



POSITION STATEMENT

Informational

Bill: HB 0805 Cannabis – Licensee Locations – Restrictions

Position: Information

Date: February 23, 2024

Contact: Debra Borden, General Counsel

Jordan Baucum Colbert, Government Affairs Liaison

Dear Chair C.T. Wilson and Vice Chair Brian M. Crosby,

The Maryland-National Capital Park and Planning Commission (M-NCPPC or “the Commission”) has not voted to take a position on this bill. However, Commission staff has prepared an informational statement. The Commission respectfully requests that the Economic Matters committee consider this information and include it in the record.

What the Bill Does. This bill seeks to instruct local jurisdictions on how they may regulate cannabis licensees via zoning.

Background Information. Section 36-405(b)(1) of Alcoholic Beverages & Cannabis Article of the Maryland Code (“Article”) restricts counties from imposing zoning restrictions on cannabis licensees that would constitute an “undue burden.” This bill defines undue burden as imposing more restrictive regulations on cannabis licenses than set forth in Section 36–410 of the Article. Section 36-410 is the section of the State’s cannabis law that provides setbacks for cannabis dispensaries. (Section 36-410 can be reviewed in the bill text.)

Sample – Impact on Prince George’s County Law. This bill would revise Section 36-410 in a few notable ways. *See* Prince George’s specific implications:

- **Sec. 36-410** currently allows political subdivisions to reduce the setbacks for cannabis dispensaries in Sec. 36-410(b),(c), but is silent as to whether these setbacks may be increased. This bill clarifies that local jurisdictions may not increase the setbacks. Similarly, Prince George’s County Council (“County Council”) initially considered increasing the setbacks contained in Sec. 36-410(b),(c) through zoning in Council Bill CB-70-2023, but revised the bill to conform with the setbacks contained in Sec. 36-410(b),(c). While Prince George’s County Council did not move CB-70-2023 forward, the County Council has submitted two proposed cannabis zoning bills to M-NCPPC that contain setbacks for cannabis dispensaries that match Sec. 36-410(b),(c).
- This bill adds places of worship to the list of locations from which cannabis dispensaries must setback by at least 500’. The Prince George’s County Zoning Ordinance (“Zoning Ordinance”) does not require a setback from places of worship for Medical Cannabis Dispensaries nor has such a setback been contemplated in any of the cannabis zoning bills proposed by the County Council.
- It is important to note that Section 36-410 does not require cannabis dispensaries to setback from residential uses/residentially zoned properties. Reading this with the proposed definition of undue burden, it can be interpreted to mean the Prince George’s County Council cannot require setbacks from residential zones/uses for cannabis dispensaries. The Zoning Ordinance currently requires a 300-foot setback from residential zones for all medical cannabis uses. The County Council’s proposed cannabis zoning bills would carry this setback forward to new recreational cannabis uses.
- This bill adds that local jurisdictions may not impose requirements on cannabis dispensaries beyond “zoning requirements for a retail dealer licensed under” the Alcoholic Beverages & Cannabis Article of the Maryland Code. This is a reference to retailers licensed to sell beer, wine, and/or liquor. We recommend the sponsor conduct further analysis to determine the implications of this for drafting cannabis zoning regulations. It is important to note that there is no separate liquor store or alcoholic beverage retail use in the Zoning Ordinance, and several other uses are permitted to include alcohol sales, including grocery stores and convenience stores. Therefore, developing zoning regulations for cannabis dispensaries based on the existing zoning regulations for retailers licensed to sell beer, wine, and/or liquor would present practical challenges.
- This bill adds that Cannabis Growers (outdoor) may not be subject to more restrictive zoning requirements for hemp farms that were effective on June 30th 2023. The Zoning Ordinance did not contain separate hemp farm regulations as of June 30th 2023 nor does it today. Therefore, hemp farms are arguably encompassed by the general “agriculture” use under the Zoning Ordinance. The County Council’s proposed cannabis zoning bills would treat growers of recreational cannabis similarly to the existing medical cannabis grower and/or processor use in the Zoning Ordinance. Compared to the existing medical cannabis grower and/or

processor use, agriculture is permitted in more zones, including large lot-residential zones, and is subject to fewer additional regulations.

Principal Use Table for Rural and Agricultural and Residential Base Zones

Table 27-5101(c): Principal Use Table for Rural and Agricultural, and Residential Base Zones													
P = Permitted by Right SE = Allowed only with approval of a Special Exception X = Prohibited													
Principal Use Category	Principal Use Type	Rural and Agricultural Base Zones			Residential Base Zones							Use-Specific Standards	
		ROS	AG	AR	RE	RR	RSF-95	RSF-65	RSF-A	RMF-12	RMF-20		RMF-48
Rural and Agricultural Uses													
Agriculture/ Forestry Uses	Agriculture	P	P	P	P	P	X	X	X	X	X	X	
	Community garden	P	P	P	P	P	P	P	P	P	P	P	27-5102(b)(1)(A)
	Forestry	P	P	P	P	P	X	X	X	X	X	X	
	Keeping of horses or ponies	P	P	P	P	P	X	X	X	X	X	X	
	Medical cannabis grower and/or processor	X	P	P	X	X	X	X	X	X	X	X	27-5102(b)(1)(B)
	Nursery and Garden Center	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	Refer to special exception standards
	Urban agriculture	P	P	P	P	P	P	P	P	P	P	P	27-5102(b)(1)(C)