The Maryland-National Capital Park and Planning Commission
PRINCE GEORGE'S COUNTY
Planning Department
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June 2, 2025

TECHNICAL STAFF REPORT

TO: Prince George's County Planning Board

FROM: Natalia Gomez Rojas, AICP, Planner IV - Planning Director's Office

SUBJECT: Legislative Drafting Request LDR-78-2025
Use-Specific Standards for Permitted Cannabis Uses

The Prince George's County Planning Department's legislative team has reviewed the proposed legislative amendment to the Zoning Ordinance and presents the following evaluation and findings leading to a recommendation of **SUPPORT with amendments**, as described in the Recommendation section of this technical staff report.

I. EVALUATION CRITERIA

Proposed legislative amendments to the Zoning Ordinance are reviewed under the requirements of Section 27-3501, Legislative Amendment, of the Prince George's County Zoning Ordinance. The Planning Department has considered the following in reviewing this proposed legislative amendment:

A. The Prince George's County Zoning Ordinance;

B. The Alcoholic Beverages & Cannabis Article of the Maryland Code;

C. The *Plan Prince George's 2035 Approved General Plan*;

D. The current area master plans, sector plans, and functional master plans for Prince George's County;

E. The Prince George's County Climate Action Plan; and

F. Referral comments.

II. COMPLIANCE WITH LAW, ASSESSMENT OF TECHNICAL DRAFTING CONVENTIONS, AND PROPOSED AMENDMENTS

Section 27-3501(c)(2)(A) of the Prince George's County Zoning Ordinance states in part that "**the Council's Legislative Counsel shall prepare the proposed amendment in consultation with the Planning Director,**…." The Planning Department is submitting this memorandum to provide clarifications and any recommendations for consideration.

Pursuant to Section 27-3501(c)(2)(C) of the Zoning Ordinance, this technical staff report "**shall contain an independent, non-substantive assessment of the technical drafting conventions of the proposed legislative amendment, in order to ensure consistency with the legislative style and conventions of the current Zoning Ordinance.**" As such, The Department has determined that LDR-78-2025 was not drafted in a manner consistent with the legislative style and conventions of the current Zoning Ordinance.

To ensure consistency with the technical drafting conventions of the Zoning Ordinance, and if the proposed legislation were to move forward, LDR-78-2025 should, the Planning Department offer its recommended revised draft attached with this staff report. In summary, the proposed revisions are as follows:

- Incorporating tables in 27-5101(c), and 27-5101(f) to add clarity that Cannabis dispensary and Cannabis micro-dispensary are not permitted in other zones.

- Revising the Use-Specific Standards column on page 4: 27-5102([E]e)(9)(H)

- Revising indentation and numbering, as follows:
    - Change the numbering on Page 5, Lines 9 through 13 from a., b. and c. to (aa), (bb) and (cc)
    - Change the numbering on Page 5, Lines 18 and 19 from a., b. to (aa), (bb)
    - Revise indentation on Page 5, Line 30 and replace numeral (D) with (C)

- Replacing through the entire bill: Residential [b]Base or Planned Development [z]Zone

Analysis of the Legislative Amendment Decision Standards and Proposed Amendments is contained in a separate subsection of this technical staff report below.

III. BACKGROUND

A. **Purpose:** To implement the legalization of recreational cannabis, the Maryland General Assembly passed the Maryland Cannabis Reform Act ("MCRA"), which became effective on July 1, 2023. The MCRA allows for standard and micro cannabis grower, processor, and dispensary licenses to be issued by the Maryland Cannabis Administration. In response, Prince George's County Council passed Council Bill CB-13-2024 ("CB 13"), which became effective on May 28, 2024, and provides zoning regulations for uses corresponding to each license type.

State law preempts any cannabis zoning regulation that unduly burdens a cannabis licensee. Specifically, when the County Council adopted CB-13, the MCRA allowed local governments to impose zoning regulations on cannabis uses, so long as those regulations did not "unduly burden" cannabis licensees, but "unduly burden" was not defined. Subsequently, the State adopted legislation (HB0805), effective on June 1, 2024, clarifying that "unduly burden" "includes imposing a zoning requirement or restriction on the use of property by a cannabis licensee that is more restrictive than the requirements established under" Section 36-410 of the Alcoholic Beverages and Cannabis Article of the Maryland Code. (The express restrictions cited throughout this report can all be found in the referenced code section.) Notably, "unduly burden" only "includes", but does not exclusively mean exceeding the express requirements of State law. Therefore, an undue burden might be found, not only where a zoning regulation exceeds the requirements of State law, but also where a zoning regulation goes beyond addressing the potential harms associated with the applicable use or does not provide suitable locations for the use. (This is derived from the Maryland Supreme Court decision *St. Clair v. Colonial Pipeline Co*., 235 Md. 578 (1964), which analyzes the term "undue burden" in the zoning context).

LDR-78-2025 proposes to amend those provisions of the Prince George's County Zoning Ordinance that would unduly burden cannabis licensees because they are stricter than State law allows. As discussed below, the LDR revises the zoning regulations for standard and micro cannabis grower, and dispensary uses in the Zoning Ordinance. No changes to the standard and micro cannabis processor uses are proposed.

LDR-78-2025 would amend only zoning regulations that violate clear limitations in State law. For example, for cannabis dispensaries, State law allows a distance limitation of up to 100 feet from areas zoned for residential use. The Zoning Ordinance is more restrictive than allowed because it requires cannabis dispensaries to locate a minimum of 500 feet from residential zones. LDR-78-2025 would reduce the distance limitation to 100 feet consistent with State law.

LDR-78-2025 does not address zoning regulations for which State law is less clear or provides no express limits on zoning regulations. For example, State law provides no express limitations on zoning regulations for cannabis processors. As discussed below, however, the zoning regulations for cannabis processors could still be deemed unduly burdensome. This staff report provides additional suggestions to eliminate potential undue burdens imposed by the current cannabis zoning regulations.

In addition to revising provisions that unduly burden cannabis licensees, LDR-78-2025 also provides general clean-up of the cannabis regulations to eliminate drafting errors in CB-13-2024.

B. **Impacted Property:** This bill will impact all properties in Prince George's County that allow cannabis uses. The bill will also allow cannabis uses to locate on additional properties within the County where required by State law. Enclosed are maps showing the properties on which the standard and micro cannabis grower and dispensary uses would be permitted should LDR-78-2025 become law.

Policy Analysis: As noted above, LDR-78-2025 has the dual purpose of reconciling the Zoning Ordinance with State law and providing general clean-up of the cannabis zoning regulations.

LDR-78-2025 reconciles the cannabis zoning regulations with authority set forth in State law, in instances where the Zoning Ordinance is more restrictive than expressly allowed in State Law. In this vein, LDR-78-2025 proposes substantive changes to the regulations for Cannabis Dispensary and Cannabis Micro-Dispensary. Specifically, State law sets a maximum distance limitation of 100 feet from residential zones. Accordingly, LDR-78-2025 would decrease the distance limitations of 500 feet from residential zones for Cannabis Dispensaries and 300 feet from residential zones for Cannabis Micro Dispensaries to 100 feet.

In addition, State law disallows imposing more restrictive zoning requirements on cannabis dispensaries than imposed on alcoholic beverage retailers. The Food Market use in the Zoning Ordinance encompasses alcoholic beverage retailers. To regulate the Cannabis Dispensary and Cannabis Micro Dispensary uses consistently with alcoholic beverage retailers, LDR-78-2025 proposes to:

- Allow Cannabis Dispensary and Cannabis Micro Dispensary in the following additional zones: CN, NAC, TAC, LTO, RTO-L, and RTO-H because alcoholic beverage retailers are permitted in these zones.

- Not apply the requirement that Cannabis Dispensaries locate at least two thousand feet from any liquor store because there is no parallel requirement for alcoholic beverage retailers.

LDR-78-2025 also proposes changes to the Cannabis Grower and Cannabis Micro Grower use standards. State law provides: "[a] political subdivision may not adopt an ordinance: prohibiting outdoor cannabis cultivation on a premises that was properly zoned for outdoor cannabis cultivation on or before June 30, 2023." On and before June 30, 2023, outdoor cannabis cultivation was permitted in Prince George's County as the "Medical Cannabis Grower and/or Processor" use. The Zoning Ordinance largely applies the zoning regulations that applied to the "Medical Cannabis Grower and/or Processor" use on and before June 30, 2023 to the new Cannabis Grower and Cannabis Micro Grower uses. However, it instituted certain distance limitations which are stricter than those which applied to "Medical Cannabis Grower and/or Processor":

- "Medical Cannabis Grower and/or Processor" needed to locate 300' from the AR, RE, RR, RSF-95 and R-PD zones, but Cannabis Grower and Cannabis Micro Grower must now locate 300' from any residential zone.

- "Medical Cannabis Grower and/or Processor" needed to locate 300' from any property owned by M-NCPPC, Cannabis Grower and Cannabis Micro Grower must locate 300' from "a playground, recreation center, library, or public park.

LDR-78-2025 proposes to revert both distance limitations to match with the former Medical Cannabis Grower and/or Processor distance limitations.

As an aside, in evaluating development applications and advising DPIE, the Planning Department already applies the changes proposed by LDR-78-2025. This is done because the provisions to be amended are in direct conflict with State law and, therefore, clearly preempted. Thus, LDR-78-2025 effectively codifies the existing regulatory framework for the cannabis grower and dispensary uses.

As noted above, in addition to reconciling the Zoning Ordinance with State law, LDR-78-2025 contains several clean up provisions. For example, it replaces the term "medical cannabis grower and/or processor" with "cannabis grower" in Section 27-5102(b)(1)(C)(i). It also would amend Section 27-6305 to convert the parking regulations for the former medical cannabis uses to parking regulations for each current cannabis use. These are technical changes necessary to provide clear regulations for cannabis uses.

IV. COMPLIANCE WITH EVALUATION CRITERIA

1. Section 27-3501(c)(2)(B) requires the Planning Director to issue a technical staff report on any proposed legislative amendment to the Zoning Ordinance within 14 calendar days of the transmittal of the proposed amendment by the Clerk of the Council. This Section also requires, at minimum, analysis of the extent to which the proposed legislative amendment complies with six criteria.

   A. This proposed legislative amendment meets the requirements of Section 27-3501(c)(2)(B) as follows:

(i) Is consistent with the goals, policies, and strategies of Plan Prince George's 2035 (or any successor General Plan), area master plans, sector plans, functional master plans, and any other applicable approved plans;

Staff reiterates several of their comments on LDR-18-2024 and LDR-27-2024, two similar bills during the last legislative session. Revising and expanding the areas where cannabis-based businesses are permitted is "consistent with the goals, policies and strategies of Plan Prince George's 2035 [Plan 2035] (or any successor General Plan), area master plans, sector plans, functional master plans, and any other applicable approved plans" pursuant to Section 27-350l(c)(2)(B)(i) of the Zoning Ordinance.

In other places around the United States, cannabis sales operate just like any other retail use, in integrated shopping centers, ground-floor retail space, and other standalone sites where retail sales are permitted. This bill implements Plan 2035's Land Use Goal of expanding the County's commercial tax base and its Economic Prosperity Strategies EP6.5 by conducting "comprehensive review of County Code provisions specific to the operation of small businesses-including licensing, permitting and inspections, and zoning and subdivision regulations-to facilitate and support small business development" and EP8.4, by reducing "regulatory barriers to encourage the retention and expansion of agricultural activities." The bill is consistent with these goals in that it provides additional locations for the cannabis grower and dispensary uses.

Permitting the retail sale of cannabis products in the Transit-Oriented/Activity Center Planned Development, commercial and industrial zones creates the best opportunities for businesses in this industry to succeed, and facilitates what is anticipated to be, in the near-term, a new industry in the County operated largely by start-up, small, and family-owned businesses. The bill allows Prince Georgians to buy or obtain prescribed cannabis legally in locations close to their neighborhoods, and, hopefully, in locations to which they can walk or take transit. Maximizing the locations in which patients who have been prescribed cannabis can obtain their medication improves access to health services, in furtherance of Plan 2035 Policy HC4 (improve access to health services).

Consistency with Area Master and Sector Plans

There are no relevant recommendations within the County's approved master, sector, or transit district development plans to evaluate the consistency of the proposed legislation

(ii) Addresses a demonstrated community need;

There is a demonstrated community need for the changes to the Cannabis zoning regulations proposed in LDR-78-2025. Since the time the Planning Department reviewed on LDR-18-2024 and LDR-27-2024, Prince George's County residents have received conditional social equity licenses for grower, dispensary, and processor uses. These residents need to identify their business locations to obtain

full licenses and start up their businesses. By expanding the locations available for cannabis uses, LDR-78-2025 would help to meet this need.

As discussed in greater detail below, staff recommend additional changes to the cannabis zoning regulations that would further assist holders of conditional social equity licenses in their location search. For example, staff recommend deleting parking and structure setbacks now contained in Zoning Ordinance §§ 27-5102(f)(3)(A)(ii) and 27-5102(f)(3)(B)(ii) for the cannabis processor uses. These setbacks present a substantial obstacle for cannabis processors, including the social equity licensees, looking to locate in existing structures.

In addition, the Planning Department's Community Planning Division provides the following analysis on the community need for cannabis businesses in the County:

"Identified community need" is not defined by the Zoning Ordinance and is subjective. Staff reiterates several of its prior comments on LDR-18-2024 and LDR-27-2024 below:

Recreational Cannabis

According to the Maryland Behavioral Health Risk Factor Surveillance System (BRFSS), as reported in the Maryland Medical Cannabis Commission's Maryland Cannabis Use Baseline Study (March 1, 2023), in 2021, 8.7 percent of Prince Georgians reported using cannabis products within the preceding 30 days of being surveyed. It is possible that this figure underrepresents cannabis usage in Prince George's County. Because recreational cannabis use was recently legalized, one can surmise that all recreational cannabis users in the County prior to the establishment of a dispensary for recreational sales were going outside the County to purchase (and pay taxes on) cannabis products or were acquiring them through the black market.

(iii) Is consistent with the purpose and intent of the zones in this Ordinance, or would improve compatibility among uses and ensure efficient development within the County;

LDR-78-2025 is consistent with the purpose and intent of the zones in the Zoning Ordinance. To comply with State law, LDR-78-2025 will permit cannabis dispensary and cannabis micro-dispensary in the CN, NAC, TAC, LTO, RTO-L, RTO-H Zones and corresponding Planned Development Zones where alcoholic beverage retailers are permitted. This change is consistent with the purposes of the affected zones. Specifically, Nonresidential Base Zones, which include CN Zone, are intended for a wide range of retail and service uses as they "create suitable environments for various types of businesses and protect them from the adverse effects of incompatible development." Zoning Ordinance § 27-4203(a)(1). The Transit-Oriented/Activity Center Base Zones, NAC, TAC, LTO, RTO-L, and RTO-H, are intended to be "walkable, and contain mixed-use development," including a range of retail uses. Zoning Ordinance § 27-4204(a)(2). Cannabis dispensaries are

retail uses and, therefore, are appropriate for these zones. In the same manner cannabis micro-dispensaries, which operate through a delivery service only and as service commercial uses, are appropriate for the above-mentioned zones.

In addition, cannabis dispensaries and cannabis micro-dispensaries would be permitted in the Planned Development Zones unless the District Council prohibits the use in the PD Basic Plan. These zones are intended to allow "greater freedom in providing a well-integrated mix of uses in the same development, including a mix of nonresidential development, housing types, lot sizes, and densities/intensities." Zoning Ordinance § 27-4301(a)(3).

LDR-78-2025 would also make changes to the use standards for Cannabis Grower and Cannabis Micro-Grower uses. These uses are permitted in the AG, AR, and IE zones. As required by State law, the proposed changes allow the current cannabis grower uses to locate on properties where the previous medical cannabis grower and/or processor use was permitted. Because these changes serve to expand the areas in which cannabis grower uses may locate, they are consistent with the proposes of the AG and AR zones in that they "support and provide lands for agricultural [. . .] uses." Zoning Ordinance § 27-4201(a)(1). The proposed changes are also consistent with the IE zone's purpose in that providing additional locations for cannabis grower uses contributes to the "mix of employment [. . .] development" for which the IE zone is intended. Zoning Ordinance § 27-4203(e)(1)(A).

(iv) Is consistent with the implementation of the strategies and priority recommendations of the Prince George's County Climate Action Plan;

LDR-78-2025 will have minimal impact, if any, on the draft Prince George's County Climate Action Plan.

(v) Is consistent with other related State and local laws and regulations; and

State law allows local jurisdictions to impose zoning regulations on cannabis uses so long as those regulations will not "unduly burden" cannabis licensees. "Unduly burden" "includes imposing a zoning requirement or restriction on the use of property by a cannabis licensee that is more restrictive than the requirements established under" Section 36-410 of the Alcoholic Beverages and Cannabis Article of the Maryland Code. Notably, "unduly burden" only "includes," but does not exclusively mean exceeding the express requirements of State law. Therefore, an undue burden may be found, not only where a zoning regulation exceeds the requirements of State law, but also where a zoning regulation goes beyond addressing the potential harms associated with the applicable use or does not provide suitable locations for the use.

As discussed above, LDR-78-2025 amends only those provisions which clearly conflict with State law. In this manner, LDR-78-2025 is indispensable in that it removes regulations that are clearly preempted by State law from the Zoning Ordinance. However, other provisions of the Zoning Ordinance may also unduly burden cannabis licensees as follows:

Cannabis Dispensary and Cannabis Micro-Dispensary: State law disallows imposing more restrictive zoning requirements on cannabis dispensaries than imposed on alcoholic beverage retailers. Alcoholic beverage retailers are permitted in the CN, NAC, TAC, LTO, RTO-L, and RTO-H zones, but Cannabis Dispensary and Cannabis Micro Dispensary are not. LDR-78-2025 resolves this issue by permitting the cannabis dispensary uses in the listed zones. The Zoning Ordinance also imposes the following use standards on cannabis dispensaries that are not applicable to alcoholic beverage retailers per the Zoning Ordinance:

- "The boundaries of property used as a [. . .] cannabis dispensary shall be: [. . .] [a]t least two thousand (2,000) feet from any liquor store."

- Cannabis dispensary and Cannabis Micro Dispensary are "not permitted as an accessory use."

- "Outdoor signage shall be limited to building-mounted signs. Advertisement for Cannabis or Cannabis products is prohibited."

- For Cannabis Dispensary only, "The use shall be limited to twelve (12) business hours per day, between the hours of 8 a.m. and 10 p.m. All sales must be made and recorded during the hours of 8 a.m. and 10 p.m."

LDR-78-2025 deletes the 2,000-foot distance limitation between a Cannabis Dispensary and a liquor store but does not amend any of the other provisions quoted above.

With respect to the hours restriction above, while the Zoning Ordinance does not limit the hours of alcoholic beverage retailers, State law does. Specifically, in Prince George's County, a Class A (retail) Beer, Wine and Liquor license holder: "may sell beer, wine, and liquor on Monday through Saturday, from 6 a.m. to midnight." Accordingly, while Cannabis Dispensary uses may operate 12 hours per day 7 days per week, Class A Beer, Wine and Liquor license holders may operate 18 hours per day 6 days per week. Staff find that, while these regulations differ, one is not more restrictive than the other.

With respect to signage, the provisions of State law limiting cannabis advertising provide: "A cannabis business may place exterior signage on the premises of the business for the limited purpose of identifying the business to the public." Accordingly, the Planning Department recommends retaining the signage limitation.

Finally, as noted above the Zoning Ordinance prohibits a Cannabis Dispensary or Cannabis Micro Dispensary as an "accessory use." "While alcoholic beverage retailers (food market use) are not expressly prohibited as an accessory use, it is unclear whether and to what other use an alcoholic beverages retailer would be accessory. Accordingly, while no similar express restriction applies to alcoholic beverage retailers via the Food Market use, the accessory use limitation is not preempted and may remain.

Cannabis Grower and Cannabis Micro Grower: State law provides two limitations on the zoning regulations that may be applied to Cannabis Grower and Cannabis Micro Grower uses. First, State law provides: "[a] political subdivision may not adopt an ordinance: establishing a zoning requirement for a licensed grower cultivating cannabis exclusively outdoors in an area zoned only for agricultural use that is more restrictive than any zoning requirements that existed on June 30, 2023, governing a hemp farm registered under Title 14 of the Agriculture Article in the political subdivision." No zone in the Zoning Ordinance allows "only for agricultural use." Specifically, the "Rural and Agricultural Base zones," which consist of the AR, AG, and ROS zones, all allow some residential and/or institutional uses. Therefore, Staff find this limitation to be inapplicable in Prince George's County.

Second, State law provides: "[a] political subdivision may not adopt an ordinance: prohibiting outdoor cannabis cultivation on a premises that was properly zoned for outdoor cannabis cultivation on or before June 30, 2023." On and before June 30, 2023, outdoor cannabis cultivation was permitted in Prince George's County as the "Medical Cannabis Grower and/or Processor" use. As discussed above, LDR-78-2025 proposes changes to the Cannabis Grower and Cannabis Micro Grower uses that render the Zoning Ordinance in line with this prohibition. These changes are necessary to remove preempted provisions from the Zoning Ordinance.

Finally, as previously noted, "undue burden" includes, but is not necessarily limited to, applying stricter standards than contained in State law. Accordingly, an undue burden may also be found where a regulation goes beyond addressing the potential harms associated with the cannabis grower uses or does not provide suitable locations for them. In its position letter on CB-13, dated February 29, 2024, to the County Council, the Planning Board stated: "The Planning Board finds that the proposed setbacks for indoor Cannabis Growers and Cannabis Micro-Growers, [. . .], may unduly burden Cannabis licensees because they are unnecessary in that these uses do not entail the same additional negative externalities (i.e. sights, smells, security etc.) as outdoor growing operations and dispensaries." Accordingly, it recommended that: 1) the distance limitations now contained in Zoning Ordinance §§ 27-5102(a)(1)(B)(i) and 27-5102(a)(1)(C)(i) be applied only to outdoor growing operations; and 2) that the building, parking and structure setbacks now contained in Zoning Ordinance §§ 27-5102(b)(1)(B)(ii) and 27-5102(b)(1)(C)(ii) be deleted. Staff recommend the Planning Board renew these recommendations.

Cannabis Processor and Cannabis Micro Processor: State law contains no specific limitations on zoning requirements for Cannabis Processors and Cannabis Micro Processors. However, an undue burden may also be found where a regulation goes beyond addressing the potential harms associated with the cannabis processor uses or does not provide suitable locations for them. In its position letter on CB-13, dated February 29, 2024, to the County Council, the Planning Board stated: "The Planning Board finds that the proposed setbacks for [. . .] Cannabis Processors and Cannabis Micro-Processors may unduly burden Cannabis

licensees because they are unnecessary in that these uses do not entail the same additional negative externalities (i.e. sights, smells, security etc.) as outdoor growing operations and dispensaries." Accordingly, the Planning Board recommended eliminating: 1) the distance limitations now contained in Zoning Ordinance §§ 27-5102(f)(3)(A)(i) and 27-5102(f)(3)(B)(i); and 2) the building, parking and structure setbacks now contained in Zoning Ordinance §§ 27-5102(f)(3)(A)(ii) and 27-5102(f)(3)(B)(ii). Staff recommend the Planning Board renew these recommendations.

(vi) Would avoid creating significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

LDR-78-2025 complies with this criterion.

B. Pursuant to Section 27-3501(c)(2)(C), this technical staff report **"shall contain an independent, non-substantive assessment of the technical drafting conventions of the proposed legislative amendment, in order to ensure consistency with the legislative style and conventions of the current Zoning Ordinance.**"

This analysis was provided above in Section II of this technical staff report.

C. Finally, Section 27-3501(c)(2)(D) requires the Planning Board to make a recommendation on the proposed amendment in accordance with the Legislative Amendment Decision Standards that guide the District Council's final decision on the approval of a proposed legislative amendment.

Analysis of the Legislative Amendment Decision Standards is contained in a separate subsection of this technical staff report below.

2. Referral Comments

Staff referred LDR-78-2025 to colleagues throughout the Planning Department and received referral comments that were reviewed and integrated in this staff report.

V. PLANNING BOARD PUBLIC HEARING

Section 27-3501(c)(2)(D) requires the Prince George's County Planning Board to hold a public hearing and make comments on the proposed legislative amendment within 30 days of the date of the transmittal of the Clerk of the Council. Said public hearing must be noticed by electronic mail at least 21 days prior to the public hearing, sent to every community organization in the County registered pursuant to Section 27-3407(b)(3) of the Zoning Ordinance, and to any person or organization registered pursuant to Section 27-3402(d) of the Zoning Ordinance.

Notice for the public hearing on LDR-78-2025 was sent on May 20, 2025, as required by the Zoning Ordinance. The Planning Board public hearing will be held on June 12, 2025, thus meeting the notice requirement of the Zoning Ordinance.

Comments offered by the public prior to and during the Planning Board's public hearing will be summarized, along with the Planning Board's comments, in the Board's recommendation to Clerk of the Council.

VI. ANALYSIS OF LEGISLATIVE AMENDMENT DECISION STANDARDS

LDR-78-2025 has been reviewed for consistency with Section 27-3501(d), Legislative Amendment Decision Standards, of the Zoning Ordinance. Staff find the following:

> **The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the County Council sitting as the District Council and is not controlled by any one factor. Within each zone listed in the Classes of Zones (Section 27-4102), the (D)istrict (C)ouncil may regulate the construction, alteration, and uses of buildings and structures and the uses of land, including surface, subsurface, and air rights. The provisions for each zone shall be uniform for each class or kind of development throughout the zone, and no legislative amendment may create different standards for a subset of properties within a zone, unless such standards are necessary to implement development policies within the applicable Area Master Plan, Sector Plan, development policies of the General Plan, or other approved development district; however, any differentiation of a subset of properties within a zone shall be reasonable and based upon the public policy to be served.**

The Department finds that LDR-78-2025 meets the criteria that the provisions for each zone shall be uniform for each class or kind of development throughout the zone because the amendment does not create different standards for a subset of properties Countywide, regardless of zoning. The proposed amendments in LDR-78-2025 would be consistently applied to each affected zone across the County.

LDR-78-2025 can be argued to create different subsets of properties within the Agricultural, Nonresidential, Transit-Oriented/Activity Center Base Zones, and Planned Development Zones in that the various cannabis uses will only be permitted to locate on properties in these zones which meet the existing and proposed distance limitation requirements. However, this differentiation is reasonable and based on the public policy of separating cannabis uses from certain sensitive uses, including parks, schools, and residences.

Staff recommend the Planning Board find that LDR-78-2025 is consistent with the Legislative Amendment Decision Standards specified in Section 27-3501(d) of the Zoning Ordinance.

VII. PROPOSED AMENDMENTS

Following review of LDR-78-2025, the Department has offered the necessary technical drafting convention edits that are necessary for this proposed bill in Section II, above. As to the substantive aspects of the bill, and based on comments received at the Planning Board public hearing, the Department recommend the Planning Board support the following amendments to LDR-78-2025:

- In its position letter on CB-13,dated February 29, 2024, to the County Council, the Planning Board stated: "The Planning Board finds that the proposed setbacks for indoor Cannabis

Growers and Cannabis Micro-Growers, [. . .], may unduly burden Cannabis licensees because they are unnecessary in that these uses do not entail the same additional negative externalities (i.e. sights, smells, security etc.) as outdoor growing operations and dispensaries." Based on the above reasoning:

- Insert the words <u>An outdoor</u> at page 7, lines 7 and 31;
- Delete provision (ii) at page 5, lines 16 – 19; page 6, lines 9 – 12; and
- Delete provisions (i) and (ii) at page 8, lines 23 – 30, and page 9, lines 1 – 4, 12 – 23.

- Consider immediate effectiveness given that this bill reconciles county law with current state law. And thus, edit page 16, lines 1 – 2.

VIII. RECOMMENDATION

Based upon the foregoing evaluation and analysis, the Planning Department's legislative team recommends that the Planning Board adopt the findings of this report and recommend the Planning Board **SUPPORT with amendments** LDR-78-2025.