



City of Salisbury – Wicomico County

PLANNING AND ZONING COMMISSION
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SALISBURY-WICOMICO COUNTY PLANNING AND ZONING COMMISSION

SPECIAL MEETING

August 24, 2023

ROOM 301, THIRD FLOOR GOVERNMENT OFFICE BUILDING

The meeting was called to order at 1:30 pm by Chip Dashiell, Chairman

COMMISSION MEMBERS:

Charles "Chip" Dashiell, Chairman
Joe Holloway
Kevin Shertz
Matt Drew

PLANNING STAFF:

Lori A. Carter, MBA, Wicomico County Department of Planning, Zoning, and Community Development ("PZCD")
Frank McKenzie ("PZCD")
Danielle Rogers, PZCD

Laura Ryan, City of Salisbury, Department of Law
Andrew Illuminati, Wicomico County, Department of Law

DISCUSSION – Wicomico County Zoning Code Chapter 225 – Cannabis (A. Illuminati and L. Carter)

A special meeting was called to discuss bill number 556 Cannabis Reform.

Ms. Carter and Mr. Illuminati approached the table with a presentation for review. Recreational Cannabis in Maryland - what the County must, may and absolutely cannot do.

Mr. Illuminati stated the term is cannabis, not Marijuana, there is not really a distinction even within the various types of THC (Delta 8 THC and Delta 9 THC). Hemp has a defined term within the legislature varieties of cannabis plants that contain 0.3% or less Delta-9THC are covered by the new definition of Cannabis.

State-defined terms discussed.

- **Consumer:** an individual at least 21 years old who purchases cannabis or cannabis products for personal use by individuals at least 21 years old.
- **Delivery Service:** a cannabis licensee authorized to deliver cannabis in accordance with a micro license to operate a dispensary.

- **Dispensary:** an entity licensed under this title that acquires, possesses, repackages, transports, sells, distributes, or dispenses cannabis or cannabis products, including tinctures, aerosols, oils, and ointments, related supplies, and educational materials for use by qualifying patients, caregivers, or consumers through a storefront or through a delivery service, based on the license type.
- **Grower:** an entity licensed under this title that cultivates, packages, or distributes cannabis; and is authorized by the Division Administration to provide cannabis to other cannabis licensees and registered independent testing laboratories.
- **On-site Consumption Establishment:** an entity licensed to distribute cannabis or cannabis products for on-site consumption other than consumption by smoking indoors.
- **Processor:** an entity licensed to transform cannabis into another product or an extract and packages and labels the cannabis product; and is authorized by the Division Administration to provide cannabis to licensed dispensaries and registered independent testing laboratories.

Mr. Illuminati stated when talking about zoning we need to talk about growing, processing, dispensing, and on-site consumption.

On-site Consumption: distribution of cannabis or cannabis products, which are consumed at the dispensary.

- **What can be consumed on-site:** Oils and ointments, edibles and tinctures.
- **What cannot be consumed on-site:** Consumption may not include smoking indoors, including vaping.

Mr. Illuminati gave an example of a person who would purchase brownies or other edibles take it on-site and then leave.

Mr. Shertz asked for clarification on whether smoking and vaping are not allowed on-site. Or is vaping allowed but smoking is not allowed? Mr. Illuminati stated indoor vaping is not allowed, there are separate prohibitions on outdoor consumption of cannabis and cannabis products. For example: smoking a cannabis joint is not allowed but, a CBD vape cartridge could possibly be allowed.

On-site Consumption Establishments

Mr. Illuminati stated the County has the authority to explicitly prohibit on-site consumption. Following up from when Sheriff Lewis came to the County Council meeting, unlike with alcohol consumption there is not a product that law enforcement can use that can give you a chemical reading of what someone has consumed outside of a blood draw. Blood draws in the State of Maryland have their own separate set of regulations by an individual when a police officer pulls an individual over for suspect driving while under the influence or driving while impaired. A number of standard field sobriety tests subsequent to the standard field sobriety test. A Preliminary Breath Test ("PBT") to determine one's Blood Alcohol Content ("BAC") can be administered on the side of the road. If the individual is placed under arrest or taken to a Barrack a BAC test can be performed to determine the accurate reading of the BAC. This testing does not exist for cannabis. The biggest problem with on-site consumption is the ability of law enforcement to protect public safety regarding those on the road. The Drug Recognition Expert ("DRE"), in the Sheriff's Department, does not have a DRE-certified deputy on staff. Maryland State Police Barracks has a DRE on staff but at times there can be a two-hour or more wait for the DRE.

1. The person shall obtain an on-site consumption license from the Administration before operating on a premise where cannabis may be consumed.
2. Administration may issue an on-site consumption license authorizing an entity to operate on

premises in which cannabis may be consumed, but not smoked indoors, in accordance with this title and any regulation adopted under this title.

3. An on-site consumption establishment may operate only if the County and, if applicable, the municipality where the business is located has issued a permit or license that expressly allows the operation of the on-site consumption establishment.

A County and, if applicable, a municipality may:

1. Prohibit the operation of on-site consumption establishments.
2. Prohibit or restrict the smoking or vaping of cannabis at on-site consumption establishments.
3. Adopt zoning and planning requirements for on-site consumption establishments.

Mr. Illuminati stated when we talk about growing, processing, and dispensing the State did enumerate certain requirements within a certain amount of feet that these establishments can operate in relation to other businesses and schools.

The County may establish reasonable zoning requirements for cannabis businesses; and decide how to distribute its allocation of revenue.

Mr. Illuminati stated we will not ask the Planning Commission to discuss revenue allocation but, to discuss zoning requirements.

The County May Not:

1. Establish zoning or other requirements that unduly burden a cannabis licensee;
2. Prohibit transportation through or deliveries within the political subdivision by cannabis businesses located in other political subdivisions;
3. Prevent an entity whose license may be converted from being granted the license conversion or; (Mr. Illuminati stated the above process has already occurred there is one entity here in the city of Salisbury, MD primarily a medicinal dispensary they have paid the conversion fee. If the County had put in a prohibition on that it would have been unlawful.)
4. Negotiate or enter into an agreement with a cannabis establishment or a cannabis establishment applicant to provide money, donations, in-kind contributions, services, or anything of value to the local jurisdiction's political subdivision.
5. Impose a tax on cannabis.

The Use of a Facility: The use of a facility by a cannabis licensee is not required to be submitted to, or approved by, a County or Municipal Zoning Board, authority, or unity if it is the facility:

1. Was properly zoned and operating on or before January 1, 2023; or
2. Is used by a grower, processor, or dispensary that;
 - I. held a stage one preapproval for a license before October 1, 2022; and
 - II. was not operational before October 1, 2022.

Cannabis Licensee Operations

1. Hours of Operation: Beginning July 1, 2023, a cannabis licensee that is operating a dispensary shall set aside operating hours to dedicated service lines to serve only qualifying patients, and caregivers.

Mr. Illuminati stated this all started originally with medicinal cannabis and now has grown to adult-use cannabis. Adult-use dispensaries need to provide a certain amount of time to allow for medicinal card holders to go and acquire on their own. The difference between medicinal and adult use is medicinal does not pay the excise tax of 9%.

Zoning Restrictions in State Law

A licensed dispensary may not be located within:

1. 500 feet of:
 - I. a pre-existing primary or secondary school in the state, a licensed child care center or registered family child care home; or
 - II. a playground, recreation center, library, or public park; or(Mr. Illuminati stated recreation center is an undefined term within the state law. However, it is defined within the Chapter 225 of the County code that cover a broad base of youth-orientated activities and to a degree adult activity. We recommend adopting the definition in County Code 225 for recreation centers.)
2. 1,000 feet of another dispensary under this title.

A political subdivision may adopt an ordinance reducing the distance requirements.

The distance requirements do not apply to a dispensary license that was converted, properly zoned, and operated before July 1, 2023.

Zoning Considerations

- Zoning Districts: Dispensaries, processing, production and on-site consumption
- Limitations
- Registration
- Hours of operation

Mr. Drew asked about the next round of licenses. For an entity to apply, would they have to name the location of where they plan to operate when they apply. Mr. Illuminati stated it is unclear at this time we have received conflicting information. The state is inquiring about what are the regulations or what are the proposed regulations.

Mr. Holloway asked can a dispensary get a license if they were part of another business; a general pharmacy, or a convenience store. Or does it have to be a free-standing store? Mr. Illuminati stated it has to be a free-standing store that only dispenses cannabis. One of the reasons why the broad cannabis definition was adopted by the state was to begin to regulate all of the minor CBD sales at 7-Elevens and smoke shops in the State. It was to bring that in under this broad spectrum to eliminate the lower-level dealers of CBD.

Chairman Dashiell asked what is the expectation of what the Planning Commission is preparing to provide to the County Council for their consideration. How can the Planning Commission be helpful in the preparation of the document that will be considered by the County Council. Ms. Carter stated the Commission will follow what we have done in the past when we worked with Solar and DAF. We will provide necessary recommendations as they relate to the actual bill. Mr. McKenzie's presentation will help you decide exactly how we would like to see cannabis legislation regulated in Wicomico County.

Mr. Frank McKenzie gave a 14-page presentation on Cannabis Location Analysis.

After a brief discussion Chairman Dashiell asked do we need a formal action or simply provide a consensus. Ms. Carter stated it would be helpful if the commission actually provided a consensus. Mr. Chairman Dashiell asked Commission members do we have consensus regarding the recommendation from Staff. Mr. Thomas made a motion to support the proposed Cannabis

Legislation recommendation of the Staff. Mr. Holloway second the motion.

Consensus approved.

The next regular Commission meeting will be on September 21, 2023, at which time the Public Hearing will be scheduled for Cannabis Legislation.

This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the Wicomico County Department of Planning and Zoning, and Community Development Office.



Charles "Chip" Dashiell, Chairman



Lori A. Carter, MBA, Secretary



Danielle Rogers, Recording Secretary