation	North Highline	Yes	No	\$163,950	Operating
Nimbin	North Highline	Yes	No	\$193,913	Operating

Name	Area	Medical Endorsement	Conditional Use Permit?*	Average Monthly Sales**	Status
Mr. Buds	North Highline	No	No	NA	Operating (began August 2018)
Star 21	North Highline	No	No	\$104,067	Operating
Uncle Ike's	North Highline	Yes	No	\$363,287	Operating
West Seattle Cannabis	North Highline	Yes	No	\$334,594	Operating
The Washington State Cannabis Group	Preston	Yes	NA	NA	Not Operating, Not allowed by zoning.

Table 5 – Retail Marijuana Businesses in Unincorporated King County

**Conditional Use Permit required when business is larger than 2,000 sqft., or 3,000 sqft. if medically endorsed.*

***Average April 2017 to April 2018 (only months when the business was in operation were counted)*

Table 5 shows that average monthly sales vary widely among the retailers in unincorporated King County, with the top-grossing retailer making over 28 times as much as the lowest-grossing one. Interestingly, although there were five marijuana retailers operating in North Highline at the time data sales data was collected, all five show relatively strong retail sales. On the other hand, two retailers in West Hill show low sales comparatively, which could suggest that the market is saturated in that area. The two retailers on Vashon-Maury Island also have comparatively low sales. Being a rural island with a relatively closed customer base, this is not an unexpected finding.

Figures 19 through 22 are detail maps showing the locations of marijuana retailers in unincorporated King County.

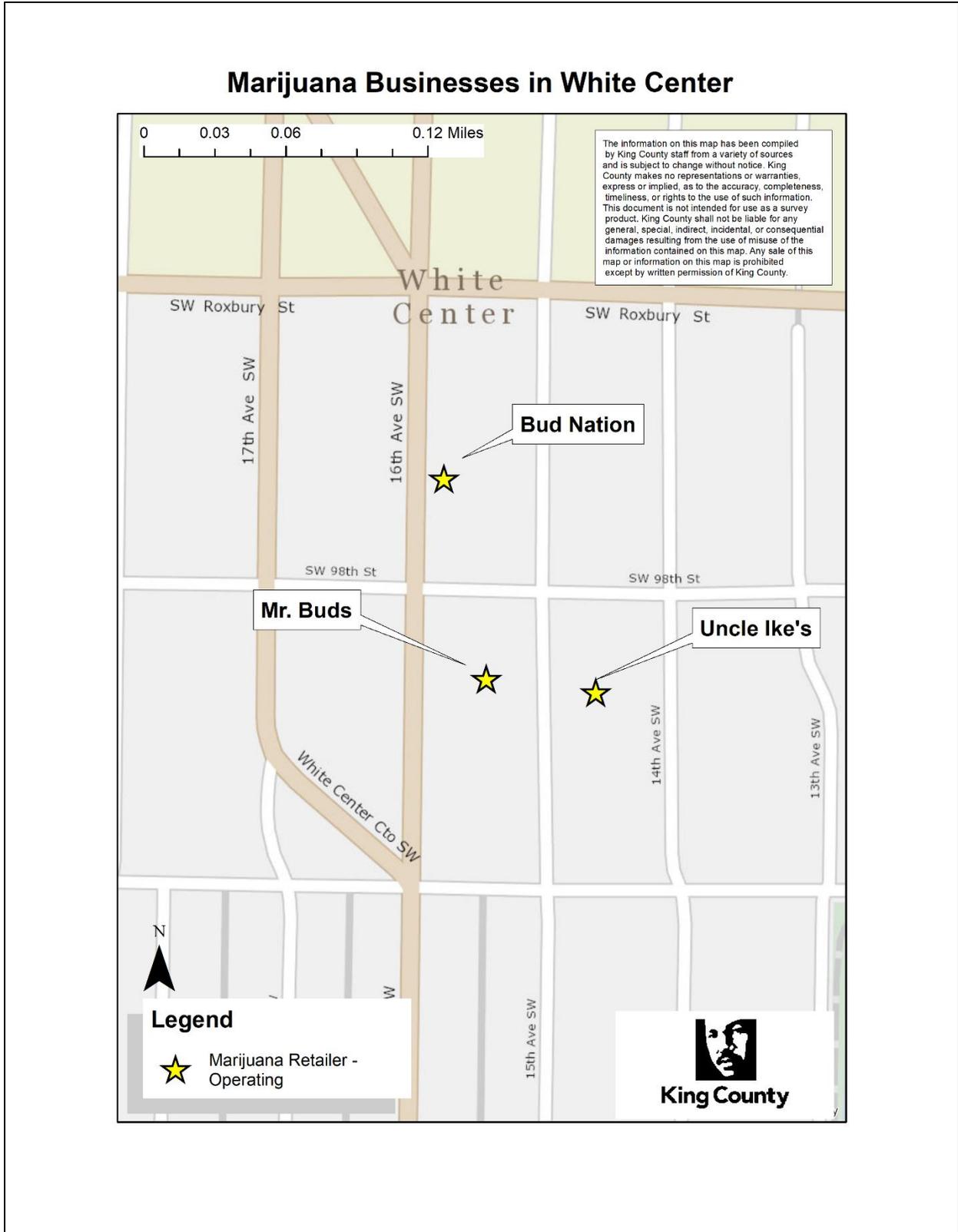


Figure 19 – Marijuana Retailers in White Center

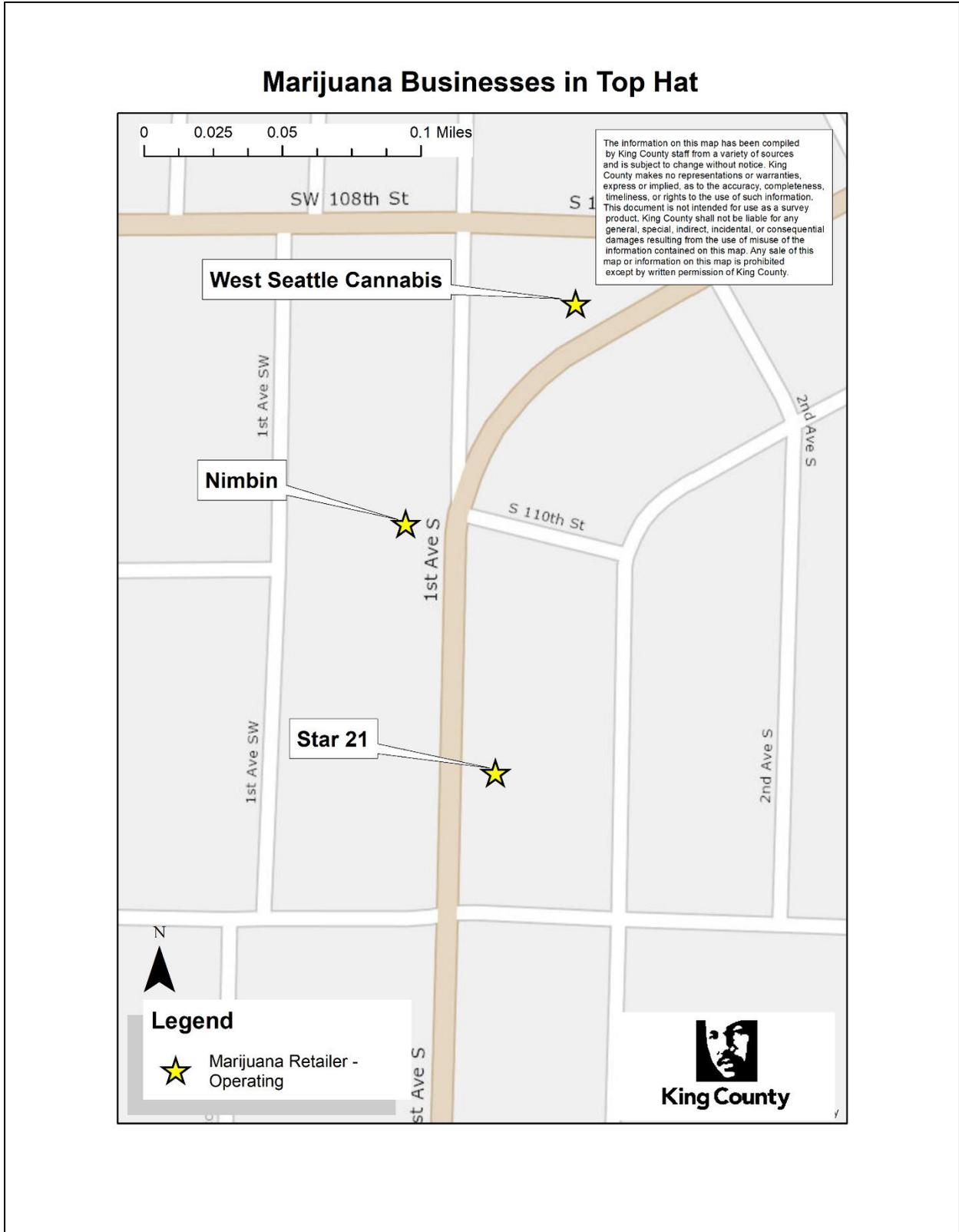


Figure 20 – Marijuana Retailers in Top Hat

Marijuana Businesses in Skyway/West Hill



Figure 21 – Marijuana Retailers in Skyway/West Hill

Marijuana Businesses on Vashon and in East Federal Way



Figure 22 – Marijuana Retailers on Vashon-Maury Island and in Federal Way



Figure 23 – Marijuana Retailer on Vashon-Maury Island

PRODUCTION AND PROCESSING

King County defines marijuana producers and processors as follows:

Marijuana Producer (KCC 21A.06.7344) – A facility licensed by the Washington State Liquor and Cannabis Board for the production and sale at wholesale of marijuana to marijuana processors and other marijuana producers.

Marijuana Processor (KCC 21A.06.7344) – A facility licensed by the Washing State Liquor and Cannabis Board to process marijuana into usable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

Marijuana processors are classified as follows:

- A. Marijuana Processor I – Processing that is limited to:
 1. Drying, curing, and trimming; and
 2. Packaging.
- B. Marijuana Processor II – All elements of processing including:
 1. All marijuana processor I activities;
 2. Extracting concentrates and infusing products;
 3. Mechanical and chemical processing; and
 4. Packaging.

Figure 24 below shows the location of all licenses for production and processing in King County as of June 2018. Note that most producers also hold a processing license. All processors in the

Rural Area and Agriculture zone are limited to Processor I activities, and must be accessory to a producer.

Location of Marijuana Producer & Processor Licenses in King County

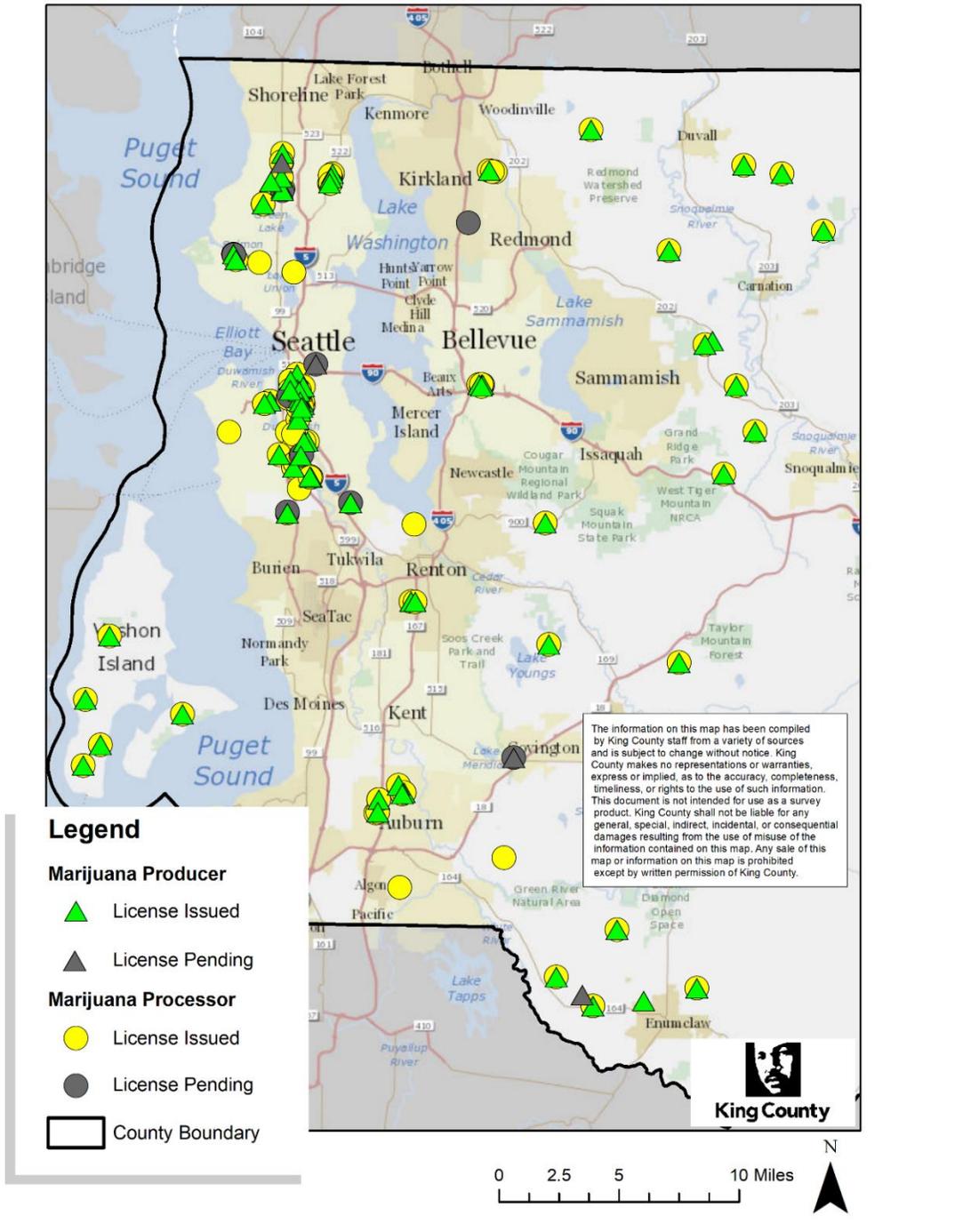


Figure 24 – Marijuana Producer and Processor Licenses in King County

As with marijuana retailers, not all producer/processor businesses are operating. Figure 25 shows marijuana producers and processors that have recorded sales between January 2016 and February 2018. One business that recorded sales during this period was removed, as it closed due to code enforcement action on the part of the County.

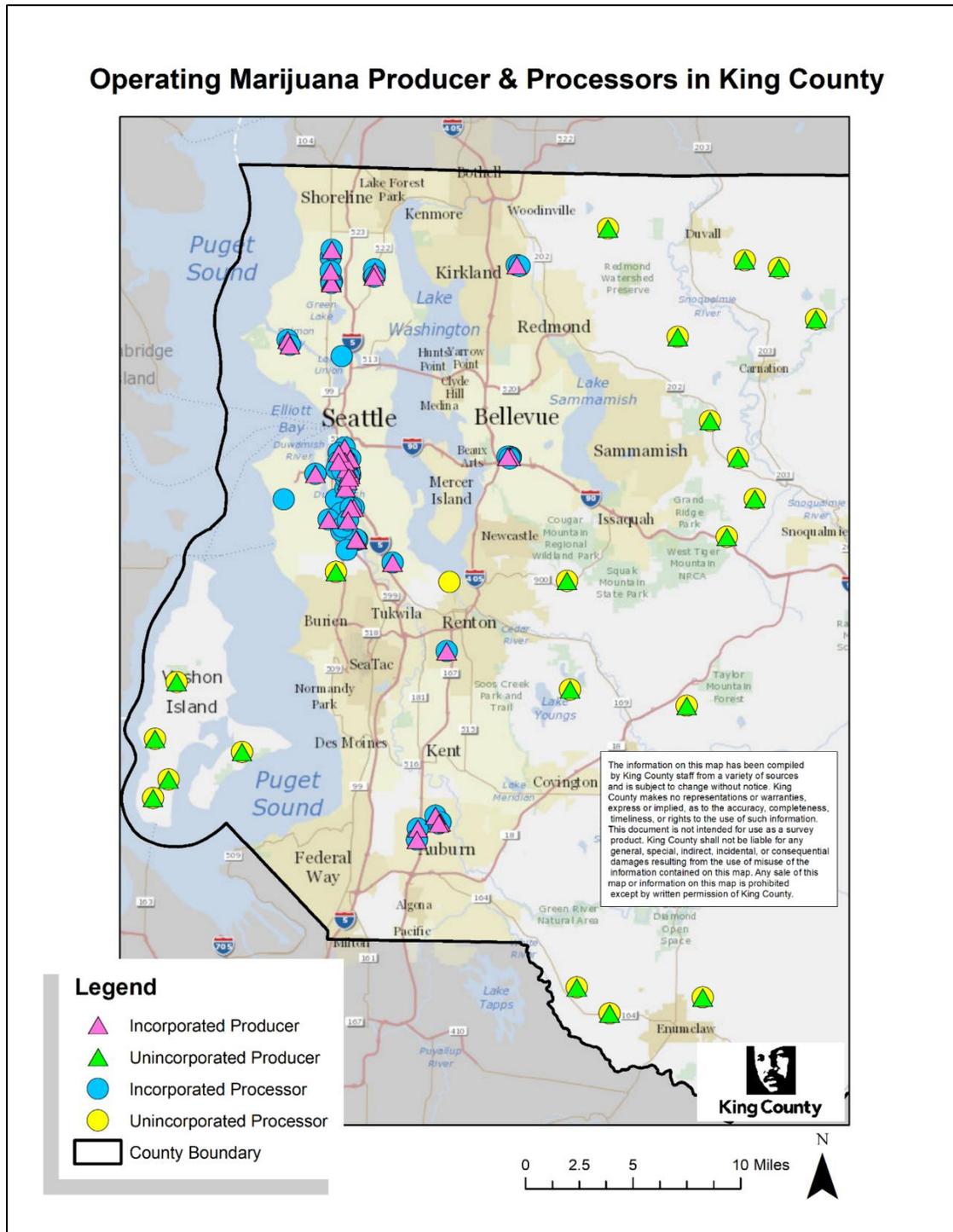


Figure 25 – Operating Marijuana Producers and Processors in King County

Figure 26 shows that 21 out of 23 operating marijuana processors have processor I privileges only, meaning that processing at these businesses is limited to trimming, drying, and packaging marijuana. Only two businesses in unincorporated King County have approval for additional mechanical or chemical processing.

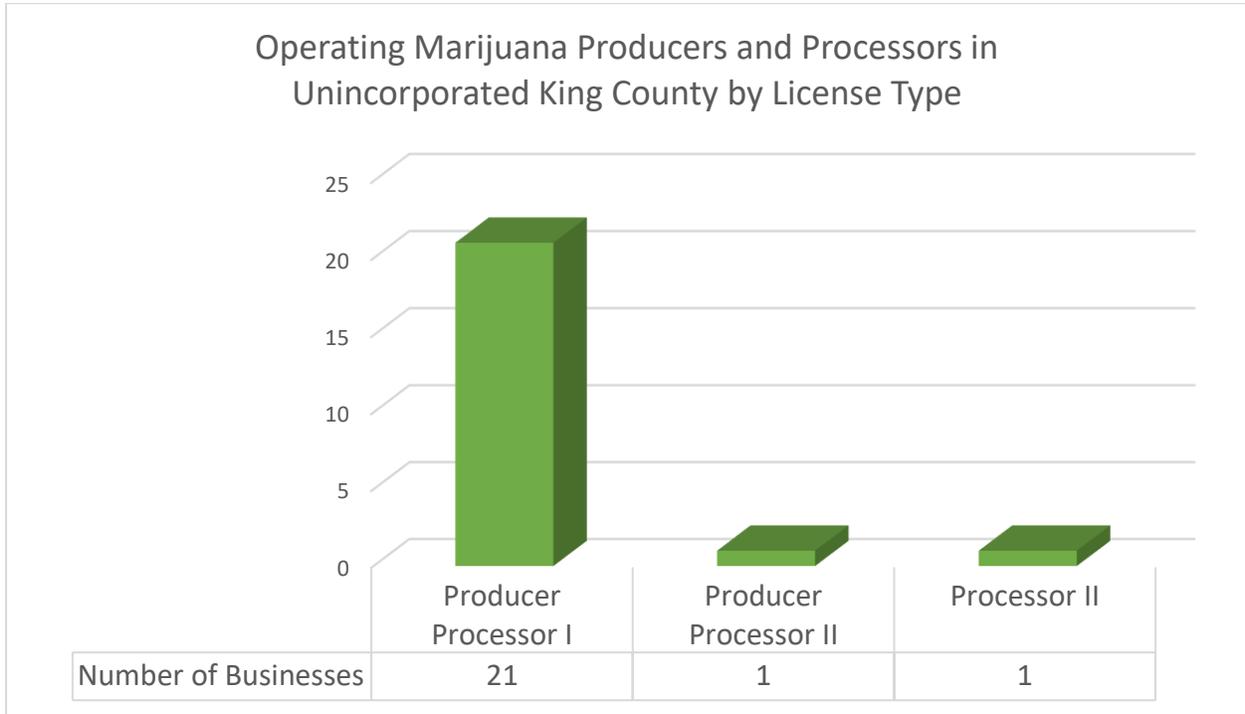


Figure 26 – Marijuana Producers and Processors in Unincorporated King County by License Type and Status

Figure 27 shows that the majority of producer/processor businesses have located in the RA zones. Although Ordinance 18326 barred producer/processors from locating in RA-5 zones (with the exception of on Vashon-Maury Island), these businesses were established prior to the new regulations going into effect, and are thus considered legal-non-conforming.

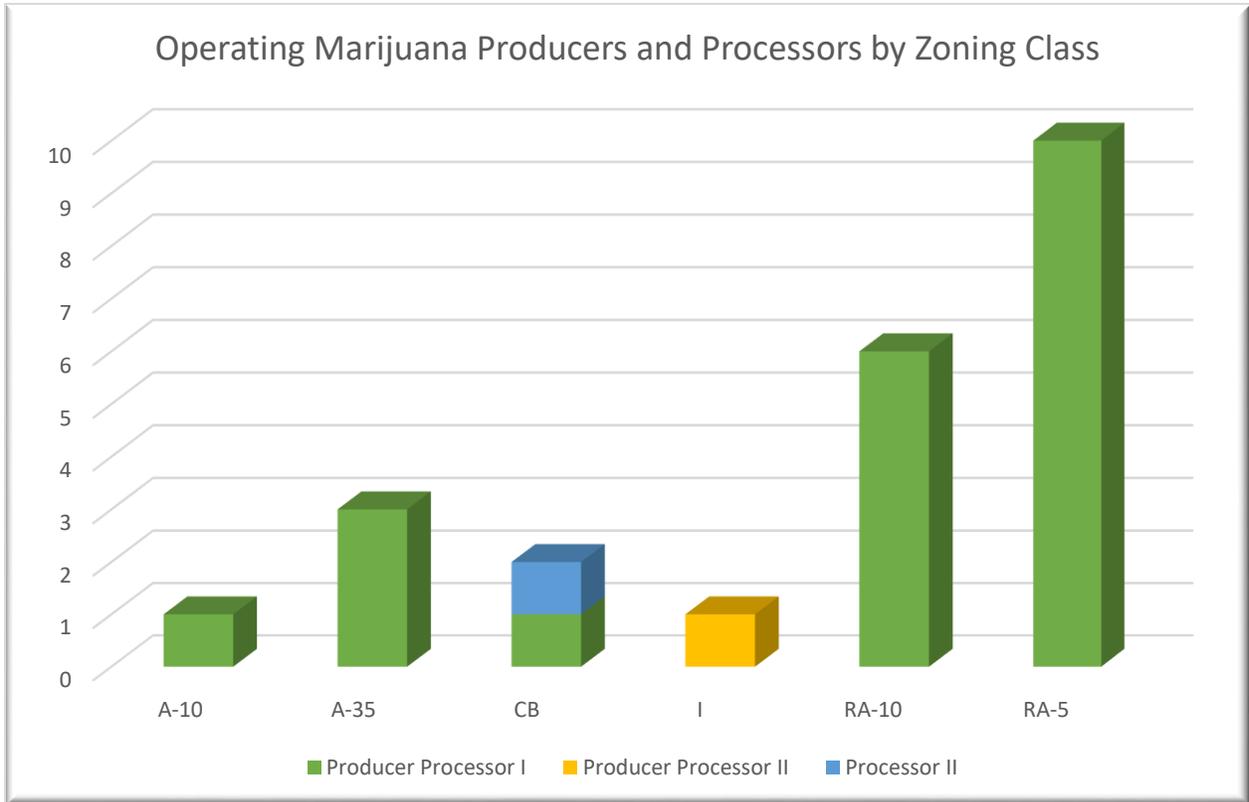


Figure 27 –Marijuana Producers and Processors in Unincorporated King County by Zoning Class

ANALYSIS OF LANDS PRESENTLY AVAILABLE FOR MARIJUANA USES

RETAIL

EXISTING REGULATIONS

Marijuana retailers are allowed in two zones: Community Business (CB) and Regional Business (RB).

The regulations for retail marijuana businesses are identical in both zones. In summary:

- Any new retail marijuana business must be on a property that is at least 1,000 feet from any property with an existing retail marijuana business;
- Retail marijuana businesses without a medical endorsement are limited to 2,000 square feet, or 5,000 square feet if a Conditional Use Permit is approved;
- Retail marijuana businesses with a medical endorsement are limited to 3,000 square feet, or 5,000 square feet if a Conditional Use Permit is approved.
- A King County Business License is required.

Throughout unincorporated King County, there are 21 RB parcels in 3 separate nodes, and 612 CB parcels in 17 separate nodes. Figures 28 and 29 show the location of these parcels.

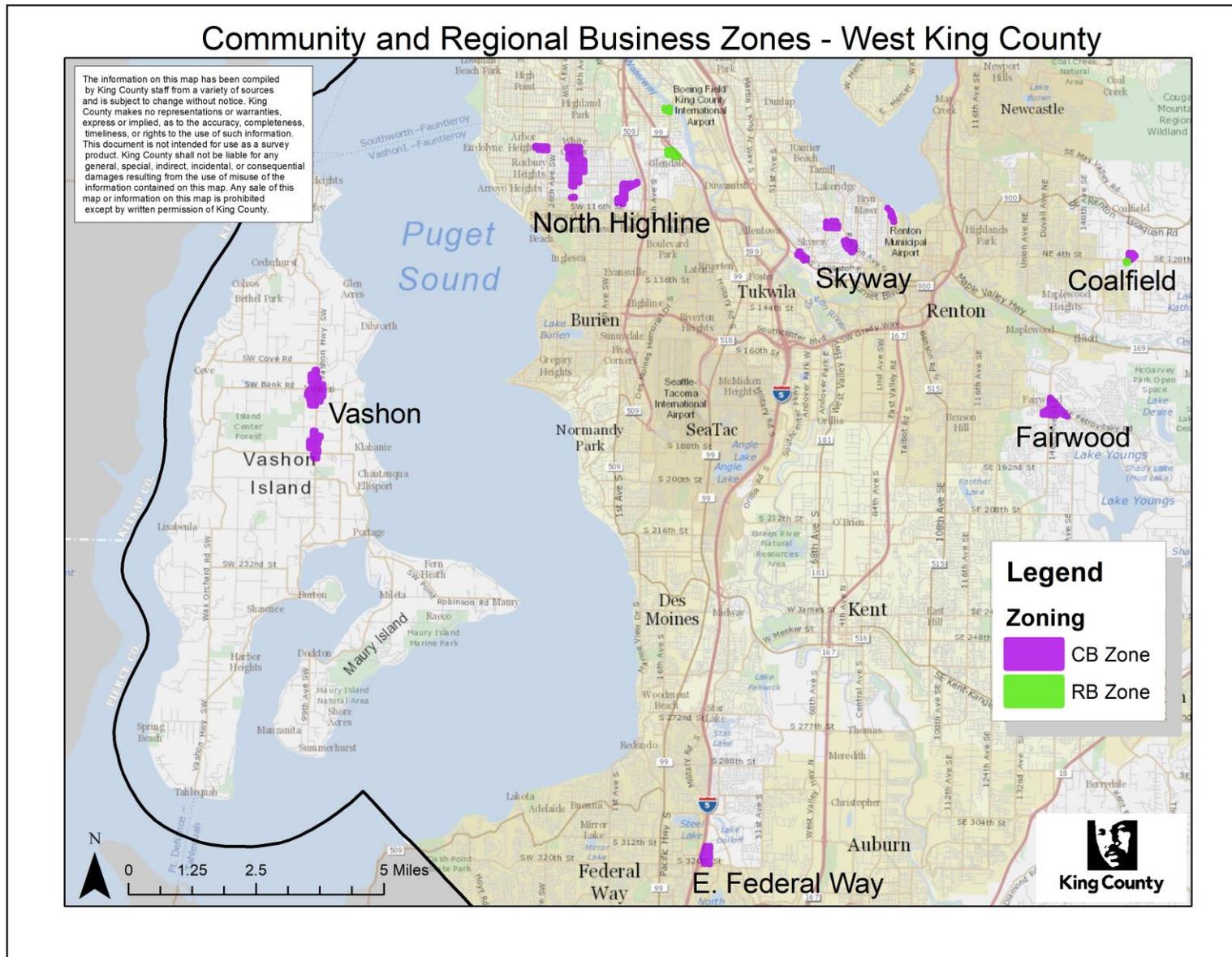


Figure 28 – Community and Regional Business Zones in West King County

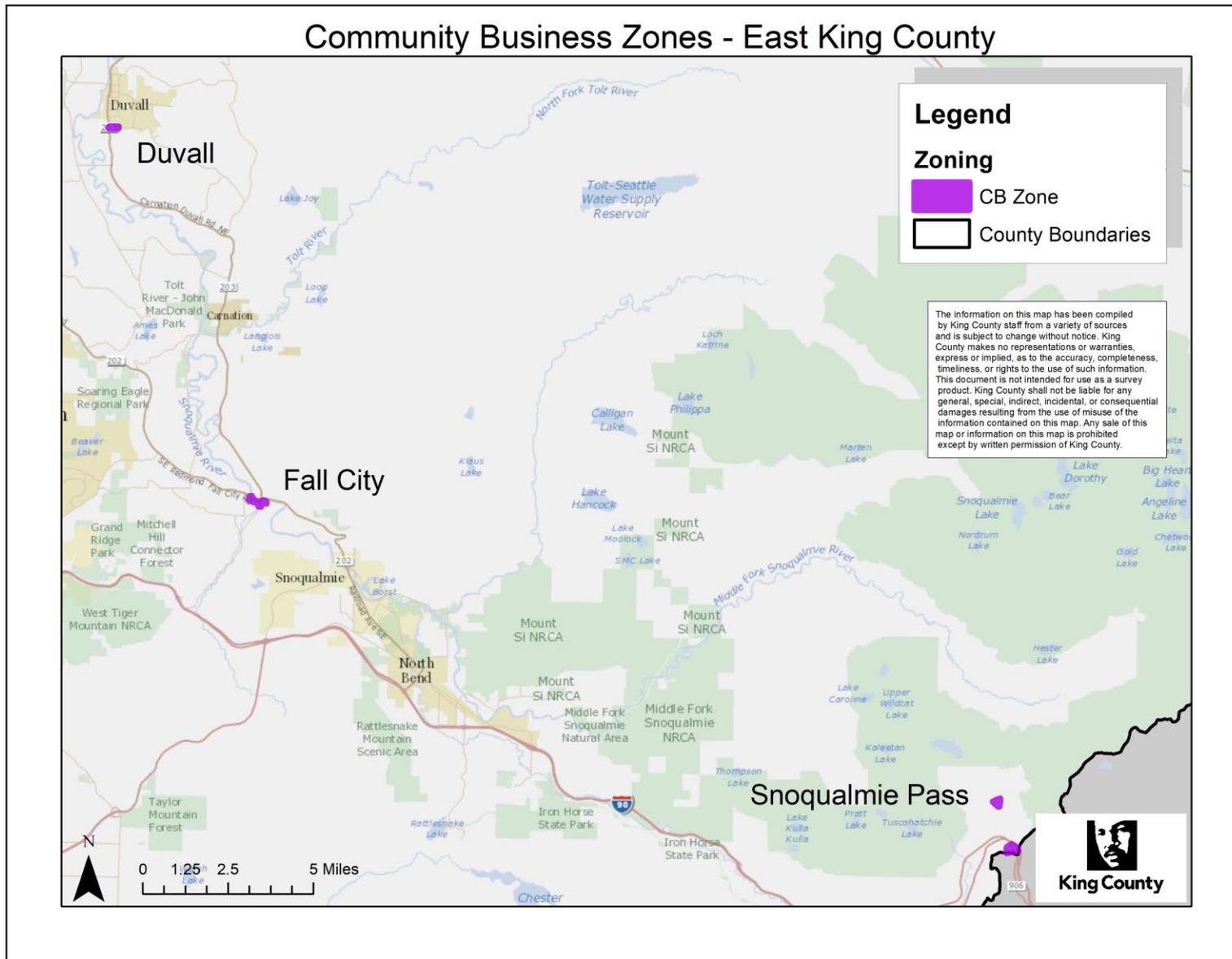


Figure 29 – Community Business Zones in East King County

As Figures 30 and 31 show, nearly 60% of CB or RB-zoned parcels are located in either North Highline or West Hill, with an additional 23% on Vashon, and the rest spread among five other areas. It should be noted that some parcels have split zoning – i.e., part of the parcel has one zoning designation and part of the parcel has another. For the purposes of this analysis, any parcel that is partially or wholly zoned either CB or RB was counted.

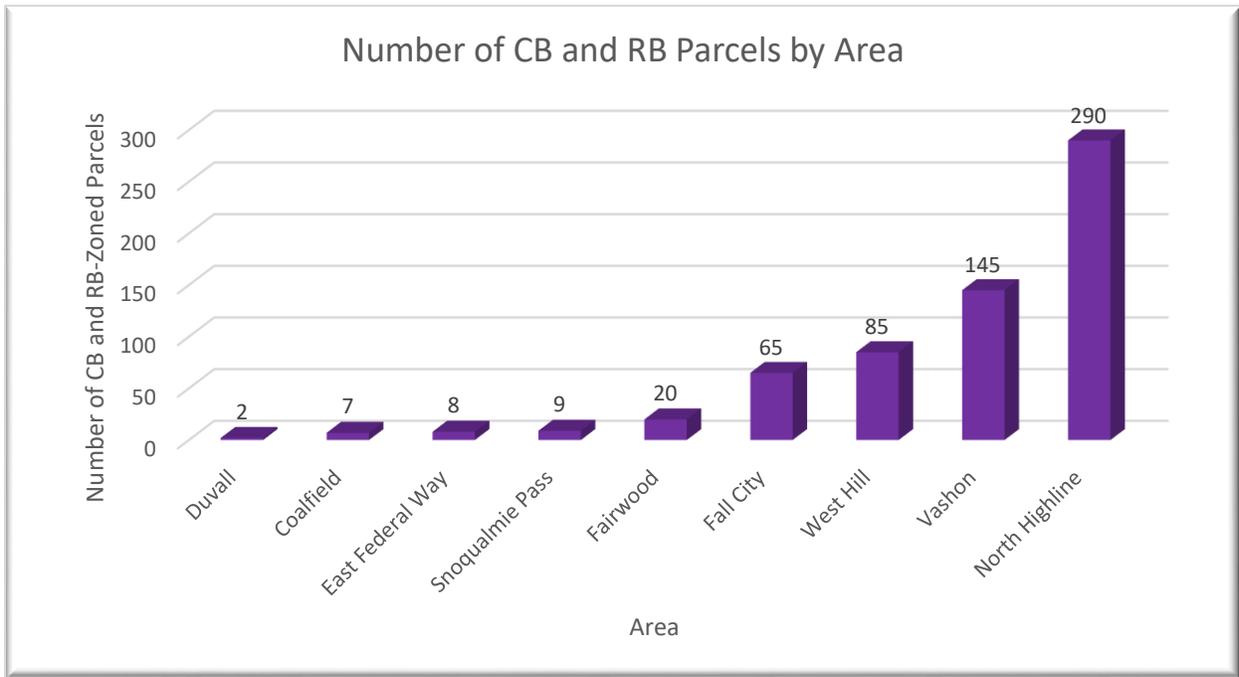


Figure 30 – Number of CB or RB Parcels by Area

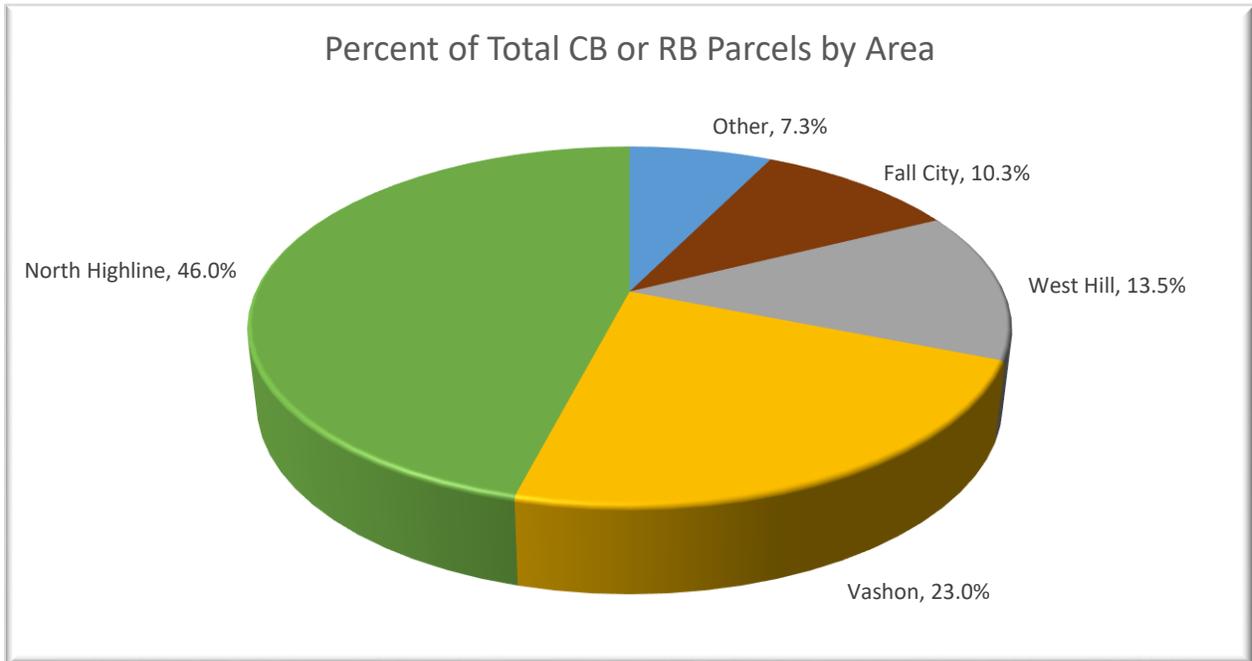


Figure 31 – Percent of Total CB or RB Parcels by Area

METHODOLOGY

Though there are 631 parcels within unincorporated King County that are zoned either CB or RB, a number of these parcels are subject to restrictions that prevent marijuana retail from operating. In order to attain a more accurate idea of the number of parcels theoretically available for retail marijuana uses, three filters were applied to the parcels described above. A parcel was considered theoretically available if none of the three following criteria applied:

- **Youth-oriented Buffer**– The state mandates that a marijuana license may not be issued to a property within 1,000 feet of an elementary or secondary school; a playground; a recreation center or facility; a child care center; a public park; a public transit center; a library; or any game arcade where admission is not restricted to persons age 21 or older. Specific definitions for each of these terms are found in WAC 314-55-010.

It is important to note that the determination, administration, and enforcement of restrictive buffers lies with the Liquor and Cannabis Board. The restrictive buffers map layer used in this analysis represents DPER’s best estimate of how WSLCB interprets the definitions of WAC 314-55-010. Additionally, youth-oriented uses are subject to closure or relocation. Therefore youth-oriented buffer data represents the location of these businesses at one particular point in time (early 2018), and is subject to change.

- **Existing Retail Marijuana Business** – As a result of the retail clustering in North Highline and West Hill (discussed earlier in this section), The King County Council passed legislation in August 2016 that requires a 1,000-foot separation between any new marijuana retailer and any existing marijuana retailer (KCC 21A.08.070(B)(26) and (27)). As with youth-oriented businesses, these businesses are subject to moving or closure, which could free up or further restrict property.
- **Property Specific Development Condition/Special Overlay** – Some properties have property-specific development conditions (“P-suffix Conditions”) or a special overlay requirement that excludes the possibility of retail marijuana uses from the site.

RESULTS AND DISCUSSION

Table 6 below shows the results of this analysis. As of June 2018, 56 parcels appear to lie outside all youth-oriented buffers, meet minimum separation requirements, and have no property-specific development conditions or special overlays that would prohibit a marijuana retailer. Some of these properties, by themselves, are likely too small to accommodate a marijuana retailer and the required parking. However, these parcels could be grouped with adjacent parcels to meet County requirements.

Area	Total # of CB or RB Parcels	# of Parcels Filtered Due to Criteria Above	# of Parcels Theoretically Available	Maximum # of New Retailers, Given 1,000 ft. Separation Requirement
Duvall	2	2	0	0
Coalfield	7	5	2	1
E. Federal Way	8	8	0	0
Snoqualmie Pass	9	0	9	2
Fairwood	20	5	15	2
Fall City	65	64	1	1
West Hill	85	85	0	0
Vashon	145	128	17	2
North Highline	290	278	12	2
Total	631	575	56	10

Table 6 – Number of Properties Theoretically Available for New Marijuana Retailers

Of course, even though 56 parcels are theoretically available, the actual number of possible new marijuana retailers is far lower for two reasons. First, since there is a minimum 1,000-foot separation between retailers, no theoretically available CB or RB area could locate more than two retailers. This would bring the maximum number of potential new locations to ten. Second, the WSLCB has limited the number of at-large retail licenses to 22; there are no plans to increase retail allotments in the foreseeable future.⁸ As of September 2018, all but two of the 22 at-large licensees have found locations allowed by zoning.

It should also be noted that the locations on Vashon-Maury Island, while theoretically available, are unlikely to be developed with marijuana businesses. Due to the island's small population and lack of connectivity to other areas, it is unlikely that the community could support more than the two existing marijuana retailers, especially considering that those retailers already have lower sales compared to most other retailers in unincorporated King County.

Figures 32 through 38 show the parcels theoretically available, as determined by this analysis.

⁸ Frank O'Dell (Administrative Regulations Analyst, Washington State Liquor and Cannabis Board), personal communication with Jake Tracy, September 2018.

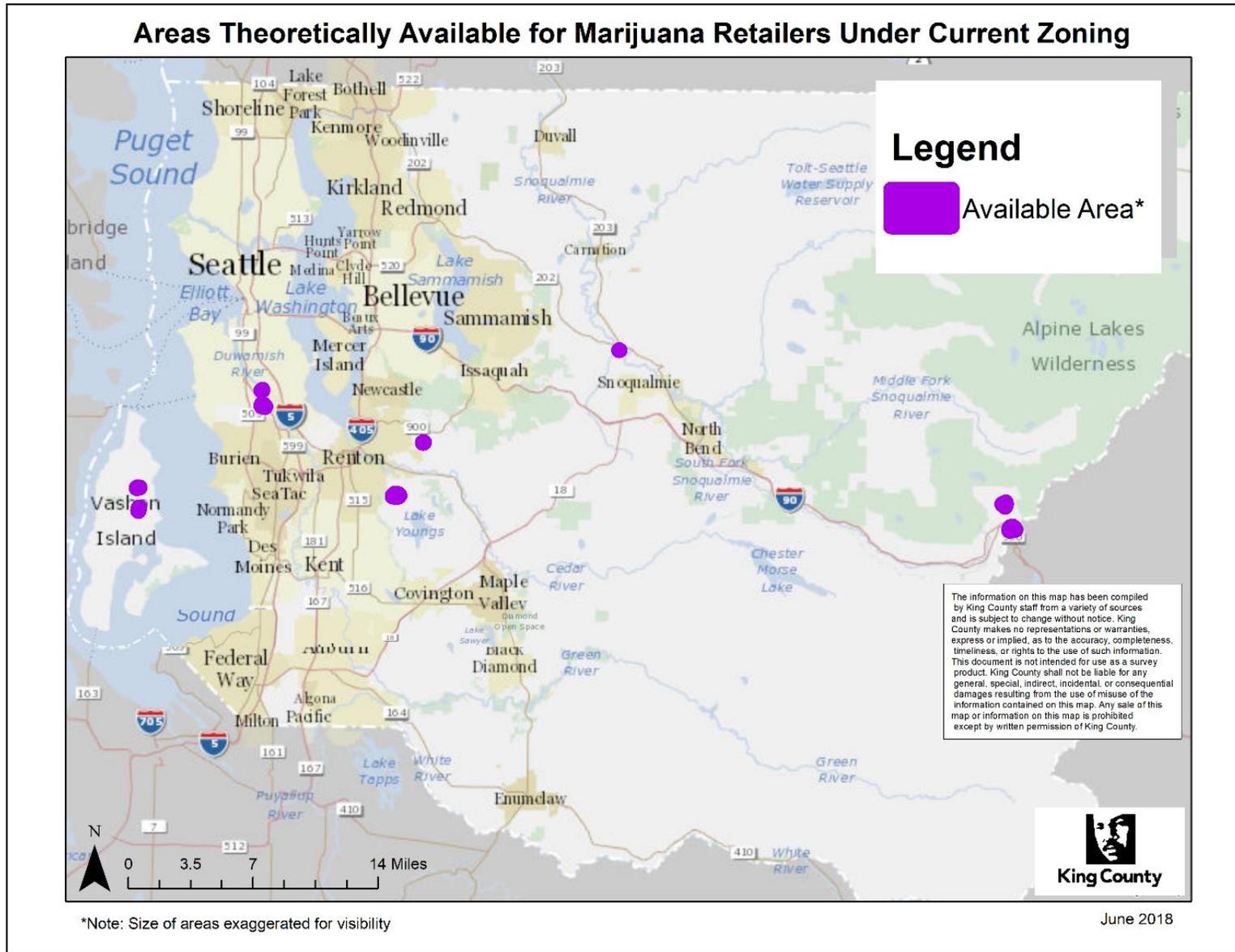
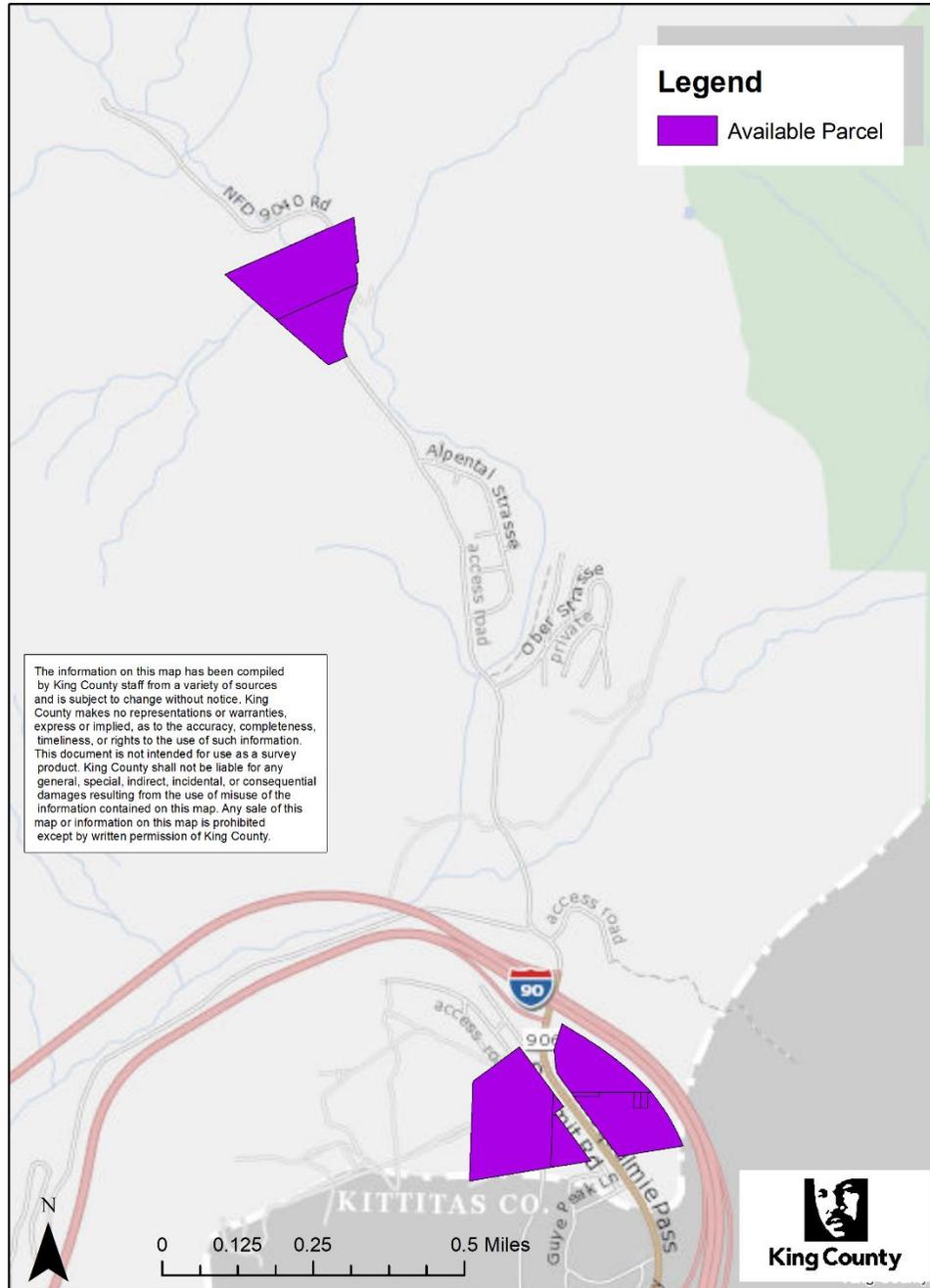


Figure 32 – Areas Theoretically Available for Marijuana Retailers under Current Zoning – Overview

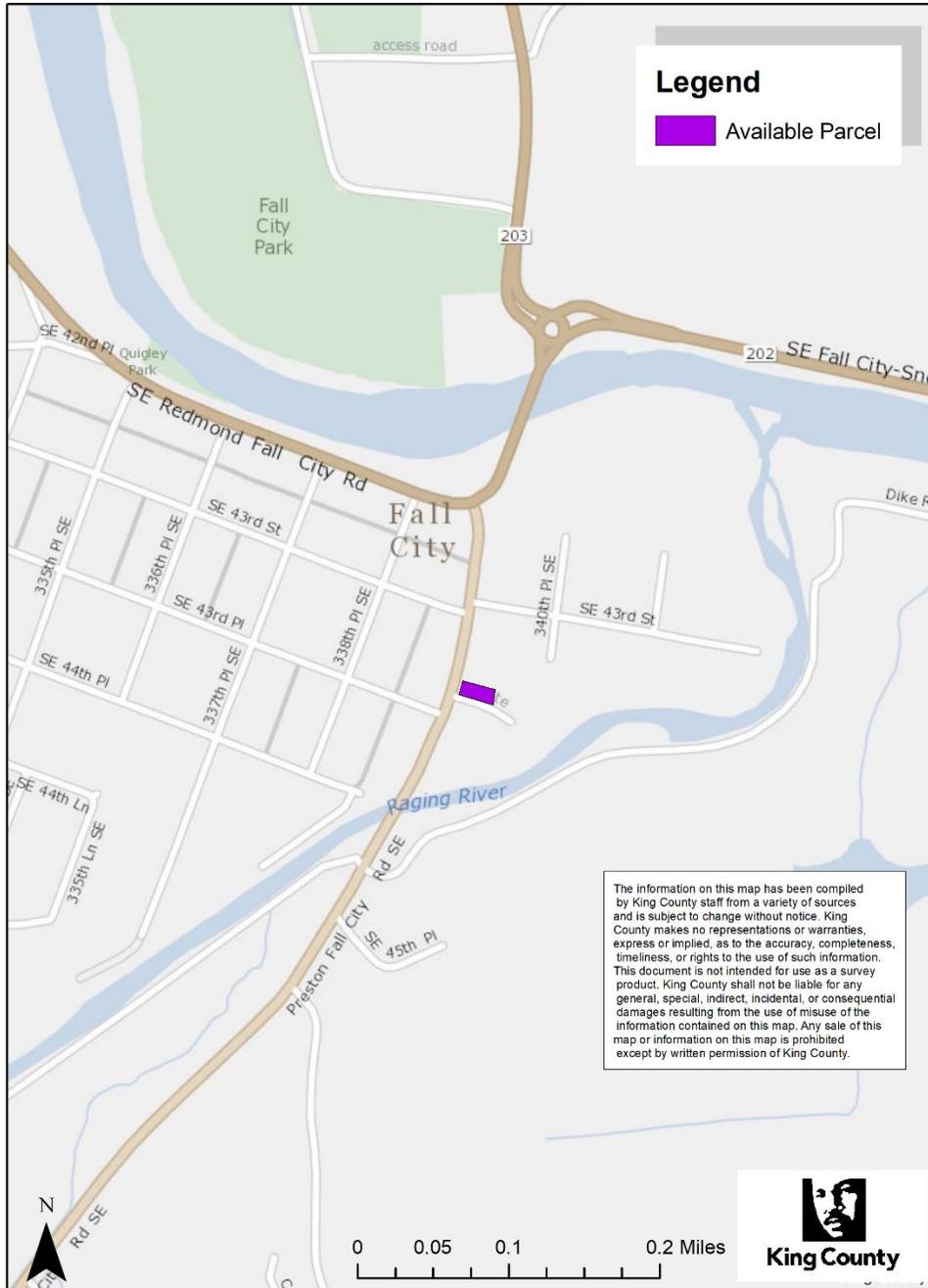
Parcels Available for Marijuana Retailers Under Current Zoning Snoqualmie Pass



June 2018

Figure 34 – Areas Theoretically Available for Marijuana Retailers under Current Zoning – Snoqualmie Pass

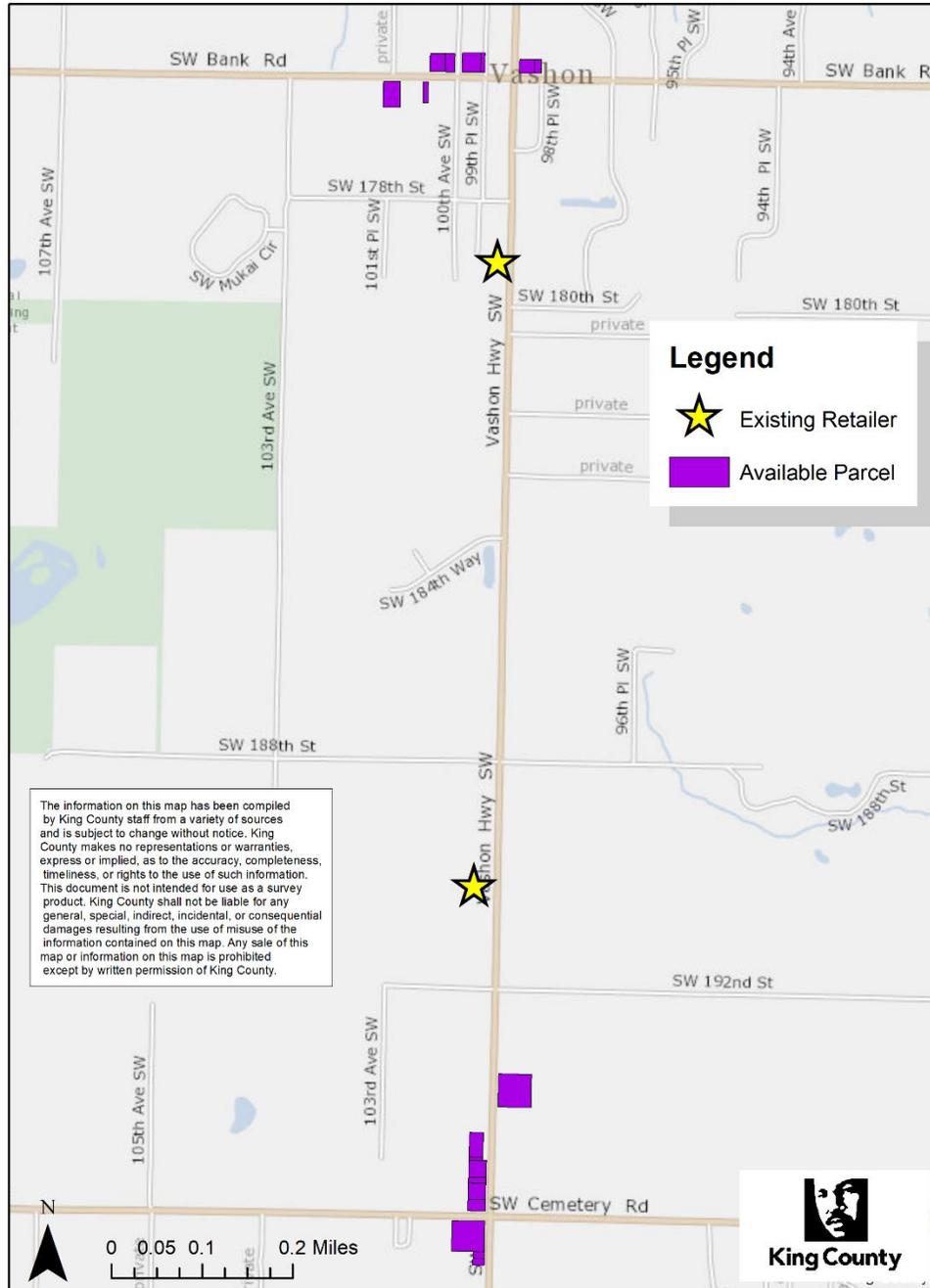
Parcels Available for Marijuana Retailers Under Current Zoning Fall City



June 2018

Figure 36 – Areas Theoretically Available for Marijuana Retailers under Current Zoning – Fall City

Parcels Available for Marijuana Retailers Under Current Zoning Vashon



June 2018

Figure 37 – Areas Theoretically Available for Marijuana Retailers under Current Zoning – Vashon-Maury Island

CONCLUSIONS

The 39 parcels theoretically available (after the subtraction of the Vashon parcels) provide enough capacity to house the two licensees that currently are located in areas not allowed by zoning, as well as to allow for the relocation of six existing at-large retailers, should they choose to do so. Six relocations would be sufficient to eliminate all but one retail cluster within unincorporated King County.

There is sufficient capacity under current zoning to meet the state’s allocation of retail marijuana businesses.

PRODUCTION AND PROCESSING

EXISTING REGULATIONS

Marijuana Production and Processing businesses are allowed in a number of zones, each with different requirements. These requirements are summarized below:

Zone:	A (Agricultural)	RA (Rural Area) / only in RA-10, except allowed in all RA Zones on Vashon Island	RB (Regional Business)	CB (Community Business)	I (Industrial)
Type of Uses Allowed	<ul style="list-style-type: none"> • Producer • Processor 1 (only accessory to Production) 	<ul style="list-style-type: none"> • Producer • Processor 1 (only accessory to Production) 	<ul style="list-style-type: none"> • Producer • Processor 1 • Processor 2 	<ul style="list-style-type: none"> • Producer • Processor 1 • Processor 2 	<ul style="list-style-type: none"> • Producer • Processor 2
Size of Permitted Use	<ul style="list-style-type: none"> • All marijuana related uses allowed up to 2,000 sf 	<ul style="list-style-type: none"> • All marijuana related uses allowed up to 2,000 sf 	<ul style="list-style-type: none"> • All marijuana related uses allowed up to 2,000 sf 	<ul style="list-style-type: none"> • All marijuana related uses allowed up to 2,000 sf 	<ul style="list-style-type: none"> • All marijuana related uses allowed up to 2,000 sf
Size of Use with Conditional Use Permit	<ul style="list-style-type: none"> • Up to 5,000 square feet on parcels of less than 10 acres • Up to 10,000 sf on parcels 10 acres or greater 	<ul style="list-style-type: none"> • Up to 30,000 sf 	<ul style="list-style-type: none"> • Up to 30,000 sf 	<ul style="list-style-type: none"> • Up to 30,000 sf 	<ul style="list-style-type: none"> • Up to 30,000 sf
Minimum Parcel Size	<ul style="list-style-type: none"> • 4.5 acres 	<ul style="list-style-type: none"> • 10 acres • 4.5 acres on Vashon Island 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • N/A
Location Restrictions	<ul style="list-style-type: none"> • Outdoor • Marijuana Greenhouse 	<ul style="list-style-type: none"> • Outdoor • Marijuana Greenhouse 	<ul style="list-style-type: none"> • Indoor only 	<ul style="list-style-type: none"> • Indoor only 	<ul style="list-style-type: none"> • Indoor only

Zone:	A (Agricultural)	RA (Rural Area) / only in RA-10, except allowed in all RA Zones on Vashon Island	RB (Regional Business)	CB (Community Business)	I (Industrial)
	<ul style="list-style-type: none"> • In existing non-dwelling building(s) as of 10/01/13 	<ul style="list-style-type: none"> • In existing non-dwelling building(s) as of 10/01/13 			
Setbacks	<ul style="list-style-type: none"> • For 2,000 sf or less: <ul style="list-style-type: none"> ○ 50 ft. street ○ 30 ft. interior • Over 2,000 sf: <ul style="list-style-type: none"> ○ 50 ft. street ○ 100 ft. interior ○ 150 ft. from any existing residence 	<ul style="list-style-type: none"> • 50 ft. street • 100 ft. interior • 150 ft. from any existing residence 			

Table 7 – Regulations for Marijuana Producers and Processors

In addition to the regulations above, all producers and processors are required to obtain a Notice of Construction (NOC) permit from the Puget Sound Clean Air Agency (PSCAA) prior to importing marijuana to the site. PSCAA imposes conditions through this permit to mitigate any odor or air quality impacts from these businesses. A discussion of the effectiveness of PSCAA’s odor regulations can be found in Section Two.

METHODOLOGY

In order to determine the number of parcels theoretically available for marijuana production and processing, DPER followed this process:

Producer/Processor I

1. Began with all parcels zoned A-10, A-35, RA-10, RA-5, CB, RB, and I.
2. Eliminated all RA-5-zoned parcels, except those on Vashon-Maury Island.
3. Eliminated parcels not meeting the minimum lot size listed in Table 7 above.
4. Eliminated parcels that are part of a park.
5. Eliminated parcels within 1,000 feet of youth-oriented uses (see description of youth-oriented uses in the previous section).
6. Eliminated parcels with the following property-specific development conditions and/or special overlays, which rule out the use:
 - SC-P02
 - VS-P16

- VS-P05
- GR-P03
- ES-P07
- EN-P01
- SO-260
- NC-P22

7. Deleted any resulting slivers (shapes with less than 2,500 square feet in shape area).

Processor II

1. Began with the resulting dataset for producer/processor I.
2. Selected parcels zoned I, and parcels zoned CB or RB and falling within the urban growth boundary.
3. Deleted parcels with property specific development condition VS-P29, which rules out the processor II use.

RESULTS AND DISCUSSION

Figure 39 shows the location of parcels theoretically available for marijuana producer/processor I uses, and Table 8 summarizes findings on these parcels.

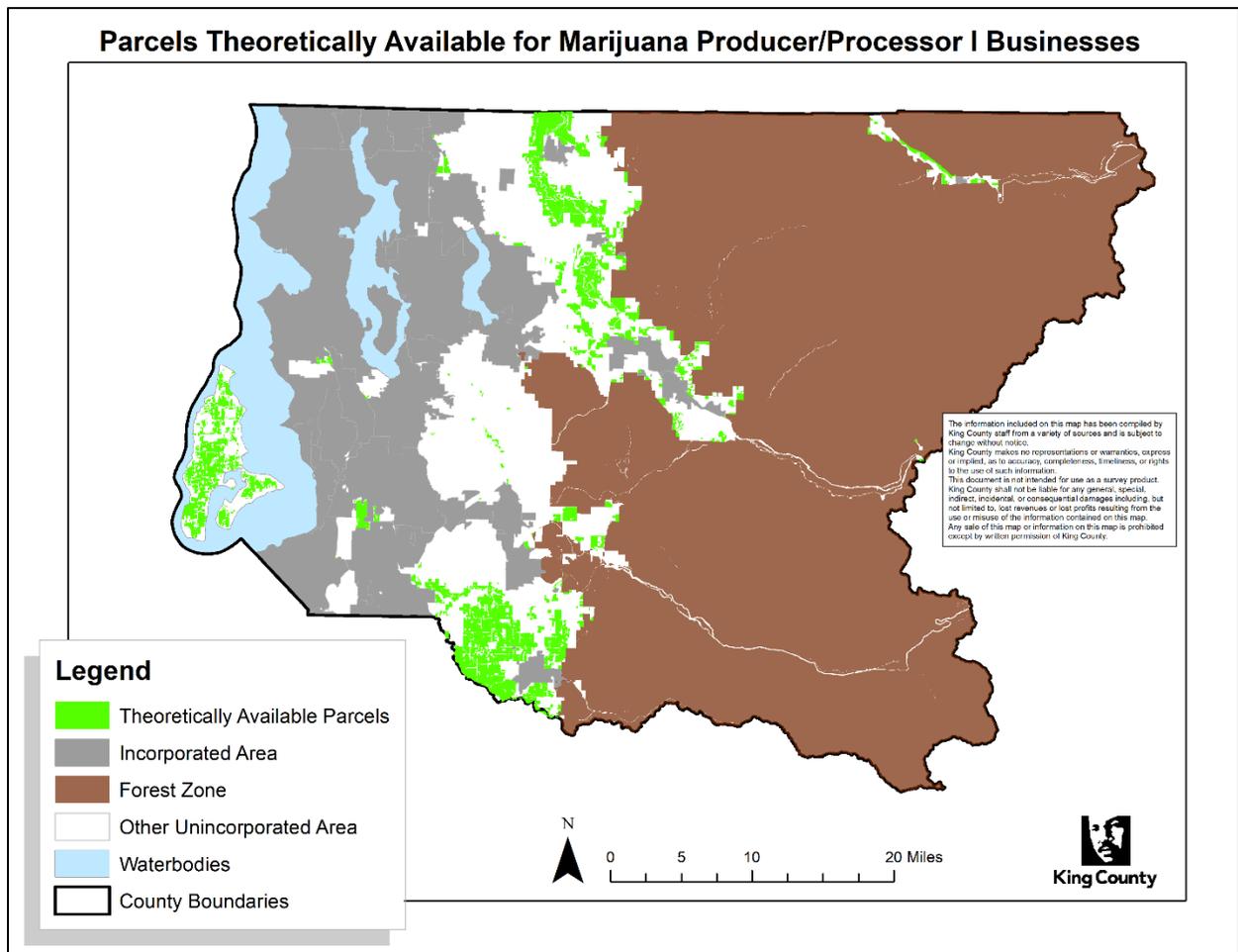


Figure 39 – Parcels Theoretically Available for Producer/Processor I Uses

Producer/Processor I Summary Data	
Number of Properties Theoretically Available	4,240 properties
Total Acreage of Theoretically Available Properties	75,739 acres
Total Possible Canopy Area if 10% of Theoretically Available Parcels are Practicably Available	12,720,000 square feet

Table 8 – Producer/Processor I Summary Data

It should be noted that a number of additional factors exist that could prevent marijuana businesses from locating on a given property that are not easily determined without parcel-by-parcel analysis and/or on-the-ground survey work. For instance, a property may have critical areas such as wetlands present, which would prevent a producer/processor from operating. Alternatively, the setbacks from property lines and residences may prevent the location of producer/processors on properties that otherwise meet minimum size requirements. A property could also have easements preventing the use.

Even if 90% of the properties determined to be theoretically available by this analysis were not actually available due to other factors, there would still be over 400 properties available. Given that there are currently less than 100 producer/processors licensed in King County (incorporated and unincorporated areas), and only 21 producer/processor I businesses operating in unincorporated King County, DPER concludes that there is sufficient property available for these uses under current zoning.

Figures 40 and 41 show the location of parcels theoretically available for processor II uses. Unlike with producer/processor I businesses, which may locate outdoors, producer/processor II businesses are indoor-only, so acreage is not a factor. While there are far fewer properties theoretically available for processor II businesses than for processor I businesses, a majority of businesses that unincorporated King County would classify as processor IIs are located within the City of Seattle, particularly in the industrial SoDo area. Demand for processor II properties is low in unincorporated areas, with only two Processor IIs operating, despite 172 theoretically available commercial and industrial parcels. DPER therefore concludes that there is sufficient property available for producer/processor II uses under current zoning.

Producer/Processor II Summary Data	
Number of Properties Theoretically Available	172 properties

Table 9 – Producer/Processor II Summary Data

Parcels Theoretically Available for Marijuana Producer/Processor II Businesses - West King County

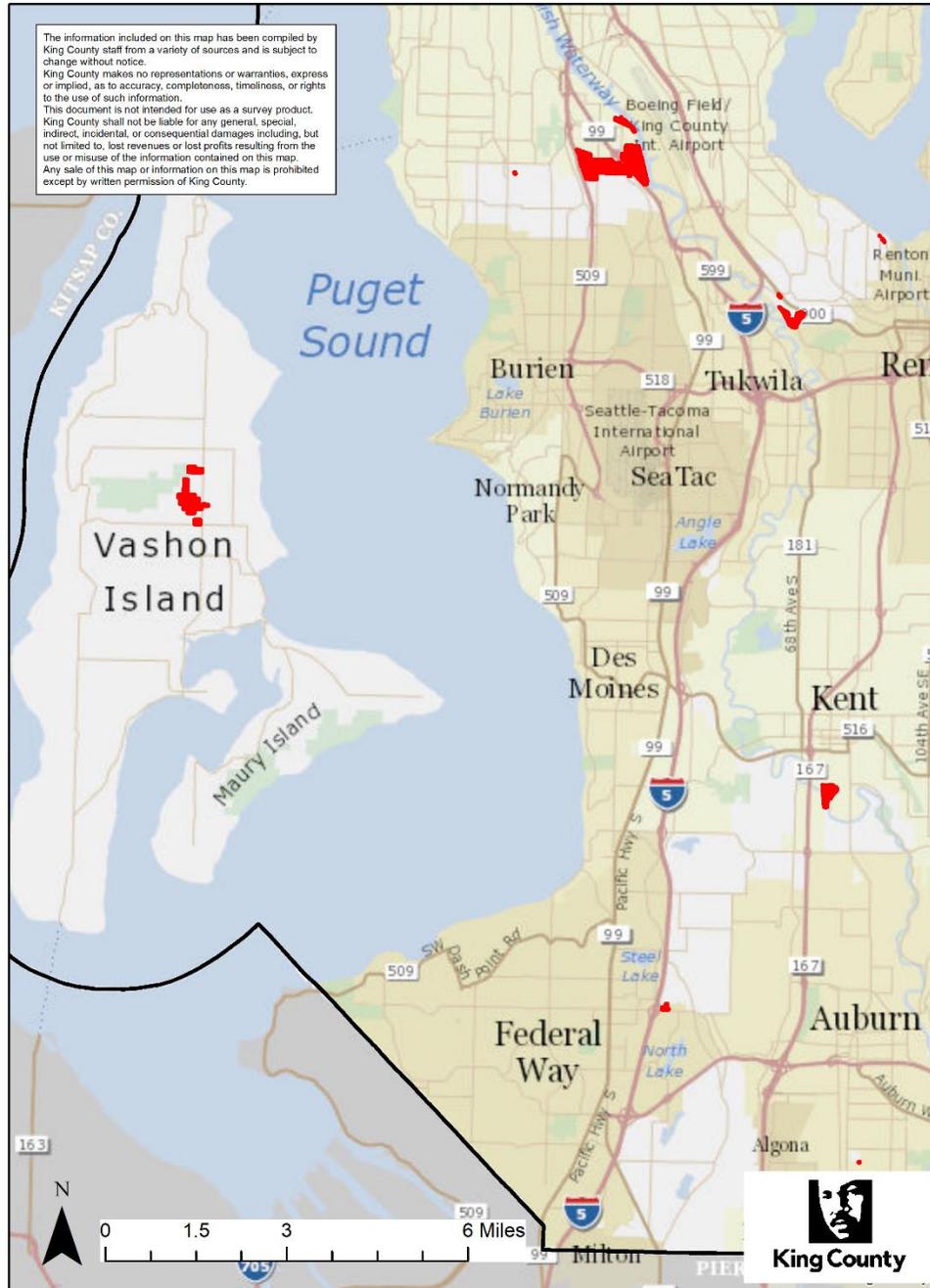


Figure 40 – Parcels Theoretically Available for Processor II Uses – West King County

CONCLUSIONS

Given the current number of producer/processor businesses operating in King County, there is an adequate amount of property to allow for new marijuana producers and processors to move to unincorporated King County should they choose to do so.

SECTION TWO EVALUATION OF IMPACTS TO UNINCORPORATED RESIDENTS

INTRODUCTION

One of the major goals of King County Ordinance 18326 was to identify impacts of licensed marijuana businesses on residents of unincorporated areas. Chief among these impacts were odor and crime, as well as concern over whether the benefits and impacts of legal marijuana businesses were being distributed equitably throughout the County. In the ordinance, the Council instructed DPER to study a number of areas where potential impacts might be occurring, and provide recommendations. The Council's request included:

1. An analysis of the impacts of legal marijuana retail and processing on unincorporated residents for the period 2014-2018, including the number, location and nature of complaints made to the department of permitting and environmental review; crimes attributable to marijuana businesses; an assessment of how regulations governing light and odor are being implemented; and a summary of public comment made during five conditional use permit reviews;
2. An assessment of the equity and social justice impacts of how the marijuana industry is developing in unincorporated King County;
3. Recommendations for ways to meet the county's obligations under the new regulated state framework and adopt development regulations that are fair and predictable to the industry and that minimize the impact of marijuana retail stores and processing facilities on residents;
4. Recommendations for ways to use development regulations to incentivize the location of medical retail establishments in King County.

This section begins by reviewing public comment made during the comment periods for the five most recent marijuana-related conditional use permits. These comments give a sense of the scope and scale of concerns among residents who live near a proposed marijuana business. The section then continues with a summary of public feedback received during a two-month outreach campaign to residents and workers in unincorporated areas of the County.

Having given an overview of community concerns regarding marijuana businesses, DPER then analyzes a number of datasets that provide insight into the impacts of licensed marijuana businesses. These include odor complaints to the Puget Sound Clean Air Agency, code enforcement complaints to DPER, police callout statistics, and a discussion of equity and social justice in the marijuana industry.

Finally, DPER discusses recommendations for how to achieve the goals laid out in the Council request.

CONDITIONAL USE PERMIT PUBLIC COMMENT

As discussed above, any marijuana business over 2,000 square feet (or 3,000 square feet, if it is a retail business with a medical endorsement from the WSLCB) requires a conditional use permit (CUP) approval in order to operate. The CUP is a land-use approval that allows the County to consider a use of a property (or in this case, an expanded size of a use), that is not permitted outright but may be made compatible through application of project and site-specific conditions. The CUP also requires public notification and an opportunity for the public to comment on

whether the proposal meets the criteria for approval. Public notice for all CUPs is provided in a number of ways:

- Direct mailings to all property owners within 500 feet of the subject property;
- A sign posted on the subject property;
- A posting on the DPER website, and;
- A published notice in two local newspapers.

In addition to the marijuana-specific regulations discussed in the previous section, all conditional use permit proposals must meet the following criteria:

- The conditional use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;
- The location, size and height of the buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
- The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
- Requested modifications to standards are limited to those that will mitigate impacts in a manner equal to or greater than the standards of this title;
- The conditional use is not in conflict with the health and safety of the community;
- The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
- The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and
- The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of KCC 21A.

This chapter summarizes the comments from the five most-recent conditional use permit applications. Four of these CUPs were for Producer/Processor I businesses, and one was for a Producer/Processor II business. Only one (The White Center TC Industries project) was subject to the new regulations passed in Ordinance 18326. Table 10 gives summary information about the CUP requests.

Name/Permit No.	Business Type	Area	Outcome
Lakhani Enterprises / CDUP15-0001	Producer / Processor I	White Center	Approved
MT Duvall / CDUP15-0011	Producer / Processor I	Duvall	Approved
Gabriel / CDUP15-0015	Producer / Processor II	Preston	Approved
Cloud Bud / CDUP16-0002	Producer / Processor I	Maple Valley	Approved
White Center TC Industries CDUP17-0002	Producer / Processor I	White Center	Withdrawn by Applicant

Table 10 – Summary of Marijuana-related Conditional Use Permit Requests

Each of these permit requests, as well as the public comments associated with each, is discussed below.

LAKHANI ENTERPRISES – CDUP15-0001

PROPOSAL

Tenant improvement to produce and process marijuana in a 5,000 square foot tenant space within an existing 13,000 square foot commercial building in the Community Business zone.

COMMENTS

Two comment letters were received from two nearby property owners. The letters raised the following concerns:

Topic	Number of Comments Letters Mentioning Topic
Noise Impacts	1
Traffic Impacts	1
Odor	1
Chemicals	1
Security/Crime/Safety	2

Table 11 – CDUP15-0001 Comments

OUTCOME OF CONDITIONAL USE PERMIT PROCESS

The conditional use permit was approved with conditions addressing odor, lighting, and waste disposal. The decision was not appealed.

MT DUVALL – CDUP15-0011

PROPOSAL

Construct five outdoor greenhouses to grow 30,000 square feet of marijuana canopy on an 8.8 acre parcel zoned RA-5.

COMMENTS

DPER received two comment letters from two property owners during the CUP comment period. The letters raised the following concerns:

Topic	Number of Comment Letters Mentioning Topic
Security/Crime/Safety	1
Visual Impacts	1
Property Values	2
Stormwater Runoff	2
Impact to Wetlands on Property	2
Proximity to Sensitive Use	1
Traffic Impacts	1

Table 12 – CDUP15-0011 Comments

OUTCOME OF CONDITIONAL USE PERMIT PROCESS

The conditional use permit was approved with conditions addressing odor, wetland mitigation, stormwater drainage, odor, lighting, and waste disposal. The decision was appealed by a neighbor. Prior to the appeal hearing, the neighbor and the applicant came to an agreement and the appeal was dismissed.

GABRIEL – CDUP15-0015

PROPOSAL

A 21,000 square foot indoor marijuana production and processing facility within an existing building on a portion of a 20-acre parcel zoned I (Industrial).

COMMENTS

DPER received one comment letter during the CUP comment period. It raised the following concerns:

Topic	Number of Comment Letters Mentioning Topic
Proximity to Sensitive Use	1
Impact on Water Supply	1
Potential for Retail Sales from the Facility	1

Table 13 – CDUP15-0015 Comments

OUTCOME OF CONDITIONAL USE PERMIT PROCESS

The permit was approved with conditions addressing odor, waste disposal, and lighting. No appeal was received.

CLOUD BUD – CDUP16-0002

PROPOSAL

A 26,620 square foot fenced area containing an outdoor marijuana production facility and a 1,080 square foot greenhouse for marijuana processing, on a 10.41 acre property in the RA-5 zone.

COMMENTS

DPER received 52 comments from 77 neighbors or community groups during the CUP comment period (some neighbors submitted multiple comments and some comment letters represented multiple individuals). The contents of the comment letters are summarized below.

Topic	Number of Comment Letters Mentioning Topic
General Opposition	1
Fire Hazard	1
Decreased Youth Harm-Perception	1
Energy Consumption	2
Impact on Other Local Businesses	3
Process-Related Comments	6
Site Access	8
Visual Impacts	12
Glare	12

Topic	Number of Comment Letters Mentioning Topic
Impact to Wildlife	13
Noise	14
Impacts to Wetlands/Streams	18
Pesticides and Fertilizers	22
Traffic Impacts	27
Property Values	28
Impact to Water Supply/Quality	29
Use inappropriate for rural area	33
Security/Crime/Safety	42
Odors/Air Pollution	43

Table 14 – CDUP16-0002 Comments

OUTCOME OF CONDITIONAL USE PERMIT PROCESS

The conditional use permit was approved with conditions addressing odor, lighting, waste disposal, noise, traffic, stormwater drainage, and wetland mitigation. The decision was appealed by a group of three neighbors. The hearing examiner denied the appeal, and added an additional condition requiring at least three years of annual monitoring and additional monitoring visits every five years thereafter.

WHITE CENTER TC INDUSTRIES – CDUP17-0002

PROPOSAL

Tenant improvement of a 9,979 square foot tenant space within an existing building for marijuana production and processing, in a Community Business zone.

COMMENTS

DPER received 13 comments from 11 community members during the Conditional Use Permit comment period. These comments included the following concerns:

Topic	Number of Comment Letters Mentioning Topic
Security/Crime/Safety	3
Inappropriate for Community Business Zone/White Center Specifically	8
Youth Impacts	4
Impact to Other Local Businesses	2

Topic	Number of Comment Letters Mentioning Topic
Odor Impacts	2
Traffic Impacts	1
Equity	1
Opposition to Marijuana Businesses Generally	1
Electricity Demand	1
Will Attract People Experiencing Homelessness	2
Litter	2

Table 15 – CDUP17-0002 Comments

OUTCOME OF CONDITIONAL USE PERMIT PROCESS

The CUP was approved with conditions addressing noise, odor, waste disposal, and lighting. The decision was appealed by a group of 10 individuals. Prior to the appeal hearing, the applicant was informed by the WSLCB that a license would not be issued as the location was within 1,000 feet of a school. The applicant therefore withdrew his application.

DISCUSSION

With conditional use permits generally, as well as other projects that have public comment periods, more controversial projects typically garner more public comment letters than less controversial ones. Comment letters for land use projects are almost always exclusively in opposition to the project. As summary Figure 42 below shows, the five marijuana-related CUPs discussed here varied widely in number of comment letters received, with the Cloud Bud project receiving nearly three times as many comments as the other four projects combined. While the number of comments received for the Cloud Bud project exceeded that received in a typical conditional use permit comment period, the number of comments received for the other projects was similar to the number typically received for other, non-marijuana-related CUPs at DPER.

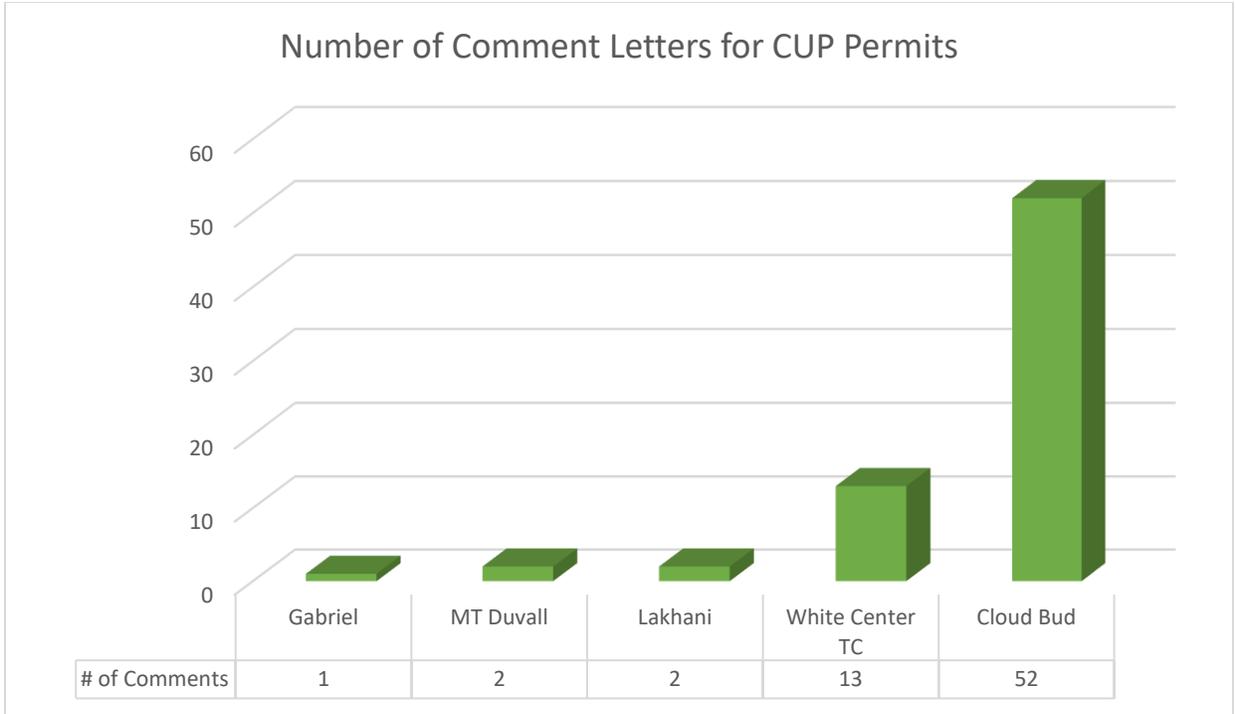


Figure 42 – Number of Comments Letters per CUP Permit

The main difference between the Cloud Bud project and the other projects studied here is that the Cloud Bud project proposed to grow marijuana outdoors, whereas the other projects were indoors only. As Figure 43 below shows, odor, crime, and water impacts were major concerns among the community with this outdoor production facility.

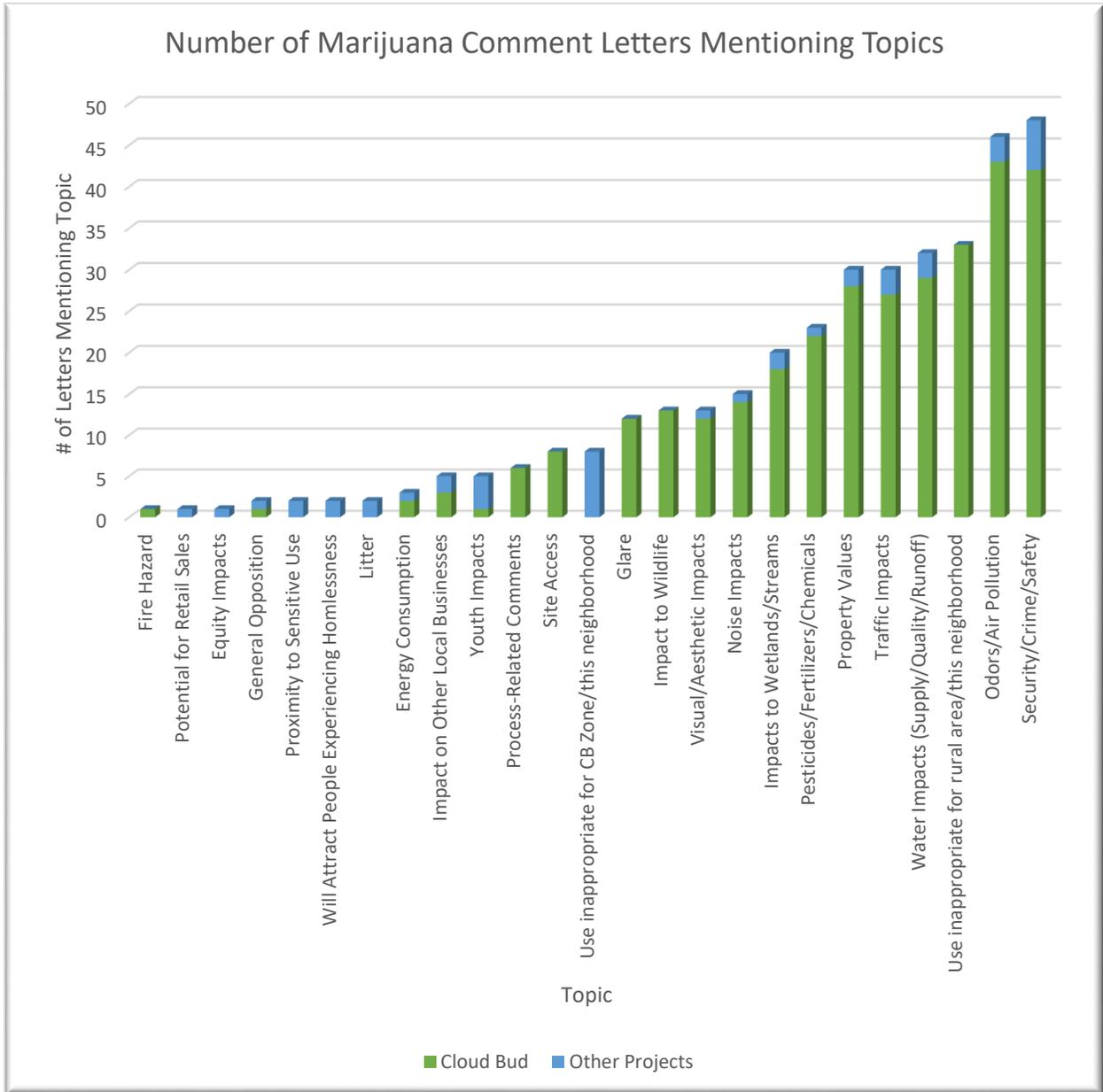


Figure 43 – Number of Marijuana Comments Letters Mentioning Topics

These Conditional Use Permit comments give a glimpse into some of the concerns community members have surrounding the legal marijuana industry in unincorporated King County. However, these comments do not give a complete picture of public sentiment, for two reasons. First, as mentioned above, conditional use permit comments for any type of project are generally in opposition to the proposal. This is likely because those who support the project or have neutral feelings do not have the same impetus to write-in as those who want the project stopped.

Secondly, until September 2018, there had not been any conditional use permit applications for retail locations in unincorporated King County. Therefore, all of the comments discussed above only apply to producer/processor businesses.

PUBLIC OUTREACH CAMPAIGN

In order to get a broader picture of public sentiment and concerns around the legal marijuana industry, DPER engaged in a two-month outreach campaign, during which community members were encouraged to provide feedback on a number of topics through a questionnaire on King County's Open Town Hall platform.

OUTREACH STRATEGY

The public comment opportunity was advertised in a number of ways.

- DPER officials handed out flyers and made an announcement about the comment opportunity at the 2018 Community Service Area meetings. These 10 meetings, held in May and June, are an opportunity for unincorporated area residents county-wide to interact with public officials, express concerns, and learn about on-going projects in their communities.
- A notice about the comment period was advertised in the May and June editions of Unincorporated Area Community News.
- Flyers were distributed at 10 of the 12 operating marijuana retailers in unincorporated King County (two locations were temporarily closed at the time).
- Partnering with King County Public Health, DPER reached out to a number of non-profits operating in unincorporated areas, such as Vashon Youth and Family Services and the Coalition for Drug-Free Youth.



Figure 44 – Marijuana Outreach Flyer

COMMENT PROMPTS

The Open Town Hall page included a number of open-ended comment prompts, as well as several demographic questions. These questions are reproduced below.

1. Please check any of the following that apply to you.
 - I live in unincorporated King County
 - I work in unincorporated King County
 - I/my children go to school in unincorporated King County
 - I shop in or frequent parts of unincorporated King County
 - None of these
 - Don't Know
2. Do you live, work, or do you or your child go to school within roughly a half-mile of any of the following?
 - State-licensed marijuana retailer (aka pot shop)
 - State-licensed marijuana producer (aka farm, grow-op)
 - State-licensed marijuana processor
 - None of the above
 - Don't know
3. What direct impacts has the legal marijuana industry had on you or your family? Please give details. If you have not personally experienced any impacts, please type "No Impact."
 - [Text Box]
4. What impacts has the legal marijuana industry had on you or your community as a whole? Please give details. If your community has not experienced any impacts, please type "No Impact."
 - [Text Box]
5. In 2016, King County passed new regulations to prevent clustering of retail marijuana businesses, and to mitigate other potential impacts, such as odor and glare. Are there any additional changes to regulations you would like to see, given the impacts you described in the question above?
 - [Text Box]
6. King County has a strong commitment to equity and social justice (ESJ). This includes a commitment to making policy decisions that are inclusive, accountable, and racially just, and that provide full and equal opportunities for marginalized or vulnerable populations. What ESJ issues have you seen/experienced with the legal marijuana industry in Washington, and unincorporated King County in particular?
 - [Text Box]
7. How can the County work towards increasing equity and social justice in the legal marijuana industry?
 - [Text Box]
8. Please tell us any other thoughts you have on the legal marijuana industry in King County, that were not covered by the previous questions.
 - [Text Box]
9. Do you have a medical marijuana authorization?
 - Yes
 - No
10. How frequently do you shop at a marijuana retailer in King County?

- Very frequently (More than once a month)
- Somewhat frequently (Once a month)
- Occasionally (A few times a year)
- Rarely (Once a year or less)
- Never
- Prefer not to respond

Tell us a bit about yourself! These last few questions are optional, and are for statistical purposes only.

11. What zip code do you live in?

- [Text Box]

12. What is your age?

- Under 18
- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65+

- Prefer not to respond

13. What is your gender?

- Woman
- Man
- Non-Binary
- Not Listed
- Prefer not to disclose

14. Please describe your race or ethnicity.

- American Indian or Alaska Native
- Asian, Asian American
- Black, African American, African
- Latino/Latina/Latinx or Hispanic
- Native Hawaiian or Pacific Islander
- White, Caucasian

PUBLIC FEEDBACK

DPER received 323 responses through the Open Town Hall page. Questions 1, 2, and 9 through 14 asked about demographic information and the respondents' connection to unincorporated King County and the marijuana industry.

DEMOGRAPHIC QUESTIONS

Figure 45 shows the results of Question 1, in which respondents were asked about their connection to unincorporated King County. 56% reported that they either live in unincorporated King County. 20% of respondents reported no connection to unincorporated King County.

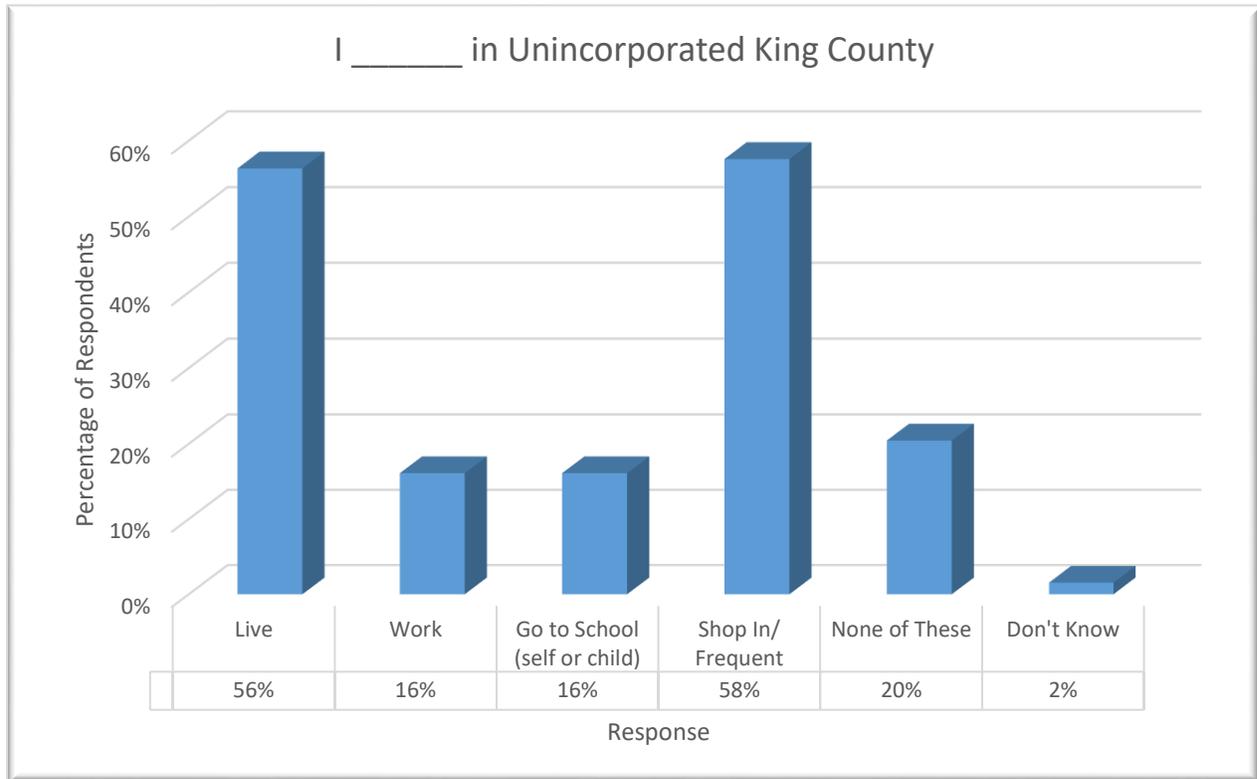


Figure 45 – Respondents’ Connection to Unincorporated King County (choose as many as apply)

Question 2 asked about the respondent's proximity to a legal marijuana business. The results of this question are shown in Figure 46 below.

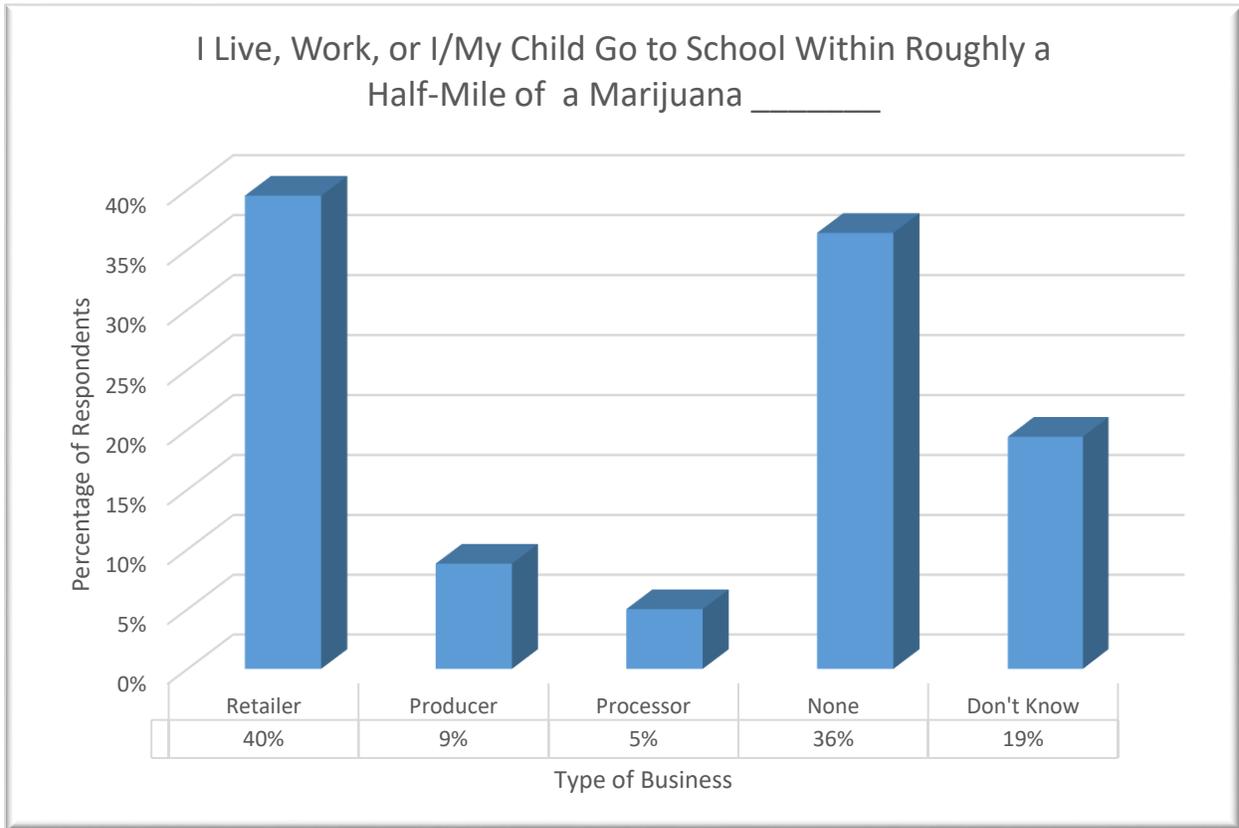


Figure 46 – Respondents' Proximity to a State-Licensed Marijuana Business (choose as many as apply)

Figure 47 shows that a large majority of respondents do not have a medical marijuana authorization (though many cited marijuana use for medical purposes in their responses).

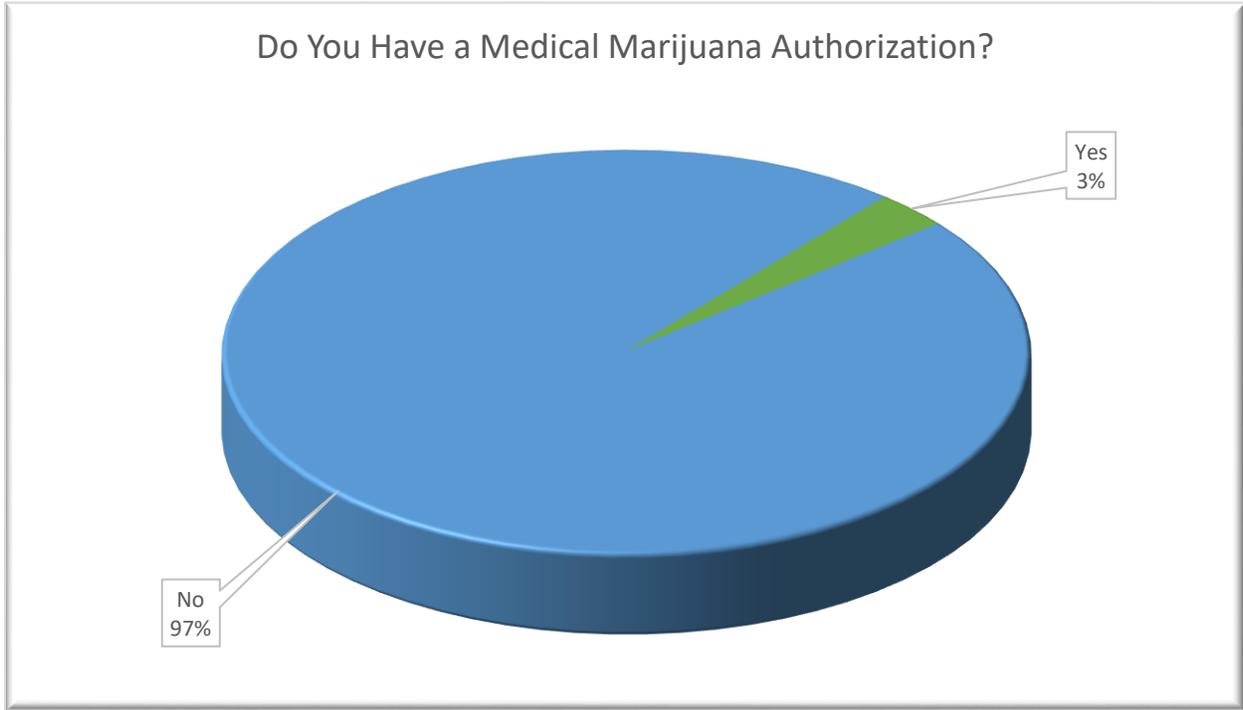


Figure 47 – Percentage of Respondents with a Medical Marijuana Authorization

41% of respondents reported they had shopped at a marijuana retailer at least once. Of those respondents, less than 15% shop at a marijuana retailer more than once a month.

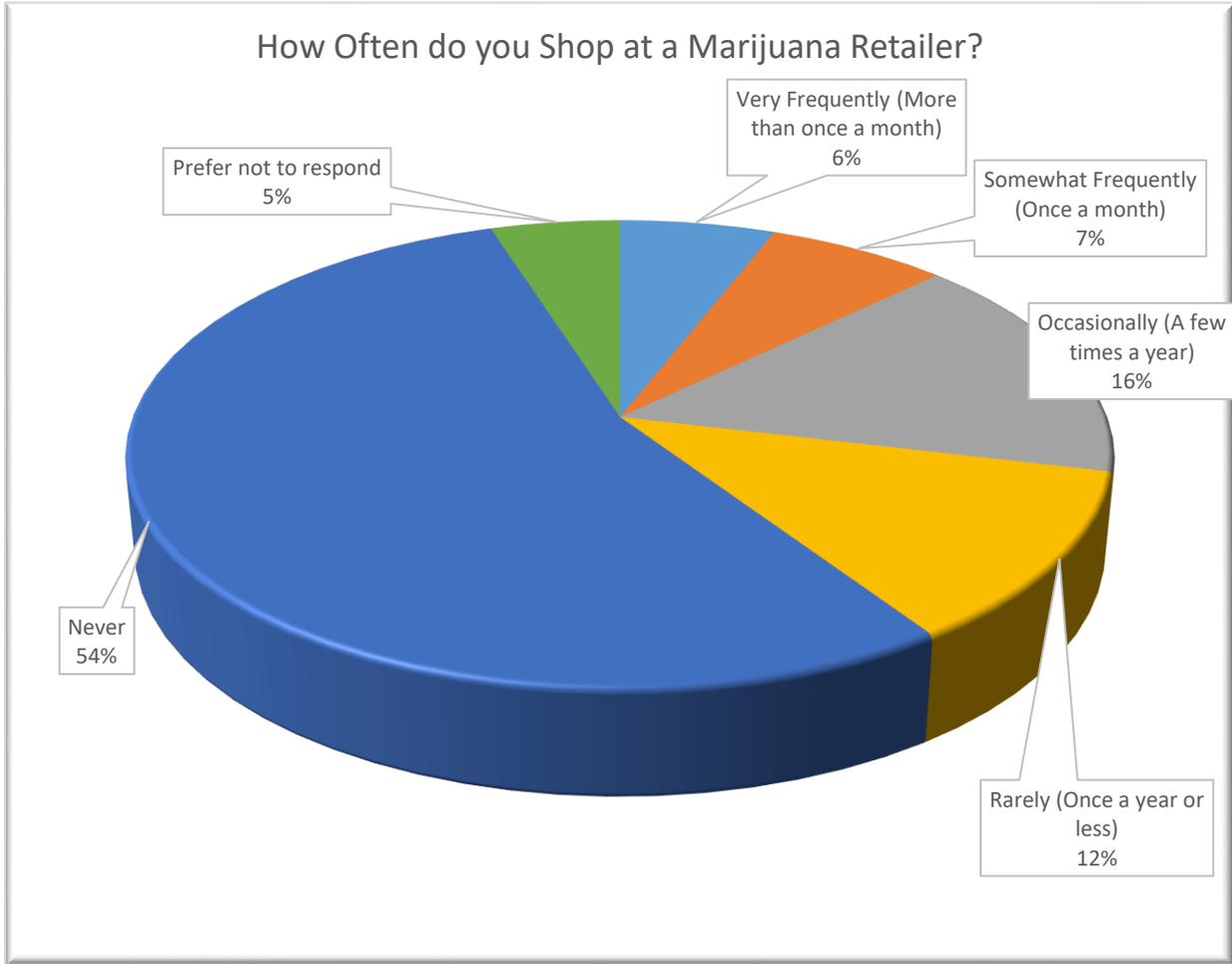


Figure 48 – Respondents’ Frequency of Shopping at a Marijuana Retailer

The age of respondents was roughly evenly distributed, among the age groups, with the exception that there were very few respondents between the ages of 18 and 24, and no respondents under the age of 18.

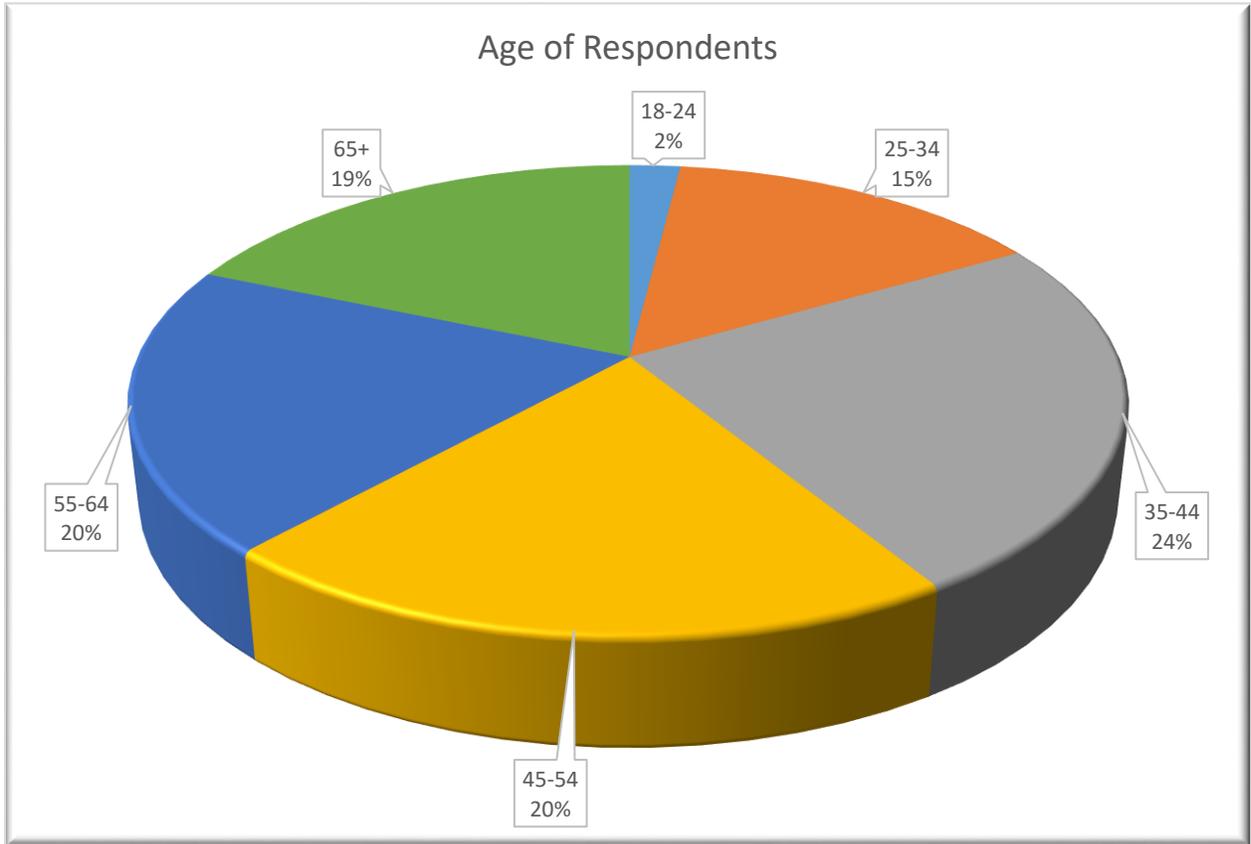


Figure 49 – Age of Respondents

The gender of respondents was roughly even between men and women, with a small percentage of non-binary respondents.

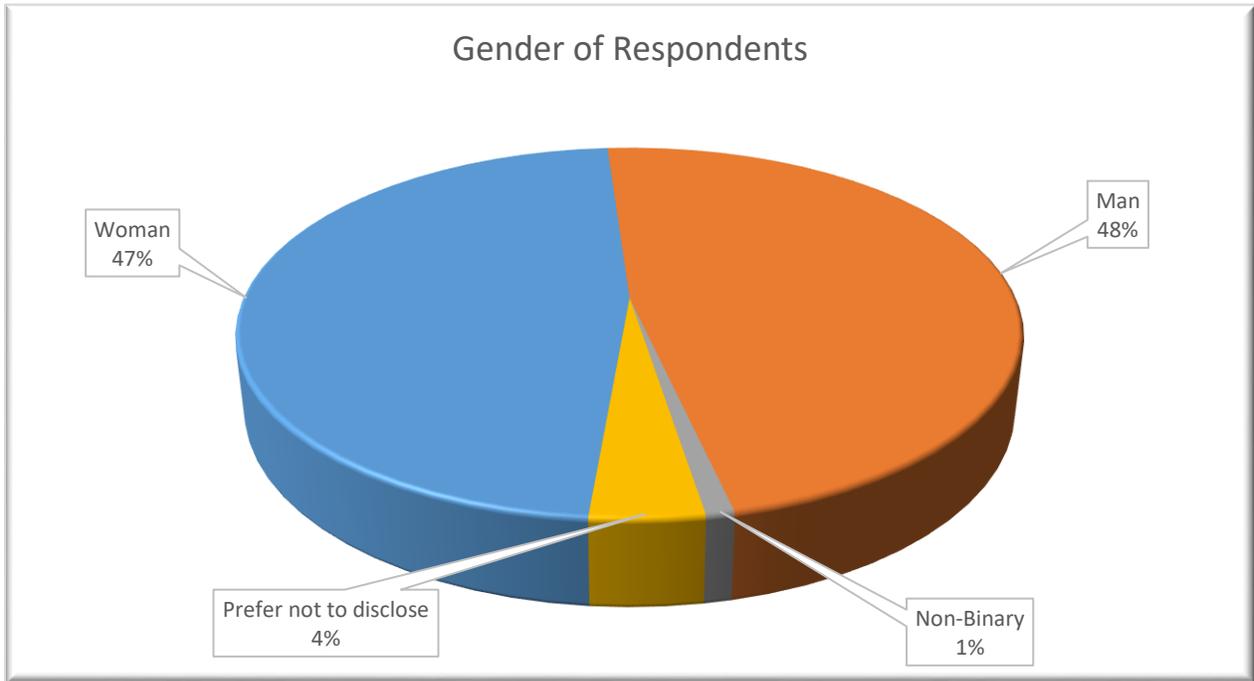


Figure 50 – Gender of Respondents

Figure 51 shows the race of respondents to the questionnaire. White, Caucasian people were overrepresented in the survey compared to their proportion of the County population as a whole (64.8% White, Caucasian as of the 2010 census).

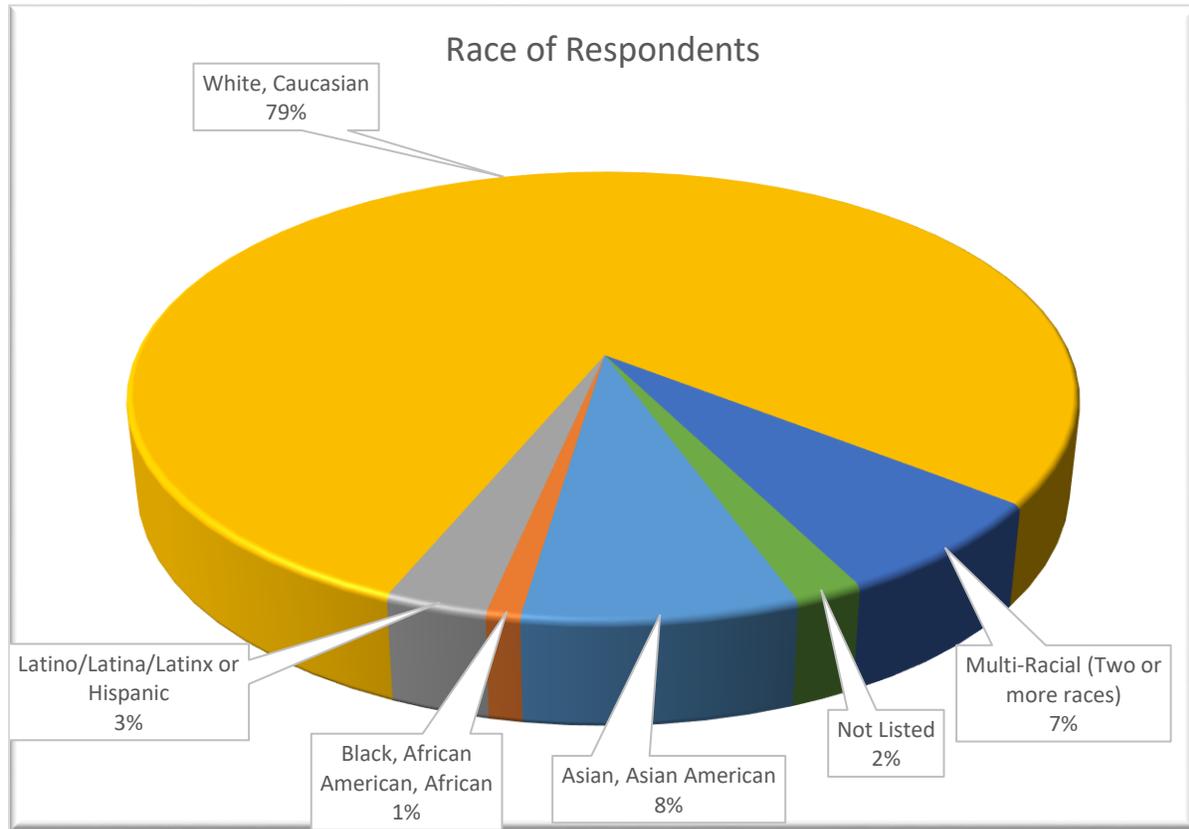


Figure 51 – Race of Respondents

IMPACTS

Respondents discussed a number of issues in response to the questions about impacts to themselves, their families, and their communities. Some spoke about direct, specific impacts, such as odor from an outdoor production facility, changes to neighborhood aesthetics, or beneficial medical effects, while others spoke about more generalized impacts, or suspected impacts, such as increases in DUI, increases to crime, and reduction in non-violent arrest rates.

To give a picture of the overall sentiment of respondents when asked about the impact of marijuana businesses in these two questions, each response was labeled either *Positive*, *Negative*, *Neutral*, or *Mixed* based on the whether the person discussed positive or negative impacts/potential impacts/feelings about the legal marijuana industry. Neutral statements mostly stated that there had been no impact from marijuana businesses. It is important to note that this is not a measure of people who stated that they have experienced impacts, but rather a measure of their overall sentiment. As the Figure 52 shows, 37% of respondents had negative responses about legal marijuana businesses, while 60% either experienced no impact or discussed only positive impacts/feelings about legal marijuana businesses. An additional 3% of respondents expressed negative and positive feelings.

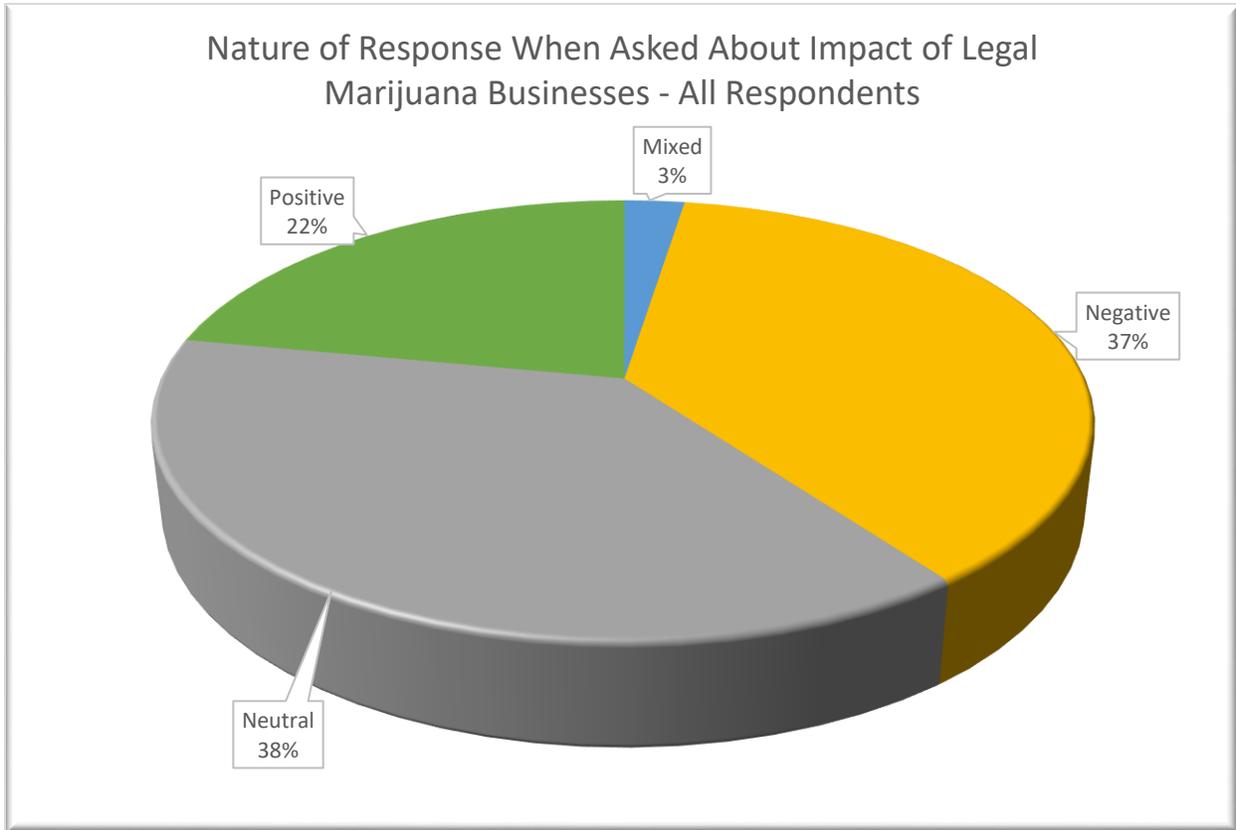


Figure 52 – Nature of Response When Asked About Impact of Legal Marijuana Businesses

Because the King County Council is particularly interested in impacts in unincorporated areas, Figure 53 shows the nature of responses from respondents who identified themselves as residents of unincorporated King County. As the graph shows, the percentage of people responding with positive or mixed responses stayed roughly the same, but a larger percentage of respondents discussed negative impacts/feelings and fewer had neutral responses.

One factor that may contribute to this difference is the way that respondents found out about the questionnaire. Many unincorporated area residents received flyers at CSA meetings or discussed impacts in person with DPER staff. A person who has experienced no impacts as a result of the marijuana industry might not be particularly motivated to go home and respond to a questionnaire in order to state this. On the other hand, the only outreach that included incorporated area residents was an email through the King County Open Town Hall email list. Respondents who found out about the questionnaire this way had only to click a link and type “no impact.” This may account for some of the discrepancy in neutral responses between unincorporated area residents and respondents as a whole.

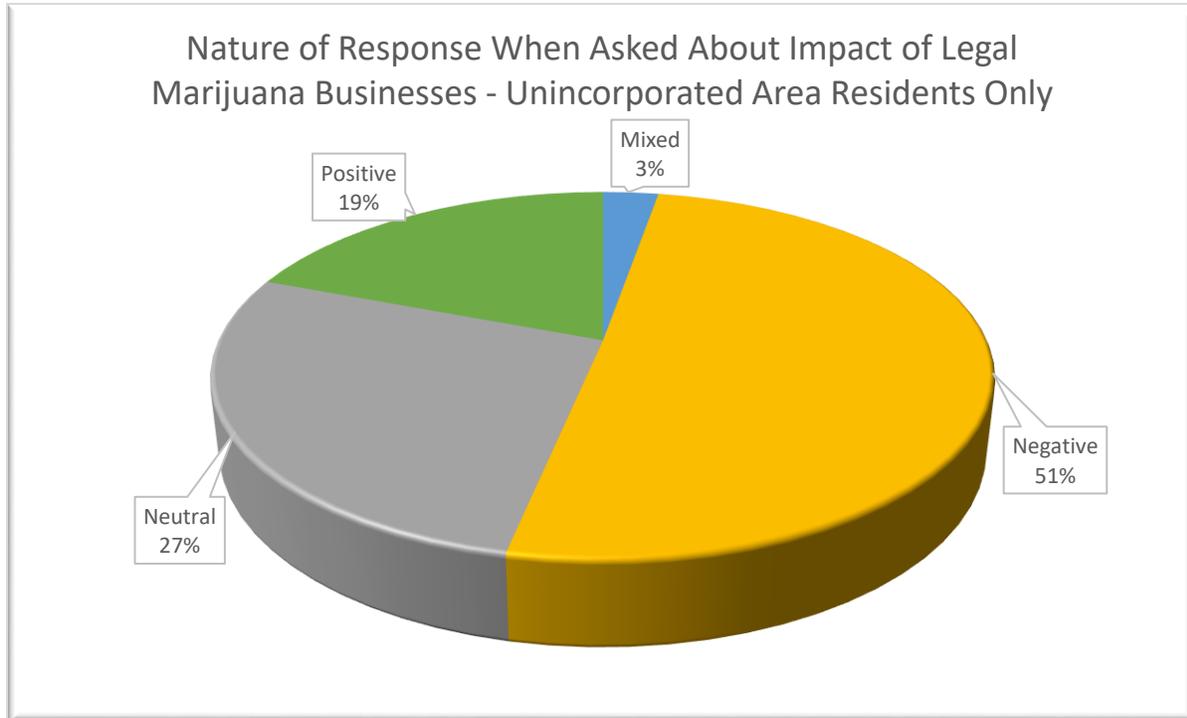


Figure 53 – Nature of Response When Asked About Impact of Legal Marijuana Businesses – Unincorporated Area Residents Only

Increased drugged driving and increased public use of marijuana were two of the most common negative issues discussed by respondents. These are both illegal activities and are outside the scope of this study, which focuses on the impact of marijuana businesses themselves. Below are a number of quotes illustrating the range of impacts cited that do apply directly to marijuana retailers, producers, or processors:

“Increased noise and traffic during the over two year period that the greenhouse was being constructed... Extremely loud noise from greenhouse fans...Increased crime (greenhouse site was target of 10,000.00 theft of greenhouse building materials about a year ago)”

“We live within 500 feet of a 30,000 sq. ft. outdoor grow. Many negative impacts have resulted. These include a high increase in speeding traffic...The noise and dust create a frustrating and unhealthy environment as well as spooking horses with children riding...In addition, the absolutely horrid smell of the plants being processed as well as stalks being burned outdoors makes enjoying our property or riding our horses outside impossible at times. We also have no idea what chemicals or pesticides are being used at the grow that could be harmful to us or our livestock.”

“Active business means the surrounding immediate area (parking lot and alley) are MUCH SAFER than they used to be before the shop opened. This shop is active in the community and promotes additional adjacent and new businesses; they have a security person always present as well.”

“I feel that pot shops detract from the area where they are situated (negatively affect property values and appearance of commercial areas) because they are generally not well kept up.”

“Shops are clean, quiet, and well maintained. Clientele not a problem. Site is visually appealing.”

“It has taken the drug dealers out of the parking lots and away from the schools.”

“The pot stores are concentrated in poor areas and this is not helping our neighborhood.”

“It has made our neighborhood a better place to live.”

“As a cancer patient having chemo and legally being able to buy cannabis saved my life. I honestly don't believe I could have finished treatment without it.”

“People are afraid to park cars close to marijuana shops.”

“Three shops is too many for a small area in Top Hat. (Personally, I go to [redacted] in Seattle anyway because they have senior discounts on Wednesday.)”

“There are too many legal shops in White Center. A couple is fine, but there are at least 6. I'd rather have a restaurants or retail businesses for diversity.”

“More secondary businesses such as restaurants investing around potshops. This is good for all.”

“Smells bad. The processors or growers in retail areas are bad for business. They should be in rural or industrial zoned areas. Up and coming retail areas should be pleasant to walk around and pot growers do not prioritize the front of the building for pedestrians.”

“My wife uses a cad tincture to sleep. Having a shop close to home has been very convenient.”

“It has created some jobs. It has effectively eliminated the black market for pot and decreased the risk of crime.”

“Created an environment of increased property crime.”

“The concentrated pot shops in the Top Hat area of North Highline are a blight on the community. People sit in their cars outside the stores or across the street from the stores, or walk nearby and smoke pot and toss the packaging of the products on the streets. There is little respect or regard for the surrounding community. The stores have had a negative impact on the few surrounding businesses.”

“General gentrification, hub of loitering/ undesirable activity where pot shops and liquor stores are clustered.”

“Cause significant environmental impacts due to excessive water and energy demands and local contamination of water, air, and soil. As it is near school and locality can be unsafe for kids. These can also impact the home prices and decrease the equity.”

“Our property directly abuts the marijuana property. The smell is terrible at times and it causes coughing.”

“We have an increase in crime (theft and property damage) that have arrived with the legal MJ operation(s)... We have had uncontrolled odors and traffic not normal to our neighborhood. In addition, there has been an influx of workers on the site that are not normally in our area.”

“Members of our community are no longer removed from their jobs or parental responsibilities by being thrown in jail, and other members are making a living in the cannabis industry.”

As the above comments show, there is not consistency among respondents as to the types of impacts that are occurring (in addition to the significant portion of respondents reporting no impacts). Retail businesses are alternatively described as reducing crime, increasing crime, improving neighborhood character, and deteriorating neighborhood character.

Odor from the one outdoor production operation in King County was also mentioned as an impact by several respondents. This business began operation without permits from Puget Sound Clean Air Agency and is in the process of acquiring a permit from that agency at the time of this writing.

CODE ENFORCEMENT COMPLAINTS

King County Code Enforcement, a division of DPER, investigates complaints regarding violations of King County development regulations. Examples of common complaints include construction/clearing without a permit, operation of an illegal business, substandard housing, doing illegal work in a wetland or other critical area, and violating permit conditions.

Between January 1, 2013 and June 30, 2018, DPER Code Enforcement opened 26 code enforcement investigations related to marijuana. 18 of these investigations were in regards to illegal (unlicensed) marijuana businesses, personal medical marijuana grows, or dispensaries/production operations operating under the (now defunct) medical marijuana system.

The remaining eight cases investigated complaints against marijuana producers, processors, or retailers that were/are licensed by the state, or were in the licensing process. Because this report focuses on the legal marijuana industry rather than the medical or illegal markets, these eight cases will be the focus of this analysis.

Of the eight code enforcement cases, four dealt with licensed producer/processors. In each of the four cases, the complaint was against a state licensee who had failed to obtain the appropriate building and/or land use permits from King County before beginning construction or importing marijuana to the site. In two of these cases, the business could not meet zoning requirements and was closed. In the other two cases, upon receiving a violation notice, the licensee applied for the appropriate permits from King County.

The remaining four code enforcement cases were in regards to retail marijuana businesses. Three complaints were in regards to unpermitted work. In one of these cases, the applicant had not undertaken any work on the site, and therefore there was not a violation. In a second case, the licensee applied for the appropriate permits after receiving a violation notice. In the third case, the retail license applicant placed a temporary commercial coach on the property without permits, but did not begin sales from the site. That case is still ongoing, but the owner has been informed that the structure must be removed. Finally, the remaining case was initiated by King County when a retail marijuana business failed to obtain a King County Business License as required by Ordinance 18326. Upon receiving a violation notice, the business applied for and received the business license.

Of the eight code enforcement cases, four were initiated since the passage of Ordinance 18326.

Table 16 below summarizes the eight code enforcement cases.

Date Case Opened	State License Type	Potential Violation	Violation Found	Resolution
6/6/2018	Retail	Failure to Obtain Permits	Yes	Ongoing
4/4/2017	Retail	Failure to Obtain KC Business License	Yes	License Obtained
2/22/2017	Producer/Processor	Failure to Obtain Permits	Yes	Business Closed
9/12/2016	Producer/Processor	Failure to Obtain Permits	Yes	Business Closed
6/6/2016	Producer/Processor	Failure to Obtain Permits	Yes	Permits Applied For
4/15/2015	Retail	Failure to Obtain Permits	No	Not a Violation
11/13/2014	Retail	Failure to Obtain Permits	Yes	Permits Applied For
10/25/2014	Producer/Processor	Failure to Obtain Permits	Yes	Permits Applied For

Table 16 – Summary of Code Enforcement Cases

Some of the primary concerns of the community during the conditional use comment periods and other public testimony revolved around impacts to water, wildlife, traffic, glare, and noise. These are all types of violations that fall under DPER Code Enforcement’s jurisdiction, and the Code Enforcement Division deals with these types of complaints on a regular basis. Despite this, DPER Code Enforcement has not received any such complaints for licensed marijuana businesses that have received all required permits from DPER. This suggests that the regulations and applied conditions have been successful in mitigating these types of impacts.

The King County Council also asked DPER to evaluate impacts due to glare. Marijuana producers and processors in the RA zones, like all commercial operations in those zones, are required to keep outdoor lighting to no more than one foot-candle at the property line. No code enforcement complaints have been made regarding violation of this requirement. It therefore appears that King County’s regulations are effective in mitigating impacts due to glare.

MARIJUANA BUSINESSES AND CRIME

INTRODUCTION

Crime was the number-one concern cited in conditional use public comments, and was frequently mentioned in community meetings and written comments as part of DPER’s public outreach campaign. The Council also requested that DPER provide information on crimes attributable to marijuana businesses. DPER therefore analyzes police calls for service on parcels

with marijuana businesses, and also discusses studies that have been done elsewhere on potential links between marijuana businesses and crime.

METHODOLOGY

The King County Sheriff’s Office (KCSO) provided data on dispatched calls for service (also known as “callouts”) from January 1, 2014 – January 31, 2018, for each of the properties licensed by the WSLCB for production, processing, or retail during that time. Any time a call to police is made, or a potential crime is witnessed by an officer, or an officer makes a contact with a business or residence, a record is logged in this dataset. It should therefore be noted that not all calls for service represent actual or confirmed crimes, but rather represent a record of police activity associated with the specific addresses in question.

For the purposes of DPER’s analysis, multiple call types were consolidated into larger groups for ease of understanding. For instance, various types of burglary and attempted burglary were combined into “Burglary or Attempt,” and “Business Contact, Misc.,” and “Area Check (Includes request for patrol),” were combined into “Misc. Contact/Visit/Area Check.” Call types not relevant to the operation of the business (such as “Abandoned Vehicle” and “Cancelled”) were not included. Table 17 shows how KCSO call types were consolidated for this analysis.

Call Type from KCSO Data	Crime Type for Analysis
ALARM, ALL OTHER	Alarm
ALARM, AUDIBLE, COMMERCIAL	Alarm
ALARM, AUDIBLE, RESIDENTIAL	Alarm
ALARM, SILENT, COMMERCIAL	Alarm
AREA CHECK (INCLUDES REQUESTS FOR PATROL)	Misc. Contact/Visit/Area Check
ARSON, CONFIRMED	Arson
ASSAULT, HANDGUN	Assault
ASSAULT, SIMPLE	Assault
BURGLARY, COMM., ATTEMPT	Burglary or Attempt
BURGLARY, COMM., F/E	Burglary or Attempt
BURGLARY, COMM., N/F	Burglary or Attempt
BURGLARY, RES., ATTEMPT	Burglary or Attempt
BURGLARY, RES., N/F	Burglary or Attempt
BUSINESS CONTACT, MISC	Misc. Contact/Visit/Area Check
CIVIL PROBLEM	Civil Problem
CIVIL PROCESS, ANTIHARASSMENT ORDER	Protection/Harassment Order

Call Type from KCSO Data	Crime Type for Analysis
CIVIL PROCESS, PROTECTION ORDER	Protection/Harassment Order
CONTROLLED SUBSTANCE VIOLATION	Controlled Substance Violation
CRIMINAL WARRANT, FELONY	Warrant
CRIMINAL WARRANT, FELONY (OUTSIDE AGENCY)	Warrant
CRIMINAL WARRANT, MISDEMEANOR	Warrant
CRIMINAL WARRANT, MISDEMEANOR (OUTSIDE AGENCY)	Warrant
DEFECTIVE EQUIPMENT	Defective Equipment
DISTURBANCE, (NOISE, LOUD PARTY, ETC)	Disturbance, (Noise, Loud Party, Etc.)
DISTURBANCE, FAMILY	Disturbance, Family
DISTURBANCE, FIGHT	Disturbance, Fight
DRUNKENNESS	Drunkenness
DUI	DUI
FIRE INVESTIGATION, ACCIDENTAL	Fire
FIREARM, ILLEGAL DISCHARGE (RECKLESS SHOOTING)	Firearm, Illegal Discharge (Reckless Shooting)
FORGERY (DOCUMENTS, COURT PAPERS, ETC)	Forgery
FRAUD, ALL OTHER	Fraud
HAZARDS (CAVE-INS, FOUND DYNAMITE, DOWN WIRES, ETC.)	Hazards
INDECENT LIBERTIES	Indecent Liberties
LARCENY, NSC	Larceny
LARCENY, P/S	Larceny
LARCENY, S/L	Larceny
LARCENY, TFA	Larceny
LARCENY, TFB	Larceny
LIQUOR / TOBACCO VIOLATIONS	Liquor / Tobacco Violations
MENTAL COMPLAINTS	Mental Complaints
MISCHIEF & NUISANCE	Mischief & Nuisance

Call Type from KCSO Data	Crime Type for Analysis
NARCOTICS ACTIVITY REPORT	Narcotics Activity Report
NEIGHBOR DISPUTE	Neighbor Dispute
PROPERTY, CONFISCATED	Property, Confiscated
PROWLER, VEHICLE	Prowler, Vehicle
RAPE	Rape
RAPE, ATTEMPT	Rape, Attempt
REMOVAL, ALL OTHER	Removal
ROBBERY, CHAIN STORE	Robbery
ROBBERY, COMM. HOUSE	Robbery
ROBBERY, HIGHWAY	Highway Robbery
ROBBERY, MISC	Robbery
SEX OFFENSE, NSC	Sex Offense, Nsc
STALKING / HARASSMENT	Stalking / Harassment
SUSPICIOUS CIRCUMSTANCES	Suspicious Circumstances/Person/Vehicle
SUSPICIOUS PERSON	Suspicious Circumstances/Person/Vehicle
SUSPICIOUS VEHICLE	Suspicious Circumstances/Person/Vehicle
THEFT, AUTO	Vehicle Theft
THEFT, HEAVY EQUIPMENT & VEHICLES NOT COMMONLY LICENSED	Vehicle Theft
THREATS	Threats
TRESPASS	Trespass
UNSECURED PREMISES	Unsecured Premises
VANDALISM OVER \$1500	Vandalism
VANDALISM UNDER \$1500	Vandalism
VIOLATION OF COURT ORDERS, (MISDEMEANOR)	Violation of Court Order

Table 17 – Consolidated Call Types

Marijuana businesses opened at varying times during the four year study period, and calls recorded prior to each business' opening cannot be attributed to that business. Therefore, each call was tagged as happening before or after the business began operation. For retail businesses, the date of operation was determined by the month sales first occurred, according to WSLCB

records. Because producer/processor businesses may operate for many months prior to selling their product, the date of operation for producer/processors was determined by the date their WSLCB license was issued.

Finally, because businesses were not open exactly half of the study period, a weight was applied to the number of calls for each consolidated call type. For each business, the total number of days prior to and after opening was calculated, and these numbers were then summed, once for retail and once for producer/processors. Note that the total number of days for producer/processors is higher than that for retailers, because there were a larger number of producer/processors (27) than retailers (11). The resulting weights are shown in Table 18 below.

Business Type	Total Number of Days Prior to Opening (1/1/14 – 1/31/18)	Total Number of Days After Opening (1/1/14 – 1/31/18)	Before Opening Weight	After Opening Weight
Retail	8,195	8,206	.9997	1.0003
Production/Processing	17,247	23,010	.9284	1.0715

Table 18 – Police Callout Weighting

RESULTS

The weighted number of dispatched calls for service for marijuana retailers are shown in Figure 54 below. There were 11 retail locations present during the study period.

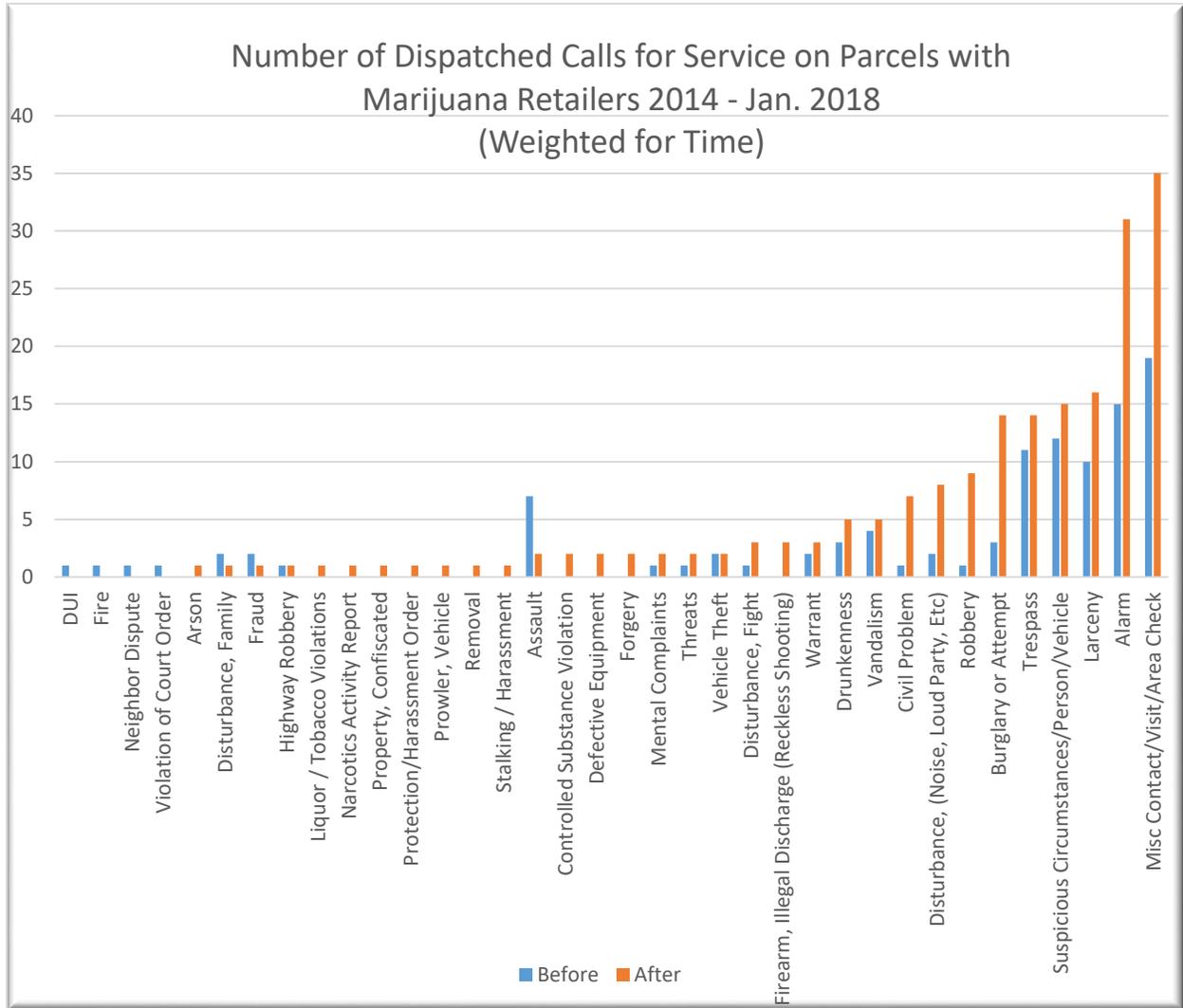


Figure 54 – Weighted Dispatched Calls for Service – Marijuana Retailers

Figure 55 shows the weighted number of dispatched calls for service for marijuana producer and processor businesses. Note that this data is made up of 27 locations, although only 23 are now in operation. Some of these businesses have since closed or moved to alternate locations.

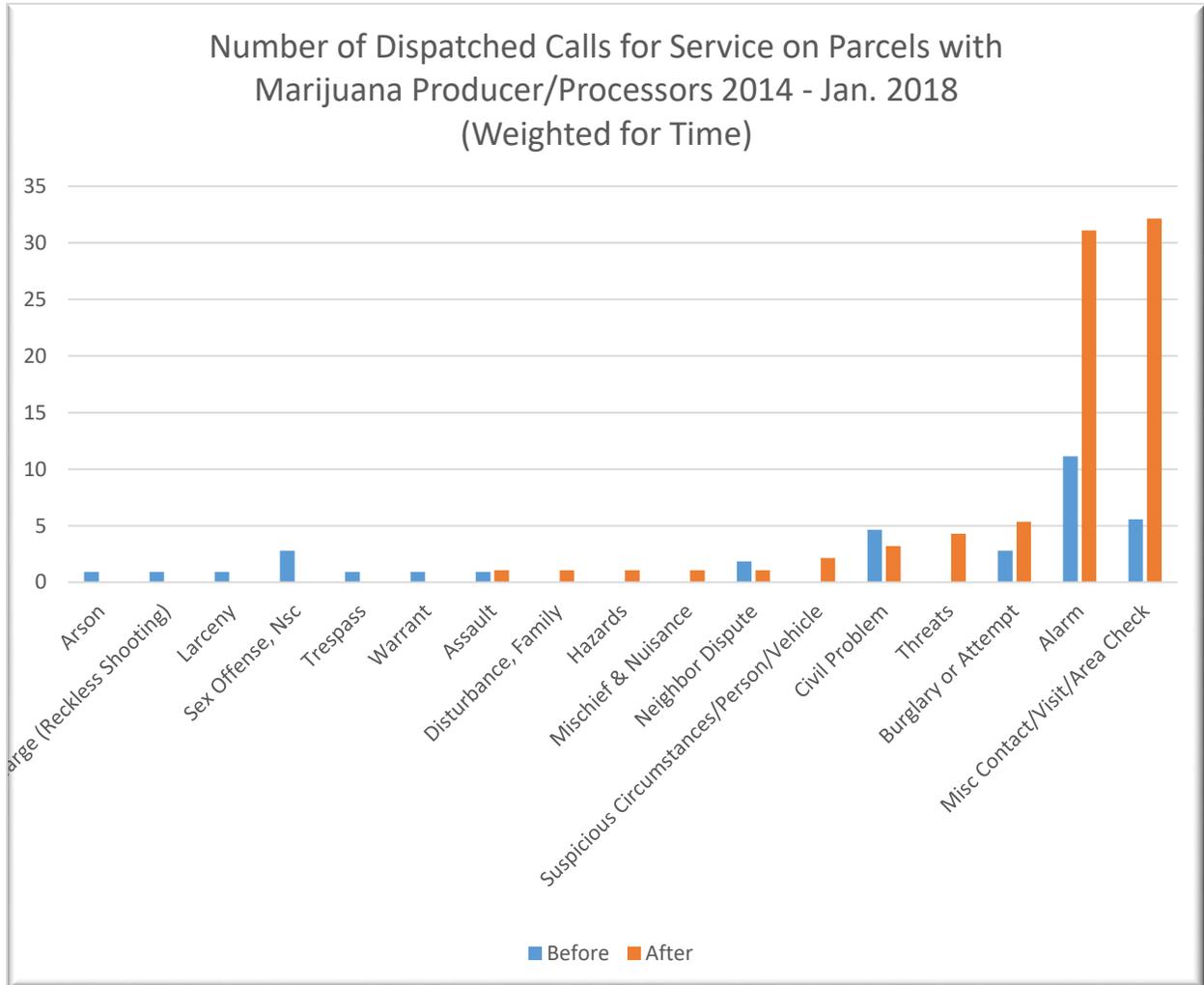


Figure 55 – Weighted Dispatched Calls for Service – Marijuana Producers and Processors

DISCUSSION

RETAIL

The dispatched call for service data shows that properties with marijuana retailers saw an increase in a number of call types after the businesses opened. The largest overall number of calls was miscellaneous contacts and area checks. These nearly doubled after retailers opened. These miscellaneous contacts show an increased police presence at these locations compared to before the businesses began operation.

Responses to alarms also doubled after the businesses began operation. As the WSLCB requires sophisticated security systems at marijuana retailers, it is unsurprising that these types of calls have increased. Although alarm responses and miscellaneous visits do not suggest crimes are occurring, they do represent additional time and cost to KCSO. On the other hand, marijuana-

related police incidents were down by 63% in Washington State between 2012 and 2015, so legalization has also freed up police time in this way.⁹

There were significant increases in a number of other call types on properties with marijuana retailers as well, although the total number of calls was lower than that for alarms and miscellaneous contacts. Larceny (theft), burglary and attempted burglary, and robbery all increased on these properties after the businesses opened (a weighted 60%, 367%, and 800%, respectively). Because banks and credit card companies are hesitant to work with retail marijuana businesses due to marijuana's federally illegal status, these businesses are forced to keep large amounts of cash on hand, making them an attractive target. "Would-be crooks and thieves view our shops and other shops as fish in a barrel," said one marijuana retailer.¹⁰ To say these crimes are "attributable" to marijuana businesses is not exactly correct, just as saying that opening a bank causes robberies to increase would not be correct. Because the crimes are being committed against the businesses rather than by customers or staff, it is more correct to say the business are *vulnerable* to these crimes, rather than saying that they *cause* the crimes. The WSLCB continues to work with federal regulators to allow credit card use at marijuana retailers.¹¹

An increase is also evident in civil problems and noise disturbances on these properties after marijuana retailers opened. Although the overall numbers are relatively low compared to other report types (a weighted 15 reports for the 11 locations over the study period), this increase might suggest certain elements of the retailers' clientele are causing issues on these properties. It is unknown if this increase is more than, less than, or similar to the increase that would be seen when, for example, a new convenience store or bar opens. Further study could analyze whether these changes are typical or in contrast to the changes seen when other uses open on a site.

The 11 businesses operating in four census tracts during this study period do not represent a large enough sample to conduct any detailed statistical analysis of correlations between marijuana retailers and crime. Numerous studies have found a significant, positive correlation between alcohol businesses and violent crime, but as marijuana retail is a relatively new use, potential links between marijuana businesses and crime have not been investigated as thoroughly as with alcohol.^{12, 13} However, two recent studies have analyzed correlations between marijuana retail (medical and general use) and crime.

Hunt et al. (2018) studied marijuana dispensaries in California and found "no relationship between county laws that legally permit dispensaries and reported violent crime. We find a

⁹ Washington State Office of Financial Management Forecasting and Research Division, "Monitoring Impacts of Recreational Marijuana Legalization: 2016 Update Report," March 2017, 3, https://www.ofm.wa.gov/sites/default/files/public/legacy/reports/marijuana_impacts_update_2016.pdf.

¹⁰ Deedee Sun, "After a String of Robberies, Pot Shops Call for State's Help," *KIRO 7 News*, April 5, 2018, <https://www.kiro7.com/news/local/after-a-string-of-robberies-pot-shops-call-for-states-help/727885863>.

¹¹ Ibid.

¹² Kathryn Stewart, "How Alcohol Outlets Affect Neighborhood Violence," *Pacific Institute for Research and Evaluation*, accessed September 26, 2018, <http://resources.prev.org/documents/AlcoholViolenceGruenewald.pdf>.

¹³ L. Zhu et al., "Alcohol Outlet Density and Violence: A Geospatial Analysis," *Alcohol and Alcoholism*, Vol. 39 No. 4, 2004, 369-375, <https://academic.oup.com/alcalc/article/39/4/369/139368>.

negative and significant relationship between dispensary allowances and property crime rates, although event studies indicate these effects may be a result of pre-existing trends.”¹⁴

Chang et al. (2017) found that shutting down certain marijuana dispensaries in Los Angeles correlated to an immediate increase in crime around those locations, compared to dispensaries that were allowed to remain open, possibly due to the fact that there were less “eyes on the street” after the businesses closed.¹⁵

So, while studies have consistently shown that density of alcohol businesses (both with on-premises and off-premises consumption) correlate to increased crime, preliminary studies have found that this is not the case with marijuana retailers. This could be further studied by analyzing crime data from all law enforcement agencies countywide against density of retailers at the census tract level. This would provide a large enough sample to determine if census tracts with higher marijuana retail density correlate to higher crime rates in this County.

PRODUCTION AND PROCESSING

Similar to marijuana retailers, marijuana producer and processor businesses show a marked increase in both alarm calls and miscellaneous contacts and patrols. This increase is likely due to the same reasons discussed for marijuana retailers.

Other than these two call types, there are no major changes seen in call types for these 27 locations with producer/processor licenses, suggesting that these businesses are not having a significant crime impact.

MARIJUANA AND ODOR

THE SCIENCE OF MARIJUANA ODOR

In addition to crime, odor was one of the most frequently voiced concerns in public feedback, both in Conditional Use Permit comments and DPER’s public outreach for this study.

Marijuana’s odor comes from a group of aromatic oils called *terpenes*, which are secreted as a resin from the cannabis plant’s glands.¹⁶ Terpenes are found in a wide variety of plants and commercial fragrances, including hops, rosemary, lavender, citrus fruit rinds, citronella, and Pine-Sol, among hundreds of others.¹⁷

The terpene-produced odor, whether from a growing cannabis plant or from useable marijuana product, is not psychoactive – i.e. one cannot get high simply from the smell. The marijuana would have to be burned, vaporized, or otherwise heated (technically called *decarboxylated*) in order for psychoactive effects to result from inhalation.

¹⁴ Priscilla Hunt et al., “High on Crime? Exploring the Effects of Marijuana Dispensary Laws on Crime in California Counties,” IZA Institute of Labor Economics, May 2018, <http://ftp.iza.org/dp11567.pdf>.

¹⁵ Tom Chang and Mireille Jacobson, “Going to Pot? The Impact of Dispensary Closures on Crime,” *Journal of Urban Economics*, Vol. 100, 120-136, <https://doi.org/10.1016/j.jue.2017.04.001>.

¹⁶ Judith K. Booth et al., “Terpene synthases from Cannabis Sativa,” *PLOS One*, March 2017, <https://doi.org/10.1371/journal.pone.0173911>

¹⁷ Dr. Eberhard Breitmaier, *Terpenes: Flavors, Fragrances, Pharmaca, Pheromones* (Weinheim: Wiley, 2006).

While some find the odor unpleasant, it is not noxious or toxic and does not result in harmful effects to the general population. That being said, there is a small percentage of people with allergies to one or more varieties of terpene. Exposure to a terpene-bearing plant or product (particularly by touch) may result in an allergic reaction in these individuals. Different varieties of the cannabis plant have different ratios of terpenes (giving plants distinctive smells such as blueberry, pine, and lemon), but myrcene is one of the most common terpenes found in the plant. A 2005 study found myrcene to have a lower allergic reaction rate than other common types of terpene.¹⁸

Additionally, those with pollen allergies may also have an allergic reaction to the pollen produced by the cannabis plant.¹⁹

PSCAA REGULATIONS AND PROCESS

The King County Council adopted new odor regulations in Ordinance 18326 requiring marijuana producers and processors to provide documentation that they have applied for and received a Notice of Construction Permit from the Puget Sound Clean Air Agency (PSCAA), which regulates odors and air emissions in King County (as well as Kitsap, Pierce, and Snohomish Counties).

According to PSCAA's website, the Notice of Construction process is "a pre-construction application and review process that, when approved, results in a permit for your business with site specific conditions. NOC application decisions are made on case-by-case basis, based on the specifics of the application and the emission control technology options...if facilities need meaningful emission controls to prevent them from being a nuisance to the public, we take that responsibility seriously and want to work with producers and processors to identify the methods and means to achieve the common goal of 'no nuisance impacts.'"²⁰

Conditions applied to the permit implement best available control technology (BACT).

Site-specific conditions may include, among other things:

- Required number of carbon filters
- Specific placement instructions for filters
- Requirements for filter replacement cycles
- No odor detectable at the property line
- Requirement to keep doors and windows closed at all times (except when entering/exiting).

¹⁸ Mihaly Matura et al., "Selected Oxidized Fragrance Terpenes are Common Contact Allergens," *Contact Dermatitis* Vol. 52 No. 6, 2005, 320, https://www.researchgate.net/profile/Klaus_Andersen2/publication/7808808_Selected_oxidized_fragrance_terpenes_are_common_contact_allergens/links/5a072d4ca6fdcc65eab3a779/Selected-oxidized-fragrance-terpenes-are-common-contact-allergens.pdf?origin=publication_detail.

¹⁹ Thad L. Ocampo and Tonya S. Rans, "Cannabis Sativa: The Unconventional "Weed" Allergen," *Annals of Allergy Asthma and Immunology* Vol. 114, 2015, 188, [https://www.annallergy.org/article/S1081-1206\(15\)00035-6/pdf](https://www.annallergy.org/article/S1081-1206(15)00035-6/pdf).

²⁰ Puget Sound Clean Air Agency, "Permitting & Registration – Producer & Processor Requirements," accessed August 20, 2018, <https://www.pscleanair.org/213/Permitting-Registration>.

PSCAA requires operators to monitor for odors at and beyond the property lines at least once per calendar week, and requires an independent third-party monitor to do the same at least once every three months. If odor is detected, corrective action must be taken immediately, and if the odor is not eliminated within 24 hours, additional filters or other control measures must be added. All operators are required to maintain a complaint response plan in the event that odor is detected at or beyond the property line, and are required to keep a log of all odor monitoring.

COMPLAINTS TO PUGET SOUND CLEAN AIR AGENCY

No new marijuana producers or processors have applied for and received permits in unincorporated King County since the passage of Ordinance 18326, so the new odor requirements have not yet been put into practice. However, because PSCAA already required marijuana producers and processors to obtain a Notice of Construction Permit prior to Ordinance 18326, an evaluation of the odor impacts from the existing businesses can be instructive as to how these regulations will work if and when new marijuana businesses apply for permits in unincorporated King County.

In order to determine the extent and type of odor impacts occurring from marijuana producers and processors, DPER obtained all complaints to PSCAA from January 1, 2014 to June 30, 2018 which contained the words “marijuana,” “cannabis,” “weed,” or “pot.” These complaints were filtered to remove complaints regarding illegal (non-state-licensed) businesses, businesses located in incorporated areas, and extraneous complaints (e.g. where the words “weed” or “pot” were not in reference to marijuana).

From 2014 to June 30, 2018, 60 complaints were submitted about five individual state-licensed locations in unincorporated King County. Table 19 below summarizes the nature of these complaints:

Complaints to Puget Sound Clean Air Agency Regarding Licensed Marijuana Businesses			
Location	Complaint Type		Total Complaints
	Marijuana Odor	Possible Unpermitted Work	
SNS Capital		4	4
Medusa Gardens	11		11
Cloud Bud	1		1
Cloud Bud	41		41
Cinc-o-Dos	3		3
Total Complaints	56	4	60

Table 19 – Summary of Complaints to PSCAA

SNS CAPITAL – NEAR ENUMCLAW

Four complaints were received about this business between July 21, 2016 and February 8, 2017. The complaints were not related to odor, but rather out of concern that the business would begin operating without obtaining a Notice of Construction permit from PSCAA. The business had applied for and received permits from DPER to construct the greenhouse, but had not yet imported marijuana to the site, and thus was not in violation of PSCAA's standards.

The business has received permits to construct the marijuana greenhouse on-site, but had not yet begun operation as of October 2018.

MEDUSA GARDENS – NEAR BLACK DIAMOND

PSCAA received 11 complaints from a neighbor about this business between October 2016 and September 2017. Initial complaints did not receive follow-up because an incorrect address was given. Upon receiving the correct address in February 2017, a PSCAA inspector visited the site and confirmed an odor violation. The business had not obtained a Notice of Construction permit from PSCAA, and was also in code enforcement with DPER at the time for constructing and operating a marijuana production facility without the appropriate permits.

King County code enforcement action resulted in the business being shut down and marijuana being removed from the site.

CLOUD BUD (1) – NEAR MAPLE VALLEY

In April 2015, PSCAA received a complaint about marijuana odor from an outdoor production facility. The property owner had imported marijuana to the site without receiving the appropriate approvals from DPER, and without receiving a Notice of Construction permit from PSCAA. Though the property owner had applied for a Conditional Use Permit from DPER, he later withdrew the application due to private covenants on the property that did not allow for the marijuana use. The marijuana production facility was removed from the site shortly thereafter.

CLOUD BUD (2) – HOBART

The owner of the Cloud Bud operation referenced above moved his WSLCB license to a location in the Hobart area, and began growing marijuana outdoors on the site without receiving approvals from DPER or the PSCAA. Between August 18, 2017 and June 30, 2018, PSCAA received 41 odor complaints from neighboring property owners. PSCAA inspectors made three visits to the site during this period, but inspectors were unable to detect any marijuana odor at the property boundaries.

The licensee obtained a conditional use permit from King County in November 2016. A condition of the permit required that the licensee obtain a Notice of Construction Permit from PSCAA. At the time of writing, PSCAA has not yet issued an NOC.

CINC-O-DOS – NEAR FALL CITY

PSCAA received three odor complaints about a licensed marijuana producer/processor near Fall City between March 2, 2018 and April 9, 2018. PSCAA contacted the owner upon the first complaint and the owner stated he would conduct third party odor monitoring (as required by his Notice of Construction permit) and resolve any issues. After the third complaint, the owner replaced the carbon filters required as part of the Notice of Construction permit. No other

complaints were made between that time and June 30, 2018 (the last date of data used for this study).

DISCUSSION

In four of the five cases described above, the licensee (or license applicant) had not applied for or received a Notice of Construction permit from PSCAA. The licensees therefore had not implemented odor control technology meeting PSCAA’s standards, and so were out of compliance with the law. In the fifth case, the owner failed to maintain carbon filters as required by the NOC Permit. Once these filters were replaced, no further complaints were made within the study timeframe.

There are 23 marijuana producers and/or processors operating in unincorporated King County. As of the time of this writing, PSCAA has only received complaints about one producer or processor that has obtained all necessary permits from PSCAA and DPER. This suggests that PSCAA’s odor control regulations are effectively mitigating odor impacts. By requiring proof of Notice of Construction permit issuance prior to final approval, King County’s regulations can help ensure that future producers and processors will implement the technology necessary to mitigate odor impacts to neighboring properties. PSCAA’s regular inspections and requirement of third-party monitoring work further to ensure ongoing compliance.

EQUITY AND SOCIAL JUSTICE IN THE MARIJUANA INDUSTRY

INTRODUCTION

Equity and Social Justice (ESJ) issues are pervasive in society as a whole, and the marijuana industry is no exception. King County’s ESJ Strategic Plan makes a strong commitment to advancing a pro-equity agenda in all aspects of the County’s governance and operations. This Pro-Equity Policy Agenda seeks to expand access to the County’s Determinants of Equity – namely, child and youth development, economic development and jobs, environment and climate, health and human services, housing, information and technology, justice system, and transportation and mobility. The legal marijuana industry is intertwined, to varying degrees, with nearly all of these topics.

As a land use study, the primary focus of this report is distributional equity – in other words, whether legal marijuana businesses have been distributed throughout the County in an equitable way, so that the impacts and benefits *of these physical businesses* – not marijuana use or criminal justice issues – are shared fairly across all populations and groups. However, DPER also briefly discusses other ESJ historical and current issues surrounding the marijuana industry, and offers suggestions for other ESJ remediation programs which could be areas for further study or policy action.

DISTRIBUTIONAL EQUITY OF MARIJUANA BUSINESSES IN KING COUNTY

INTRODUCTION

Several respondents to King County’s public outreach campaign claimed that marijuana businesses were creating disproportionate burdens due to their location in low-income, high-minority communities, and that this distribution was neither equitable nor socially just. Several representative responses to “*What ESJ issues have you seen/experienced with the legal marijuana industry in Washington, and unincorporated King County in particular?*” and “*How*

can the County work towards increasing equity and social justice in the legal marijuana industry?” are included below.

“King County apparently did not abide by their ESJ commitment when they allowed 5 pot stores and 3 processing facilities to operate in this very challenged community.”

“Neighborhoods with lower economic power and more diversity are at risk for having the business district overrun by these types of businesses that aren’t good for the local economy.”

“Make sure that these businesses are not forced away from the “nice neighborhoods” when someone does try to place one there.”

“Put pot processing and pot shops in ALL neighborhoods, rather than clustering them in low income, culturally diverse, high immigrant population areas.”

Discussion in Community Service Area meetings and private meetings with community groups also focused on distributional inequities in the locations of marijuana businesses.

ANALYSIS

The King County Department of Natural Resources and Parks has developed an ESJ score measure to identify areas with high percentages of vulnerable populations. The score is made up of three components, taken from the 2011-2015 American Communities Survey. These are:

- Percentage of people of color;
- Percentage of people speaking English as a second language, and;
- Median Income.

The three components are combined into a weighted score from 1 to 5, with a higher score indicating a higher percentage of people of color, English as a second language and/or lower-income families. Each of the three components is given equal weight in the weighted score, which is applied at the census tract level. A census tract is a multi-block geographic area with an approximate population of 5,000. There are 398 census tracts in King County. Figure 56 shows ESJ scores in King County overlaid with the locations of operating marijuana retailers.

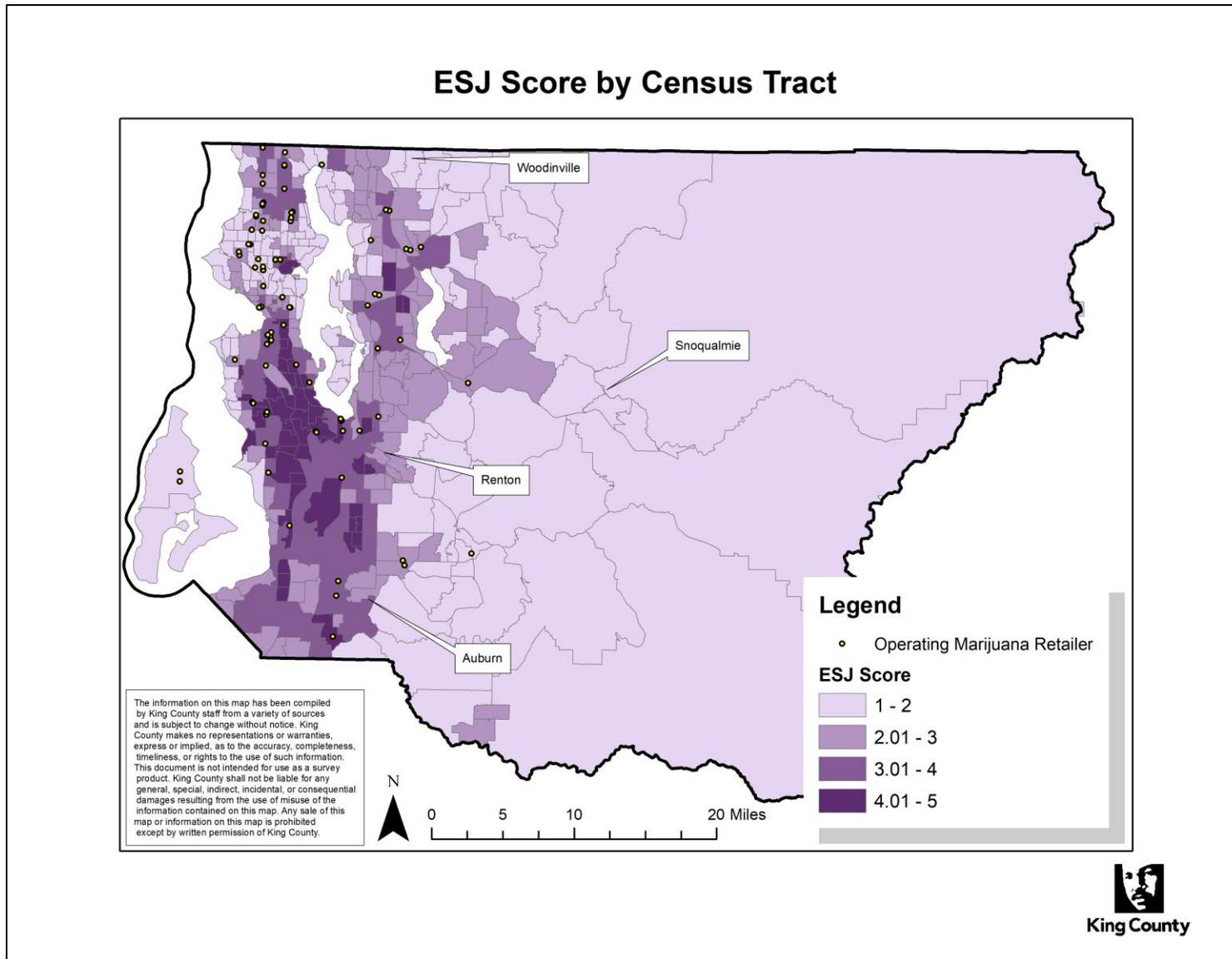


Figure 56 – ESJ Score by Census Tract

Of the 398 census tracts in King County, only 58 (14.5%) contain marijuana retailers. Unincorporated area retailers are operating, or are licensed in a location allowed by zoning, in six census tracts. Taken together, these six census tracts have a median ESJ Score of 4.50, indicating that people of color, those speaking English as a second language, and low-income people are much more likely to live there. This is significantly higher than the median score of 2.33 for all census tracts in the county that contain unincorporated areas. When looking at the County as a whole, the difference is much smaller, with tracts containing marijuana businesses having a median ESJ Score of 3.00, as opposed to 2.67 for the County as a whole.

DISCUSSION

The discrepancy between ESJ scores in unincorporated areas with retailers vs. those without raises the question of whether state and local regulations have disproportionately allowed marijuana retailers in high-ESJ-score communities, or if retailers have chosen, for any reason, to locate in these areas, or some combination of these two.

As discussed in Section One, 15 of 22 cities (68%) that fall into the “at-large” allotment of marijuana retailers have either prohibited marijuana uses or likely have no properties that meet both zoning and youth-oriented buffer requirements. This means that a significant amount of commercial zoning within the county as a whole is unavailable to the at-large retailers. These 15 cities are contained within 44 census tracts, with a median ESJ score of 2.33 – below the county median. Because marijuana retailers cannot legally operate in these low-ESJ-score cities, even though the WSLCB set up its allocation system with the idea that retailers *would* operate in those cities, they have predominantly located within unincorporated King County.

In Section One, DPER identified 56 parcels in unincorporated King County on which marijuana retailers could locate under current zoning. These 56 parcels are located in eight census tracts. Taken together, these tracts have a median ESJ Score of 2.17 – below the median for unincorporated areas generally, and far below the median for tracts where retail licenses are currently located. This suggests that market forces have also played a role in retailers locating in high-ESJ-score areas such as North Highline, West Hill, and unincorporated Federal Way.

There may be a number of factors that caused these businesses to locate in these areas, rather than other appropriately-zoned areas within unincorporated King County, or the seven at-large cities that have allowed marijuana businesses.

In general, retail businesses have more opportunity for success when located in densely-populated areas. This is evidenced by the sales data in Table 5, which shows that most of the urban retailers in unincorporated King County are making far greater monthly sales than the two retailers on rural Vashon-Maury Island. In unincorporated King County, eight of the 10 highest-population-density census tracts with CB or RB zoning are located either in North Highline or West Hill. This may have made these areas more appealing for marijuana retailers.

Additionally, according to King County’s Annexation Databook (Draft December 2018), “annexations and incorporation have typically shifted the higher tax revenue-generating areas – retail, industrial, and commercial centers, as well as more affluent residential neighborhoods – into cities, while lower income and ethnically diverse communities remained unincorporated.”²¹

²¹ King County Office of Performance, Strategy and Budget, *Draft King County Unincorporated Urban Area Annexation Area Databook*, January 2018.

Therefore, much of the commercially-zoned property that remains within urban unincorporated King County is located in areas with high ESJ scores.

North Highline and West Hill have another potential business advantage for retailers – they immediately abut south Seattle, where more than two dozen producer/processor businesses are operating (Figure 57). This streamlined supply chain may have been a factor in the decision to locate in White Center rather than areas such as Fairwood or Snoqualmie Pass.

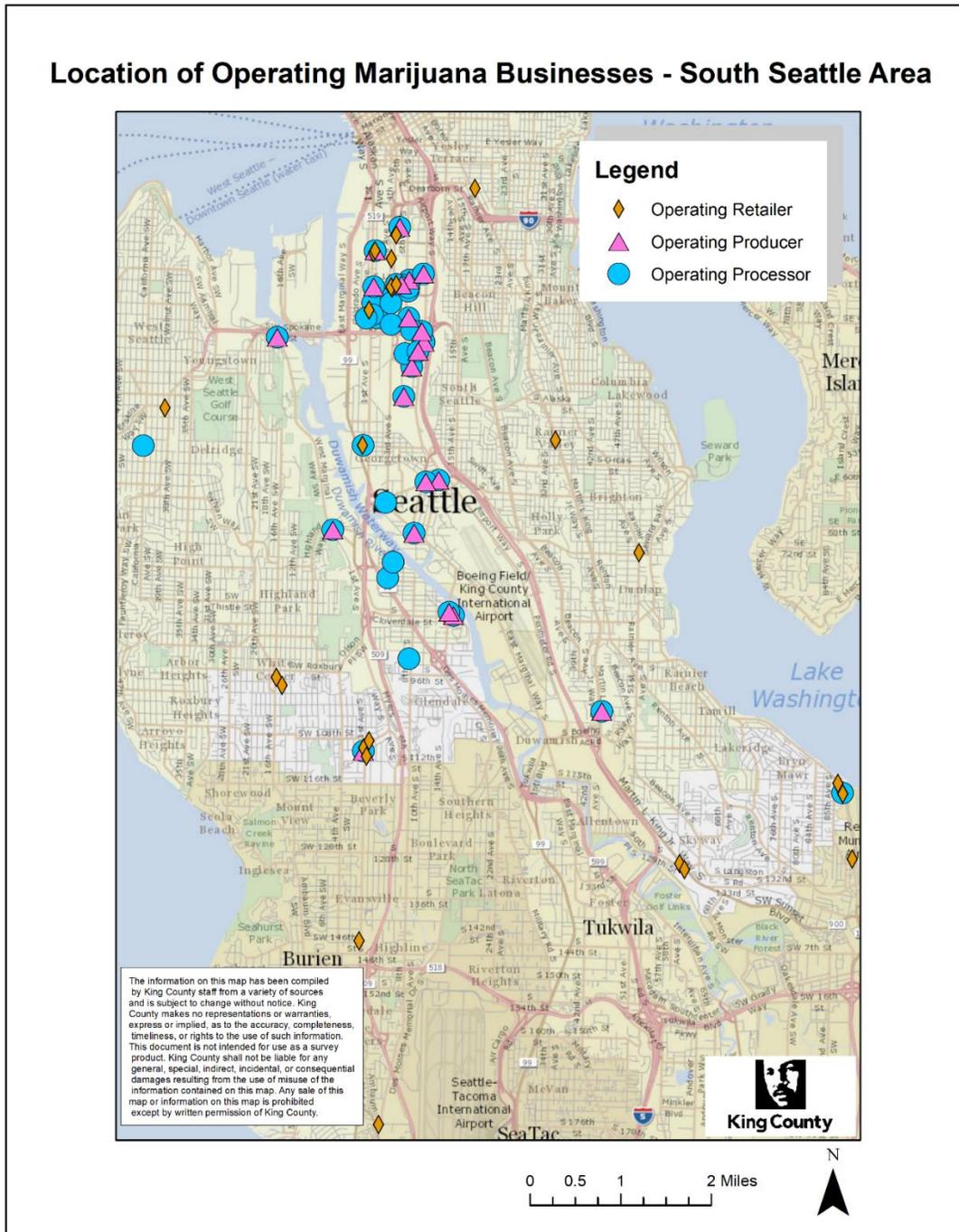


Figure 57 – Location of Operating Marijuana Businesses – South Seattle Area

CONCLUSIONS

- Prohibition policies in at-large cities, which generally have low ESJ scores, have limited location options for marijuana retailers and made unincorporated King County locations more common.
- Market forces, such as proximity to supply chain businesses, have likely also driven retailers to locate in higher-density urban areas.
- The highest-density urban areas left in unincorporated King County are generally high-ESJ-score, due to historical patterns of annexation and incorporation.

MOVING FORWARD

DPER's ESJ analysis suggests that a combination of state regulations, local regulations, and market forces have led to an inequitable distribution of marijuana retailers in unincorporated King County. So, moving forward at least two questions emerge:

- Has the inequitable distribution had a negative impact on these communities?
- If so, how can we encourage the de-clustering of retailers from South Seattle, North Highline and West Hill?

Public feedback on the impact of these businesses was mixed, though DPER's marijuana questionnaire received more negative responses from unincorporated area residents than positive ones, as discussed earlier in this section. Marijuana businesses were thought to increase crime, lower crime, improve aesthetics, degrade aesthetics, provide an avenue for young people to get drugs, and keep drugs out of the hands of youth.

The crime analysis in earlier in this section showed that, while crimes are often committed *against* these businesses (burglaries, robberies, etc.) due to their cash-based nature, there is not an appreciable change in crime generally. Additionally, studies done elsewhere have not found a positive correlation between marijuana businesses and crime overall.

Code enforcement cases against retail marijuana businesses have all been with regards to unpermitted work, or opening without the required approvals, rather than impacts specific to marijuana.

As discussed in Section One, there is no evidence that marijuana legalization has had an effect on youth use. Youth tend to access marijuana through social media or friends, not from retailers that are required to check IDs prior to entry.

Although the data suggest that quantifiable negative impacts are minimal, having a diversity of business types is important for a healthy, vibrant community. Having a block or blocks dominated by any type of business limits economic opportunity for other businesses and limits the clientele that visit that area. Both North Highline and West Hill are areas in need of economic development, and providing for a diverse array of businesses is a key to their economic success, as well as the well-being of community members.

King County, through Ordinance 18326, has taken action to prevent any further clustering by requiring all new marijuana retailers to maintain a 1,000-foot separation from any existing retailer. As discussed in Section One, the density of retail licenses has already decreased in White Center, with businesses moving from that neighborhood (with an ESJ Score of 4.67) to Vashon and Lake Forest Park, with ESJ Scores of 2 and 3, respectively. Additionally, the two lowest-selling marijuana retailers in unincorporated King County are both in West Hill,

suggesting that the market may be saturated in that area. As landlords become more comfortable renting to marijuana-related uses, and as properties come up for sale, existing marijuana businesses may choose to relocate to one of the 56 theoretically available parcels in unincorporated King County, or to other at-large cities, decreasing the concentration of marijuana retailers in North Highline and West Hill.

The end of this section contains further recommendations to reduce clustering and bring about a more equitably-distributed marijuana industry.

OTHER HISTORICAL AND CURRENT SOCIAL JUSTICE AND EQUITY ISSUES IN THE MARIJUANA INDUSTRY

ARRESTS AND CONVICITIONS

A historical analysis of marijuana prohibition in the U.S. shows that these policies had, and continue to have, racist impacts. Although marijuana was used in patent medicines for decades in the 1700s and 1800s, the smoking of the marijuana plant became associated with Mexican immigrants after the Mexican revolution of 1910. Politicians and anti-drug campaigners stoked racial animus by falsely claiming that, under the influence of the drug, Mexican immigrants were raping, murdering, and committing all manner of other crimes against white people.²²

This anti-immigrant propaganda reached a fever-pitch during the Great Depression in the 1930s, with criminalization of marijuana possession and use being an easy way to keep immigrants from getting the few jobs that were available. Most states had already banned marijuana on their own by the time the Marijuana Tax Act effectively criminalized marijuana on a nationwide scale in 1937.²³

From the 1930s until today, the criminalization of marijuana has been used as a tool to put non-violent marijuana users and dealers in jail, strip them of college funding and opportunities, deny their right to vote, and limit their ability to find work, housing, and credit^{24,25}.

The American Civil Liberties Union (ACLU) found in their *The War on Marijuana in Black and White* report that, for the period 2001 to 2010, African Americans were more likely to be arrested for marijuana possession than Whites, despite each group having a similar marijuana use rate. On average, African Americans were 3.73 times more likely to be arrested for marijuana possession, with the rate being greater than 8 times more likely in some states.²⁶ The war on marijuana has

²² Frontline, *Marijuana Timeline*, 2014, accessed September 14, 2018, <https://www.pbs.org/wgbh/pages/frontline/shows/dope/etc/cron.html>,

²³ Ibid.

²⁴ The American Civil Liberties Union, *The War on Marijuana in Black and White*, 2013, 24, <https://www.aclu.org/report/report-war-marijuana-black-and-white?redirect=criminal-law-reform/war-marijuana-black-and-white>.

²⁵ Drug Policy Alliance, *New Solutions Marijuana Reform, Consequences of Arrest and/or Conviction*, 2017, accessed September 14, 2018.

²⁶ The American Civil Liberties Union, *The War on Marijuana in Black and White*, 2013, 17 – 18, <https://www.aclu.org/report/report-war-marijuana-black-and-white?redirect=criminal-law-reform/war-marijuana-black-and-white>.

not decreased the availability or consumption of the drug, but it has, in the words of the ACLU, “served as a vehicle for police to target communities of color.”²⁷

Even though marijuana is now legal in Washington and other states, old convictions continue to hold community members back. In response, some cities such as Seattle and San Francisco have erased, or are in the process of erasing, misdemeanor marijuana charges from the records.^{28,29} San Francisco is also reviewing thousands of felony marijuana charges, and considering whether they can be reduced to misdemeanor charges. King County should contemplate similar policies in order to right the wrong that has been done to (predominantly African American) members of the community.

EQUITY IN ACCESS TO THE LEGAL MARIJUANA INDUSTRY

Though the WSLCB does not keep records of the race of marijuana business owners, an analysis by the *Seattle Times* in 2016 found that African Americans, Latinx, and women were all underrepresented in Washington’s marijuana industry.³⁰

A number of issues likely contribute to this underrepresentation, not least of which being that the WSLCB weighs past convictions when determining whether to issue a license, and a felony conviction within the last 10 years generally disqualifies an applicant. As sale, distribution, and cultivation of marijuana (without a WSLCB license) all constitute felony charges, minorities who faced disproportionate arrests in the past are not now able to join the legal marijuana market^{31,32}. This kind of circular reasoning, which has profoundly racist impacts, can be remedied by positive policy actions such as those being considered by several cities in California described below.

Some local jurisdictions in states such as California with early marijuana legalization have taken proactive action to increase equity and diversity in the legal marijuana industry. The City of Oakland, CA, for instance, created an equity assistance program for potential marijuana licensees. “Equity applicants,” – those who are either low-income, live or have-lived in high police enforcement areas, or have been convicted of a marijuana related crime after November 1996 – are given priority in licensing and other technical assistance. Equity applicants get access to:

- Industry-specific technical assistance and business ownership assistance;
- Waivers from city fees;
- Access to no-interest start-up loans, and loan application preparation guidance, and;

²⁷ *ibid*, 10.

²⁸ Katie Zezima, “San Francisco to Clear all Marijuana Misdemeanor Convictions dating back to 1975,” *The Washington Post*, January 31, 2018.

²⁹ Daniel Beekman, “Seattle asks court to dismiss misdemeanor marijuana convictions from before legalization,” *The Seattle Times*, April 27, 2018.

³⁰ Bob Young, “Minorities, Punished Most by War on Drugs, Underrepresented in Legal Pot,” *The Seattle Times*, July 2, 2016.

³¹ *Ibid*.

³² NORML, *Washington Laws and Penalties*, 2018, accessed September 20, 2018, <http://norml.org/laws/item/washington-penalties-2>

- Assurance that at least half of the initial licensees will be Equity Applicants.³³

As a result of this process, six out of eight initial licensees came from the equity assistance program and have access to the program's benefits.³⁴

Oakland is not alone in striving for equity among marijuana licensees, with Los Angeles, Sacramento, San Francisco, and other cities starting their own marijuana equity programs. No such program currently exists in Washington, however.

Unlike California, where licensing takes place at the municipal level, King County has no jurisdiction over the licensing of legal marijuana businesses. The County could, however, work with the WSLCB to encourage that agency to develop an equity program for Washington licensees. Rick Garza, WSLCB director, expressed openness to such a program in a 2016 interview with the Seattle Times³⁵.

Although the WSLCB is not creating new licenses, and there are no plans to do so, existing businesses do sell their licenses, and when a retailer, producer, or processor goes out of business and forfeits the license, a new license becomes available. So while the impact of such a program would be small initially, over time it could help take concrete steps to increase the disparities that currently characterize the industry.

CODE AND POLICY RECOMMENDATIONS

As part of King County Ordinance 18326, the King County Council requested that DPER provide recommendations on two points:

1. Recommendations for ways to meet the county's obligations under the new regulated state framework and adopt development regulations that are fair and predictable to the industry and that minimize the impact of marijuana retail stores and processing facilities on residents, and;
2. Recommendations for ways to use development regulations to incentivize the location of medical retail establishments in King County.

Having taken all of the information and analysis compiled as part of this study into account, DPER makes the following recommendations.

RETAILERS

1. The at-large allotment system devised by the Liquor and Cannabis Board, combined with the prohibition policies adopted by nine of 22 at-large cities, has concentrated marijuana businesses in areas of unincorporated King County.

Recommendation: Request that the WSLCB lower the at-large retail allotment by nine (equal to the number of cities that have prohibited marijuana uses). When existing licenses are forfeited or cancelled, they would not be regenerated.

³³ City of Oakland, *Oakland Municipal Code 5.80.010*, adopted May 17, 2016.

³⁴ City of Oakland, "City Announces First Cannabis Dispensary Permits Under Equity Program," January 1, 2018, <http://www2.oaklandnet.com/oakca1/groups/cityadministrator/documents/pressrelease/oak068879.pdf>

³⁵ Bob Young, "Minorities, Punished Most by War on Drugs, Underrepresented in Legal Pot," *The Seattle Times*, July 2, 2016.

2. Under current zoning, a number of RB-zoned parcels in the far eastern and northern parts of the North Highline area are currently theoretically available for marijuana retailers. These areas are between one and two miles from the nearest unincorporated area retailer. While relocation of a license from an existing 1,000-foot cluster to one these parcels would be a positive step toward dispersion, the location of a license not currently within a cluster would represent further concentration of marijuana retailers in North Highline. Further, if youth-oriented uses move or close, additional CB zoning could become theoretically available in North Highline or West Hill.

Recommendation: Add a special overlay to CB and RB properties in North Highline and West Hill, limiting the number of marijuana retailers to four in each area. Existing businesses would be considered legal-nonconforming.

3. The King County Council asked DPER to recommend ways to encourage medical retail through the development regulations. The King County code currently incentivizes medical retail by allowing retailers with a medical endorsement from the WSLCB to occupy an additional 1,000 square feet of space as a permitted use.

As the medical marijuana system has been merged into the overall legal marijuana industry, the primary differences between a retailer with a medical endorsement and a retailer without one is that individuals between the age of 18 and 21 can shop there, and anyone with a medical authorization can buy product tax-free. A majority (59%) of licensees in unincorporated King County have medical endorsements. Stores with medical endorsements are located throughout unincorporated King County, and development regulations already incentivize medical marijuana by allowing additional square footage.

Recommendation: No changes needed to further incentivize medical retail at this time.

PRODUCER/PROCESSORS

1. Currently, marijuana producers and processors are allowed in all CB zones, including ones with pedestrian-oriented special district overlays or property-specific development conditions. These include SO-090 in White Center and VS-P29 on Vashon. Marijuana producers and processors are not pedestrian-oriented uses – they are not accessible to the public and generally have no signage or indication that the business is there.

Recommendation: Prohibit marijuana producers and processors from locating within pedestrian-oriented areas in White Center (SO-090) and Vashon-Maury Island (VS-P29).

2. The King County Council DPER to recommend whether to allow producers and processors in the RA-10 zone, and to recommend development conditions that could be used to assist with limiting the impact of marijuana uses in the RA zones. This was written into the ordinance at a time when marijuana production and processing were slated to be prohibited in the RA-10 zone. Through the legislative process, it was determined that production and processing would remain as allowed uses in the RA-10 zone. The data analyzed in this section show that negative impacts of production and processing businesses (in all zones) have been minimal. Code enforcement complaints have been limited to unpermitted work, the businesses are not attracting crime, and in

terms of odor, the vast majority of complaints were against two properties being operated by the same person, who was operating without approvals from DPER and PSCAA. PSCAA's requirement of sealed buildings with advanced carbon filtration technology appears to effectively mitigate odor impacts to neighboring properties.

Recommendation: No changes to allowed uses or development conditions in the RA-10 zone.

SECTION THREE NEIGHBORHOOD BUSINESS ZONE ANALYSIS

COUNCIL REQUEST

In Ordinance 18326, the King County Council asked DPER to analyze the potential for allowing retail marijuana uses in the Neighborhood Business (NB) zone, in order to find additional locations for marijuana stores. The report was specified to include the following items:

1. An identification of all NB zones in unincorporated King County, and to document:
 - a. Parcel acreage
 - b. Current and significant historical uses
 - c. Mapping of the areas, to include:
 - i. Any and all map designations; and
 - ii. Adjacent zoning
 - d. Evaluation of State buffer requirements
 - e. A calculation of the acreage for potential marijuana retail per NB-zoned area
 - f. A recommendation whether to allow marijuana retail in the NB zone, and if so under what development conditions
2. A proposed ordinance allowing marijuana retail uses in 10 existing NB-zoned areas, provided that no more than two NB-zoned areas would be recommended per Council district.

NEIGHBORHOOD BUSINESS ZONE DEFINITION AND USE

King County Code defines the neighborhood business zone as follows:

Neighborhood Business Zone (21A.04.090)

A. The purpose of the neighborhood business zone (NB) is to provide convenient daily retail and personal services for a limited service area and to minimize impacts of commercial activities on nearby properties and in urban areas on properties with the land use designation of commercial outside of center, to provide for limited residential development. These purposes are accomplished by:

1. Limiting nonresidential uses to those retail or personal services which can serve the everyday needs of a surrounding urban or rural residential area;
2. Allowing for mixed use (housing and retail/service) developments and for townhouse developments as a sole use on properties in the urban area with the land use designation of commercial outside of center; and
3. Excluding industrial and community/regional business-scaled uses.

B. Use of this zone is appropriate in urban neighborhood business centers, rural towns, or rural neighborhood centers designated by the comprehensive plan, on sites which are served at the time of development by adequate public sewers when located in urban areas or adequate on-site

sewage disposal when located in rural areas, water supply, roads and other needed public facilities and services.

METHODOLOGY

Setting aside for a moment the question of whether the NB zone is appropriate for marijuana uses, the Council’s direction was to recommend no more than two NB locations per Council district. Since there are 196 NB-zoned parcels within 32 nodes across the county, there necessarily needed to be some reason-based filtering to determine which sites were not only theoretically available, but also more likely to be developed as a marijuana retailer. As the analysis in Section One shows, just because an area has properties theoretically available for marijuana retail does not mean that they can or will locate there.

Figure 58 shows the total number of NB-zoned parcels in each King County Council district.

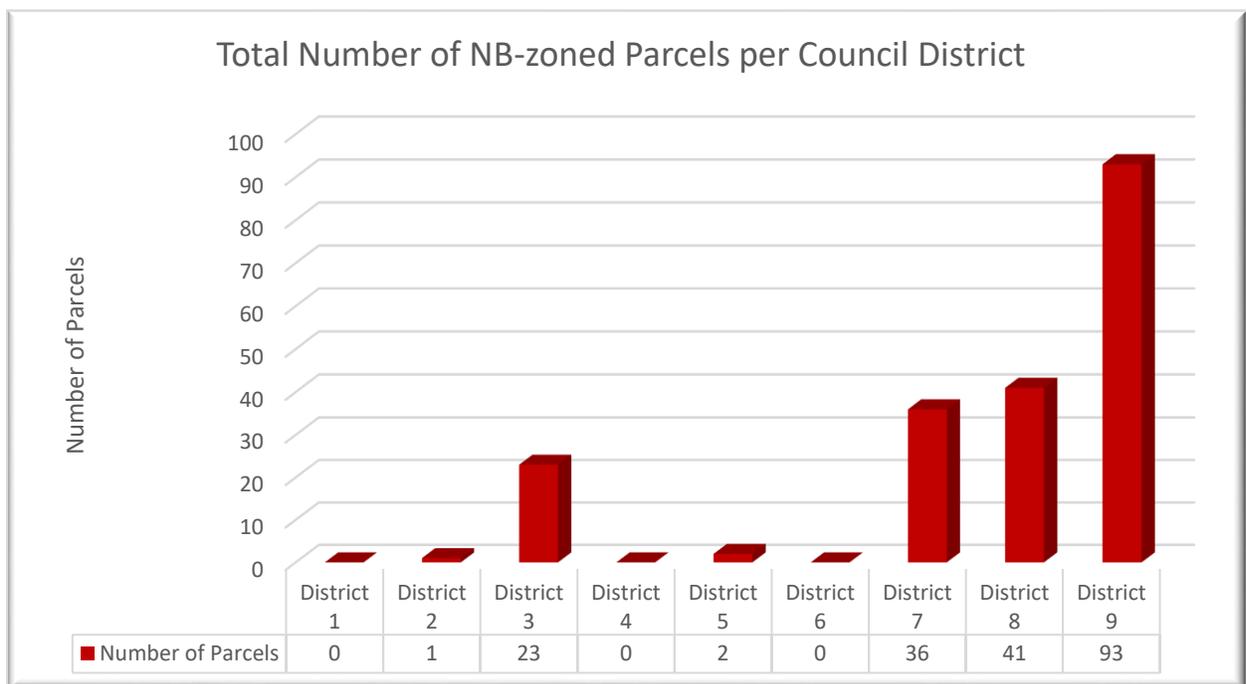


Figure 58 – Number of NB-zoned Parcels per Council District.

The first filter would be to eliminate those parcels that are within the state-mandated 1,000-foot buffer from youth-oriented uses. However, those buffers only remove a 60 sites from consideration. Therefore, DPER used the following filters to further narrow the list of potential sites. As a result of this filtering, as shown in each of the parcel-by-parcel data sheets in Appendix A, a two-step evaluation was made. The first step was whether the site was “theoretically available,” i.e. whether it was outside of youth-oriented buffers, and then to determine whether it was “practicably available,” meaning that none of the other filtering criteria apply.

The seven filters are as follows:

- **Developing Local Park** – The WSLCB only recognizes a park as a youth-oriented use if it has active recreation facilities, such as a playground, ballfield, or disc golf course. For the purpose of this study, DPER also filtered parcels within 1,000 feet of newer public parks that are in early development stages. For example, Fred V. Habenicht Park in the historic area of Maple Valley does not have formal youth-oriented facilities at this time, but a picnic shelter recently was dedicated there and additional facilities may be added over time.
- **Existing Single-Family Home.** Many parcels are zoned NB but currently are developed with single-family homes. While some single-family property owners may be willing and interested in changing their use for a marijuana retail business, such a change could encourage unwanted market pressures on property owners who do not want to leave their home.
- **Current Substantial Development and/or Business.** Many NB parcels already are developed with uses that represent considerable investment. For example, a newer, full-service grocery store or a multi-acre site developed with a mini warehouse business seem less likely to change to marijuana retail given the level of investment made in their existing uses.
- **Site Dimensions.** Parcels that are unusually proportioned so that a retail development, including related parking, would be challenging to develop, were excluded from consideration.
- **Institutional and Government Uses.** Parcels that are developed currently with uses that the owner would be unlikely to want to change were excluded from consideration. Examples include churches or fire stations. While those owners may be willing and interested in changing their uses for a marijuana retail business, these parcels are less likely to be redeveloped than others.
- **Remoteness.** Some NB sites are on roads that are traveled lightly or are in very low density areas. These did not seem to be viable locations (Section Two shows that retailer in unincorporated King County have generally chosen high-population-density areas).
- **Zoning Condition.** Parcels with property-specific development conditions or special district overlays preventing a marijuana retail use were excluded from consideration. These conditions could be removed if the Council were to decide these sites were appropriate for retail marijuana uses.

The term “node” is used throughout this section. A “node” refers to a number of separate parcels that may or may not be contiguous but are near a geographic feature or all in an area that shares a common neighborhood name. As mentioned above, King County has 196 NB-zoned parcels within 32 nodes.

Appendix A contains parcel-specific information on each NB-zoned property, as well as mapping of each NB node.

ANALYSIS OF NEIGHBORHOOD BUSINESS PARCELS

Neighborhood Business Nodes—North King County

There are a total of nine NB nodes in the area mapped as North King County, totaling 50 parcels.

Appendix Designation	Neighborhood Business Node	Total Parcels
A	Woodinville/Cottage Lake	7
B	Baring	2
C	Skykomish	4
D	Sammamish/Redmond-Fall City Road	2
E	Preston	8
F	Issaquah/Issaquah-Hobart Road	6
G	Renton Highlands	13
H	Skyway	2
I	North Highline	6

Table 20 – North King County NB Nodes

Five of the NB districts, for a total of 15 parcels, were removed from consideration for the following reasons.

- **Woodinville/Cottage Lake.** All seven parcels in this node are within 1,000 feet of Cottage Lake Park.
- **Baring.** For the context in which they are located, both parcels have substantial development and/or businesses.
- **Sammamish/Redmond-Fall City Road.** Both of these parcels have substantial development and/or businesses.
- **Issaquah/Issaquah-Hobart Road.** All parcels are within 1,000 feet of a licensed daycare.
- **Skyway.** Both parcels are within 1,000 feet of a licensed daycare.

Of the four remaining nodes, it appears only nine parcels are both theoretically and practicably available for consideration, as the following charts illustrate.

Skykomish Neighborhood Business Node

Total Parcels	4	Parcel Number
Youth-oriented Buffer	(0)	N/A
Developing Local Park	(0)	N/A
Existing Single-family Home	(1)	25-26-11-9059
Current Substantial Development and/or Business	(0)	N/A
Site Dimensions	(1)	25-26-11-9064
Institutional or Government Use	(0)	N/A
Remoteness	(0)	N/A
Remaining Parcels	2	25-26-11-9029 25-26-11-9058

Table 21 – Skykomish NB Node

Preston Neighborhood Business Node

Total Parcels	8	Parcel Number
Youth-oriented Buffer	(3)	32-24-07-9006 32-24-07-9023 32-24-07-9038
Developing Local Park	(0)	N/A
Existing Single-family Home	(0)	N/A
Current Substantial Development and/or Business	(0)	N/A
Site Dimensions	(2)	68-93-30-0370 68-93-30-0385
Institutional or Government Use	(1)	68-93-30-0620
Remoteness	(0)	N/A
Remaining Parcels	2	68-93-30-0375 68-93-30-0380

Table 22 – Preston NB Node

The two remaining parcels, considered individually, are not large enough to support a retail use. However, they are adjacent to and currently are associated with each other – one for a retail store and the other for its associated parking. Were both parcels to be used in a similar arrangement, this two-parcel location could be considered.

Renton Highlands Neighborhood Business Node

Total Parcels	13	Parcel Number
Youth-oriented Buffer	(0)	N/A
Developing Local Park	(0)	N/A
Existing Single-family Home	(1)	16-56-50-0045
Current Substantial Development and/or Business	(6)	12-23-05-9011 12-23-05-9069 16-56-50-0015 16-56-50-0025 16-56-50-0070 16-56-50-0510
Site Dimensions	(1)	16-56-50-0005
Institutional or Government Use		
Remoteness		
Zoning Condition ³⁶		12-23-05-9061 12-23-05-9066
Remaining Parcels	(3)	16-56-50-0515 16-56-50-0516 52-29-30-0250

Table 23 – Renton Highlands NB Node

³⁶ Both of these parcels currently have a zoning condition that restricts use of the site to mini warehouse.

North Highline Neighborhood Business Node

Total Parcels	6	Parcel Number
Youth-oriented Buffer	(1)	06-23-04-9296
Developing Local Park	(0)	N/A
Existing Single-family Home	(1)	07-97-00-0251
Current Substantial Development and/or Business	(2)	07-97-00-0180 07-97-00-0252
Site Dimensions	(0)	N/A
Institutional or Government Use	(0)	N/A
Remoteness	(0)	N/A
Remaining Parcels	2	07-97-00-0181 07-97-00-0182

Table 24 – North Highline NB Node

Neighborhood Business Nodes—South King County

There are a total of 14 NB nodes in the area mapped as South King County, totaling 113 parcels.

Area	Neighborhood Business Node	Total Parcels
A	Des Moines	2
B	Federal Way	15
C	Five Mile Lake/Lake Geneva Park	20
D	Cedar Grove	5
E	Maple Valley	20
F	Auburn-Black Diamond Road	2
G	Black Diamond	2
H	Enumclaw	5
I	Cedar River	2
J	Hobart	4
K	Ravensdale	20
L	Cumberland	11
M	Krain’s Corner	4
N	Kangley	1

Table 25 – South King County NB Nodes

However, six nodes—for a total of 25 parcels—were removed from consideration for the following reasons.

- **Des Moines.** Both parcels in this district have substantial development and/or businesses on them.
- **Auburn-Black Diamond Road.** These two sites are in a more remote part of the County.
- **Enumclaw.** Three of the five parcels are within 1,000 feet of Farmers Park. Two other parcels have substantial development.
- **Hobart.** The Hobart area is remote, and one parcel also would be excluded for ownership reasons.
- **Cumberland.** The Cumberland area is remote, and one of the four parcels has substantial development.
- **Kangley.** The one parcel is developed with a single-family residence.

Federal Way Neighborhood Business Nodes

Total Parcels	15	Parcel Number
Youth-oriented Buffer	(3)	03-21-04-9201 03-21-04-9202 40-13-20-0064
Developing Local Park	(0)	N/A
Existing Single-family Home	(1)	55-15-60-0050
Current Substantial Development and/or Business	(4)	03-21-04-9001 10-21-04-9065 55-15-60-0046 55-15-60-0048
Site Dimensions	(4)	04-21-04-9045 15-21-04-9166 55-15-60-0051 55-15-60-0052
Institutional or Government Use	(0.5)	03-21-04-9066
Remoteness	(0)	N/A
Zoning Condition	(0.5)	03-21-04-9066 ³⁷
Remaining Parcels	2	03-21-04-9200 55-15-60-0047

³⁷ This 2.15-acre parcel was removed for two reasons. A 2001 zoning condition that the site can be used only for a mini warehouse use, and the site is owned by the Federal Way First Presbyterian Church.,

Table 26 – Federal Way NB Nodes

Five Mile Lake/Lake Geneva Park Neighborhood Business Nodes

Total Parcels	20	Parcel Number
Youth-oriented Buffer	(14)	37-50-60-0789 37-50-60-0790 37-50-60-0807 37-50-60-0840 37-50-60-0841 37-51-60-4017 37-51-60-4040 37-51-60-4046 37-51-60-4144 37-51-60-4145 50-66-40-0381 50-66-40-0382 50-66-40-0386 50-66-40-0583
Developing Local Park	(0)	N/A
Existing Single-family Home	(0)	N/A
Current Substantial Development and/or Business	(0)	N/A
Site Dimensions	(4)	37-51-60-3971 37-51-60-4003 37-51-60-4019 37-51-60-4023
Institutional or Government Use	(0)	N/A
Remoteness	(0)	N/A
Remaining Parcels	2	28-21-04-9171 37-51-60-3963

Table 27 – Five Mile Lake / Lake Geneva NB Nodes

Cedar Grove Neighborhood Business Node

Total Parcels	5	Parcel Number
Youth-oriented Buffer	(0)	N/A
Developing Local Park	(0)	N/A
Existing Single-family Home	(0)	N/A
Current Substantial Development and/or Business	(0)	N/A
Site Dimensions	(0)	N/A
Institutional or Government Use	(0)	N/A
Remoteness	(0)	N/A
Remaining Parcels	5	32-23-06-9035 32-23-06-9037 32-23-06-9052 32-23-06-9070 32-23-06-0152

Table 28 – Cedar Grove NB Nodes

Maple Valley Neighborhood Business Node

Total Parcels	20	Parcel Number
Youth-oriented Buffer	(0)	N/A
Developing Local Park	(15)	10-22-06-9013 10-22-06-9022 10-22-06-9036 10-22-06-9047 10-22-06-9052 10-22-06-9055 10-22-06-9101 10-22-06-9109 51-05-40-0025 51-05-40-0105 51-08-40-0010 51-08-40-0011 51-08-40-0012 51-08-40-0013 51-08-40-0014
Existing Single-family Home	(0)	
Current Substantial Development and/or Business	(1)	27-52-20-0006
Site Dimensions	(1)	51-05-40-0085
Institutional or Government Use	(1)	09-22-06-9042
Remoteness	(0)	N/A
Remaining Parcels	2	27-52-20-0005 27-52-20-0007

Table 29 – Maple Valley NB Node

Black Diamond Neighborhood Business Node

Total Parcels	2	Parcel Number
Youth-oriented Buffer	(0)	N/A
Developing Local Park	(0)	N/A
Existing Single-family Home	(1)	24-21-06-9011
Current Substantial Development and/or Business	(0)	N/A
Site Dimensions	(0)	N/A
Institutional or Government Use	(0)	N/A
Remoteness	(0)	N/A
Remaining Parcels	1	24-21-06-9031

Table 30 – Black Diamond NB Node

Cedar River Neighborhood Business Node

Total Parcels	2	Parcel Number
Youth-oriented Buffer	(0)	N/A
Developing Local Park	(0)	N/A
Existing Single-family Home	(1)	30-23-06-9019
Current Substantial Development and/or Business	(0)	N/A
Site Dimensions	(0)	N/A
Institutional or Government Use	(0)	N/A
Remoteness	(0)	N/A
Remaining Parcels	1	29-23-06-9027

Table 31 – Cedar River NB Node

Ravensdale Neighborhood Business Node

Total Parcels	20	Parcel Number
Youth-oriented Buffer	(11)	25-22-06-9031 25-22-06-9032 25-22-06-9036 25-22-06-9037 25-22-06-9038 25-22-06-9040 25-22-06-9081 25-22-06-9089 25-22-06-9098 25-22-06-9109 36-22-06-9066
Developing Local Park	(0)	N/A
Existing Single-family Home	(4)	25-22-06-9064 25-22-06-9076 25-22-06-9091 25-22-06-9099
Current Substantial Development and/or Business	(1)	25-22-06-9057
Site Dimensions	(0)	N/A
Institutional or Government Use	(0)	N/A
Remoteness	(0)	N/A
Remaining Parcels	4	25-22-06-9002 25-22-06-9087 25-22-06-9097 25-22-06-9105

Table 32 – Ravensdale NB Node

Krain’s Corner Neighborhood Business Nodes

Total Parcels	4	Parcel Number
Youth-oriented Buffer	(0)	N/A
Developing Local Park	(0)	N/A
Existing Single-family Home	(1)	12-20-06-9026
Current Substantial Development and/or Business	(2)	01-20-06-9025 13-20-06-9057
Site Dimensions	(0)	N/A
Institutional or Government Use	(0)	N/A
Remoteness	(0)	N/A
Remaining Parcels	1	12-20-06-9039

Table 32 – Krain’s Corner NB Nodes

Neighborhood Business Nodes—Vashon-Maury Island

There are a total of nine NB nodes in the area mapped as Vashon/Maury, totaling 33 parcels.

Area	Neighborhood Business Node	Total Parcels
A	Vashon Heights	2
B	Town (N)	1
C	Portage	4
D	Dockton	2
E	Tahlequah	1
F	Burton	16
G	Center	5
H	Town (S)	1
I	Jack’s Corner	1

Table 33 – NB Nodes on Vashon-Maury Island

Of all the NB nodes on Vashon-Maury Island, only the Burton node has parcels that are both theoretically and practicably available. Based on the filtering criteria, the other eight nodes do not have any available parcels because of the following reasons.

- **Vashon Heights.** Of the two parcels in this area, one is developed with a substantial business and the other is developed with a single-family home.
- **Town (Area B).** This site is within 1,000 feet of a youth-oriented use.
- **Portage.** The Portage area is somewhat removed from the greater activity areas of the island (remoteness filter) and does not have a high pass-by traffic exposure.
- **Dockton.** Both sites in Dockton are within 1,000 feet of Dockton Park.
- **Tahlequah.** The one NB parcel in Tahlequah is owned by the State of Washington.
- **Center.** All five parcels in the Center area are within 1,000 feet of Vashon Common.
- **Town (Area H).** This parcel is developed with a single-family home.
- **Jack’s Corner.** This parcel is developed with a substantial business.

Burton Neighborhood Business Node

Total Parcels	16	Parcel Number
Youth-oriented Buffer	(0)	N/A
Developing Local Park	(0)	N/A
Existing Single-family Home	(4)	18-22-03-9043 18-22-03-9070 18-22-03-9166 19-22-03-9029
Current Substantial Development and/or Business	(5)	18-22-03-9104 18-22-03-9118 18-22-03-9221 19-22-03-9016 19-22-03-9032
Site Dimensions	(1)	18-22-03-9117
Institutional or Government Use	(2)	18-22-03-9042 18-22-03-9125
Remoteness	(0)	N/A
Remaining Parcels	4	18-22-03-9063 18-22-03-9069 18-22-03-9106 18-22-03-9109

Table 34 – Burton NB Node

All four of the theoretically and practicably available parcels are undeveloped. Given the County’s requirement that marijuana retail shop must be separated at least 1,000 feet from each other, only one of these parcels could be developed for such a use.

Figure 59 below shows the number of theoretically and practicably available parcels per Council District.

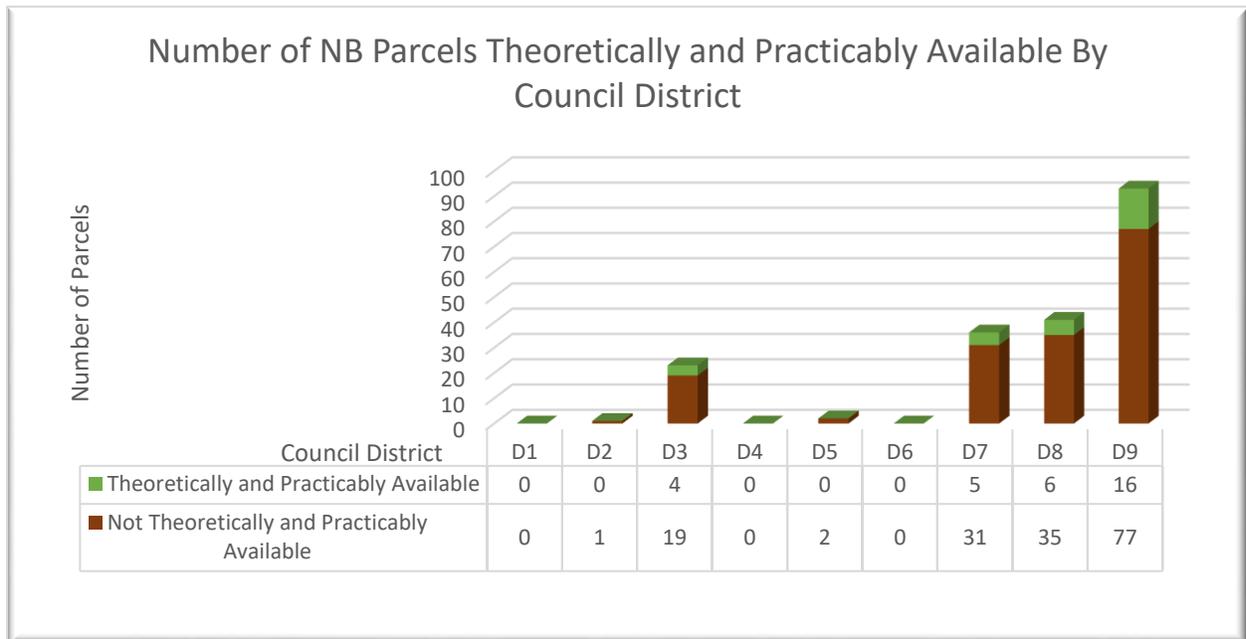


Figure 59 – Number of Theoretically and Practicably Available NB-zoned Parcels per Council District

DISCUSSION

The analysis shows that there are 31 NB-zoned parcels that are both theoretically and practicably available for marijuana retail, and an additional 105 parcels that are theoretically available, but not practicably available due to one or more of the seven filtering criteria. The Council request was to recommend 10 sites, with no more than two per Council district. As only four Council Districts have parcels that are both theoretically and practicably available, DPER would only be able to recommend eight sites using this standard.

The King County Council asked DPER to provide a recommendation on whether to allow marijuana retail in the NB zone, and if so, what development conditions should apply. Now that DPER’s analysis has determined that there are parcels that are theoretically and practicably available for marijuana retail, the question remains whether marijuana retail is a use that meets the definition and purpose of the NB zone, and whether this use should be allowed in the zone.

As noted above, the code-defined purpose of the NB zone is “to provide convenient daily retail and personal services for a limited service area...limiting nonresidential uses to those retail or personal services which can serve the everyday needs of a surrounding urban or rural residential area.”

As discussed in Section Two and shown in Figure 48, more than 85% of respondents to the King County Marijuana Questionnaire who had ever shopped at a marijuana retailer visit such a business once a month or less. A monthly-or-less need does not fit the “daily retail” and “everyday needs” purpose of the NB zone. Such uses meet the definition and purpose of, and are allowed in, in the CB and RB zones. The NB zone definition states that community and regional business-scaled businesses should be excluded from the NB zone.

The closest analogue to a marijuana retailer is a liquor store. Both stores sell intoxicating products for consumption by adults. Liquor stores are not allowed in the NB zone unless accessory to a winery or brewery (and there are none). Bars and other drinking places are also not allowed in the NB zone. This further supports the idea that marijuana retail does not fit the definition and purpose of the NB zone.

Additionally, the available lands analysis in Section One found that there is already adequate zoning capacity under current code to accommodate the two remaining licensees that are in areas not allowed by zoning, as well as to allow for dispersion of the existing clusters of marijuana retailers. DPER is also recommending new strategies to reduce concentration of marijuana retailers. Therefore, there is no pressing need to allow marijuana uses in the NB zone.

RECOMMENDATION

DPER recommends no changes to allowed uses in the NB zone. As marijuana retail does not meet the definition and purpose of the NB zone, an ordinance allowing marijuana retail in the NB zone is not included in this transmittal.

SECTION FOUR URBAN RESERVE ZONE ANALYSIS

COUNCIL REQUEST

In Ordinance 18326, the King County Council asked DPER to analyze the potential for allowing marijuana uses in the Urban Reserve (UR) zone.³⁸ The report was specified to include the following items:

1. Identify each UR zoned area. For each UR zoned area, provide:
 - a. acreage, potential annexation area descriptions including but not limited to any adjacent jurisdictions' potential zoning and recent or current annexation processes and area mapping including, but not limited to any and all map designations, comprehensive plan mapping layers and adjacent area zoning;
 - b. parcel information including, but not limited to, parcel acreage, current and significant historical uses and area mapping including, but not limited to, any and all map designations, and adjacent area zoning;
 - c. determine the approximate acreage for marijuana production, processing and retail uses in each UR zoned area considering state buffer requirements; and
 - d. recommend whether to allow marijuana producers, processors and retailers in the UR zone and, if so, what development conditions should apply.

URBAN RESERVE ZONE DEFINITION AND USE

The UR zone is described in King County Code as follows:

Urban Reserve Zone (21A.04.070)

A. The purposes of the urban reserve zone (UR) are to phase growth and demand for urban services, and to reserve large tracts of land for possible future growth in portions of King County designated by the Comprehensive Plan for future urban growth while allowing reasonable interim uses of property; or to reflect designation by the Comprehensive Plan of a property or area as part of the urban growth area when a detailed plan for urban uses and densities has not been completed; or when the area has been designated as a site for a potential urban planned development or new fully contained community, as provided in K.C.C. 21A.38.070. These purposes are accomplished by:

1. Allowing for rural, agricultural and other low-density uses;
2. Allowing for limited residential growth, either contiguous to existing urban public facilities, or at a density supportable by existing rural public service levels; and

³⁸The ordinance also requested an analysis of the RA-10 zone, as marijuana production and processing were at one point proposed to be prohibited in that zone. As the final version of the ordinance continued to allow marijuana production and processing in the RA-10 zone, no zoning study is needed. Impacts to residents in the RA-10 zone, and the need for additional regulations, were considered as part of this overall study.

3. Requiring clustered residential developments where feasible, to prevent establishment of uses and lot patterns which may foreclose future alternatives and impede efficient later development at urban densities.

Use of this zone is appropriate in urban areas, rural towns or in rural city expansion areas designated by the Comprehensive Plan, when such areas do not have adequate public facilities and services or are not yet needed to accommodate planned growth, do not yet have detailed land use plans for urban uses and densities, or are designated as sites for a potential urban planned development or new fully contained communities. (Ord. 13278 § 2, 1998: Ord. 12171 § 2, 1996: Ord. 11621 § 11, 1994: Ord. 10870 § 28, 1993).

SUMMARY OF URBAN RESERVE AREAS

There are a total of 5,677 UR-zoned parcels in unincorporated King County (excluding tracts), totaling roughly 5,604 acres. Table 35 gives summary information of each UR-zoned area, and Appendix B contains detail mapping of each area. There are not any current or recent annexation proposals for any of these areas.

Map Area	Location	Classification	Potentially Annexing Jurisdiction	Adjacent City Legal Marijuana Status	Adjacent Zoning	Map Designations
A	Covington Creek	City in Rural Area UGA	Black Diamond	Prohibited	Residential, Rural Area	TR-P49
B	Lake No. 12	City in Rural Area UGA	Black Diamond	Prohibited	Mineral, Forest, Rural Area	TR-P43
C	Enumclaw	City in Rural Area UGA	Enumclaw	Prohibited	Agriculture, Forest, Public, Residential, Rural Area, Neighborhood Business	Some parcels have SO-150
D	East Renton	Designated PAA	Renton	Allowed	Residential, Rural Area	None
E	East Cougar Mountain	Designated PAA	Issaquah	Allowed	Residential, Rural Area	NC-P01; SO-070
F	Grand Ridge	Designated PAA	Issaquah	Allowed	Residential, Rural Area	ES-P12; ES-P09; ES-P02; SO-070
G	Thirty Acres Park	Designated PAA	Sammamish	Allowed	Residential, Rural Area	ES-P23
H	Novelty Hill	Urban Planned Development	N/A	N/A	Rural Area	BC-P21; SO-110; SO-070
I	Duvall	City in Rural Area UGA	Duvall	No Action	Rural Area, Residential, Public Facilities	None
J	Carnation	City in Rural Area UGA	Carnation	Allowed	Agriculture, Residential, Rural Area, Public Facilities	None
K	Snoqualmie	City in Rural Area UGA	Snoqualmie	Prohibited	Residential, Rural Area	None
L	North Bend	City in Rural Area UGA	North Bend	Allowed	Residential, Rural Area, Public Facilities	None

Table 35 – UR-zoned Areas in Unincorporated King County

Figure 60 shows the location of all UR-zoned areas in Unincorporated King County.

UR-Zoned Areas in Relation to Incorporated Cities

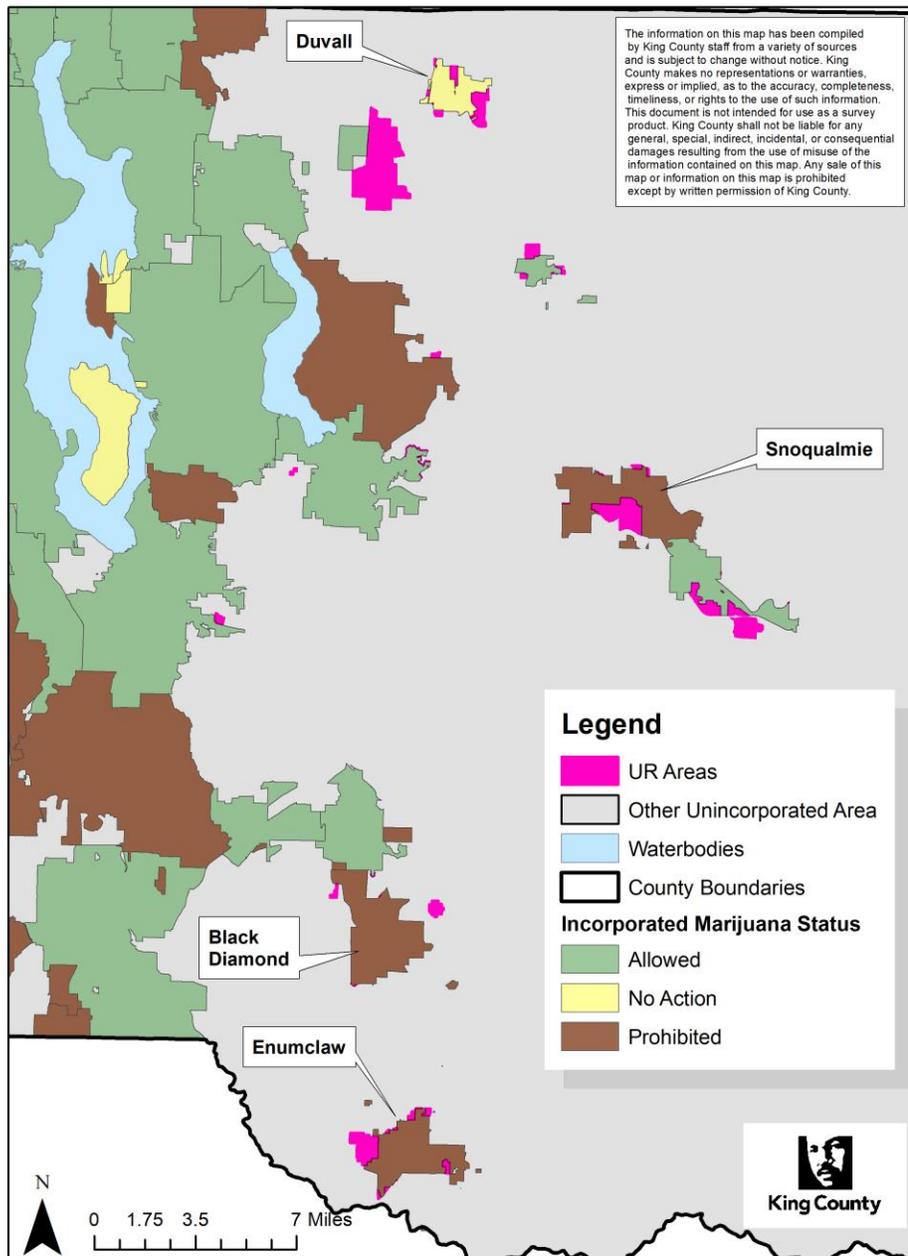


Figure 60 – UR-zoned Areas in Relation to Incorporated Cities

The following table summarizes acreage, number of parcels, and present uses in each UR-zoned area, using data from the King County Assessor’s database as of December 2017. Appendix B gives further details on present uses of UR-zoned properties.

Area and Use	Acreage	Number of Parcels
Covington Creek	40	5
Vacant	40	5
Lake 12	92	79
Single Family Residence	49	47
Mobile Home	8	7
Other	21	4
Vacant	15	21
Enumclaw	665	316
Single Family Residence	497	247
Mobile Home	22	13
Other	17	11
Vacant	130	45
East Renton	66	45
Single Family Residence	30	15
Mobile Home	3	2
Other	3	1
Vacant	31	27
East Cougar Mountain	20	2
Single Family Residence	20	2
Grand Ridge	452	8
Single Family Residence	9	2
Vacant	442	6
Thirty Acres Park	30	1
Other	30	1

Area and Use	Acreage	Number of Parcels
Novelty Hill	1,679	3,542
Single Family Residence	395	2592
Mobile Home	5	1
Other	1065	790
Vacant	214	159
Duvall	606	87
Single Family Residence	332	50
Mobile Home	42	6
Other	66	4
Vacant	166	27
Carnation	203	120
Single Family Residence	136	79
Mobile Home	19	7
Other	16	8
Vacant	33	26
Snoqualmie	1,089	365
Single Family Residence	407	276
Mobile Home	14	11
Other	340	7
Vacant	328	71
North Bend	661	1,107
Single Family Residence	495	952
Mobile Home	41	48
Other	29	7
Vacant	96	100
Grand Total	5,604	5,677

Table 36 – Parcel, Acreage, and Present Use Data for UR Zones.

As the table shows, single-family and other residential uses occupy a large majority of parcels in the UR zone currently. Retail and manufacturing uses are very limited and are confined almost exclusively to the Novelty Hill area, which consists of three urban planned developments (UPDs). Additionally, as shown in Table 35, none of the UR zones in unincorporated King

County abut commercially-zoned areas in the adjacent incorporated jurisdiction. Therefore, in the absence of agreements to the contrary, these UR zones are likely to be developed as residential uses or public facilities when annexation occurs.

Novelty Hill currently has interim zoning subject to a development agreement with the developer of the UPDs. This zoning identifies appropriate land-uses on a parcel-by-parcel basis, and these uses currently do not include marijuana uses. King County is beginning the process of establishing permanent zoning in the Novelty Hill UPDs, and at that time, the Novelty Hill UPDs will be removed from the UR zone and replacement with permanent King County zoning designations.

DISCUSSION

The purpose of the UR zone, as stated in KCC 21A.04.070 (above), is to phase growth and reserve large tracts of land for future urban development. While interim uses are allowed, the properties in this zone are, in general, being held until necessary services can be provided, and/or until they are annexed or developed through an urban planned development. In the interim, low-density, rural, and agricultural uses are allowed in the zone. Low-density residential development has been the default development pattern in the Urban Reserve zone absent any specific development agreements or plans allowing for more intensive uses, as shown in Table 36.

Novelty Hill is unique among UR zones in that it has a mix of uses. However, because this area will soon be removed from the UR zone (potentially before action is taken on the recommendations of this study), this study does not consider this unique area when discussing the UR zone as a whole. Allowed uses in the Novelty Hill UPDs will be determined by the zoning designations given during that separate process.

RETAIL

Allowed retail uses in the UR zone are extremely limited. KCC 21A.08.070 only allows retail when accessory to certain agricultural uses or a park on the same property. Allowing stand-alone marijuana retailers would be a significant departure from the uses currently allowed in the zone.

Additionally, DPER's analysis in Section One found that there is adequate capacity to meet state requirements, as well as to allow for dispersion of existing businesses, under current zoning.

PRODUCTION AND PROCESSING

UR-zoned areas are unique because they currently have rural uses and levels of service, yet are urban and planned to have urban uses and levels of service in the future. While marijuana producers and processors are allowed in both the Rural Area zoning class and the urban Community Business and Regional Business zones, the development conditions in these areas are very different.

The development conditions necessary to keep marijuana producers and processors low-impact in the short-term would render them out-of-character in the long-term. In the rural areas, marijuana production and processing are allowed outdoors, in a greenhouse, or in an existing non-residential structure such as a barn. These uses and structures are generally consistent with rural character. However, if King County were to allow outdoor and greenhouse production in the UR zones, these uses would be out of place in a dense, urban, residential neighborhood once the area was annexed, and the necessary setbacks would prevent urban levels of density.

In urban areas, marijuana producers and processors tend to be located in commercial or light industrial buildings, and have a more industrial character than rural producer/processors. With few exceptions, manufacturing land uses are not allowed in the UR zone. Allowing construction of commercial or industrial structures in the UR zone would be a significant departure from the uses currently allowed in the zone, and could limit the ability of the annexing jurisdiction to build to urban residential densities.

Finally, there are over 4,000 parcels theoretically available for marijuana producer/processors businesses under current zoning, and only 23 producer/processors operating in unincorporated King County. Thus, DPER concludes that there is adequate capacity to absorb any additional licenses that choose to move to unincorporated King County.

RECOMMENDATIONS

DPER recommends no changes to allowed uses in the UR zone.

SUMMARY OF RECOMMENDATIONS

1. Request that the WSLCB lower the at-large retail allotment by nine (equal to the number of cities that have prohibited marijuana uses). When existing licenses are forfeited or cancelled, they would not be regenerated.
2. Add a special overlay to CB and RB properties in North Highline and West Hill, limiting the number of marijuana retailers to four in each area. Existing businesses would be considered legal-nonconforming with respect to this regulation.
Prohibit marijuana producers and processors from locating within pedestrian-oriented areas in White Center (SO-090) and Vashon-Maury Island (VS-P29).
3. No changes to allowed uses or development conditions in the RA-10 zone.
4. No changes to allowed uses in the NB zone.
5. No changes to allowed uses in the UR zone.

APPENDIX A: NEIGHBORHOOD BUSINESS-ZONED SITES IN KING COUNTY

APPENDIX B: URBAN RESERVE-ZONED SITES IN KING COUNTY

APPENDIX C: STATEWIDE MARIJUANA LAND USE RULES