

For:

Introduction and referral to PC: 8/8/23
Review and recommendation by PC: 8/15/23
Public hearing: 9/12/23
Adoption: 9/12/23
Effective: Date of approval by Mayor for Chapter 130 changes and 9/22/23 for Chapter 250 (Zoning) changes (Enacted as emergency ordinance pursuant to Town Charter C3-10 with affirmative votes of 4 members of the Town Council; pursuant to Maryland Land Use Article, Sections 4-203(b)(2) and 4-204 zoning provisions take effect 10 days after the public hearing)

THE TOWN OF MANCHESTER, MARYLAND

ORDINANCE NO. 258

**AN ORDINANCE TO AMEND PART II
OF THE CODE OF THE TOWN OF MANCHESTER
ENTITLED “GENERAL LEGISLATION”, BY AMENDING PROVISIONS OF
CHAPTER 130 ENTITLED “PARKS AND RECREATION AREAS”, SECTION 130-1
ENTITLED “CERTAIN ACTIONS AND CONDUCT PROHIBITED”; AND BY
AMENDING CHAPTER 250 ENTITLED “ZONING”, ARTICLE IV ENTITLED
“GENERAL PROVISIONS”, AND ENACTING NEW SECTION 250-9 (CURRENTLY
RESERVED) ENTITLED “PROVISIONS RELATED TO CANNABIS FOR MEDICINAL
AND RECREATIONAL PURPOSES”, AMENDING ARTICLE XIII ENTITLED “B-G
GENERAL BUSINESS DISTRICT”, SECTION 250-74 ENTITLED “CONDITIONAL
USES REQUIRING BOARD AUTHORIZATION”, AND BY AMENDING ARTICLE XX
ENTITLED “TERMINOLOGY”, SECTION 250-125 ENTITLED “DEFINITIONS;
WORD USAGE”, FOR THE PURPOSE OF REGULATING THE SALE,
DISTRIBUTION AND CONSUMPTION OF CANNABIS AND HEMP IN THE TOWN
AND TOBACCO PRODUCTS AND VAPING IN TOWN PARKS**

WHEREAS, the State of Maryland passed legislation and regulations related to licensed dispensaries of cannabis or marijuana for medicinal purposes, and recently passed legislation related to licensed dispensaries of cannabis or marijuana for recreational uses (The Cannabis Reform Bill, Section 36-401 of the Alcoholic Beverages Article); and

WHEREAS, the Mayor and Town Council have determined it to be in the best interests of the Town and its residents to, consistent with State law, limit dispensaries or other establishments selling or dispensing cannabis, marijuana or hemp, or related substances or products, for medicinal or recreational use, to the Business General (B-G) District as a conditional use granted by the Board of Appeals; and

WHEREAS, among other things, the Cannabis Reform Bill specifically created an “On-Site Consumption License” which authorizes the holder of the license to operate a facility on the premises of which individuals can smoke, vape or consume Cannabis in accordance with the aforementioned section of the Alcoholic Beverages Article of the Maryland Code; and

WHEREAS, the Town Council has determined it to be in the best interests of the Town and its residents to ban and prohibit “On-Site Consumption Establishments” that either possess an “On-Site Consumption License” and/or that otherwise allow consumption of Cannabis on premises; and

WHEREAS, the Town Council has likewise determined it to be in the best interests of the Town and its residents to prohibit and/or restrict the use of Cannabis, Hemp tobacco products or “vaping” for medicinal or personal consumption in parks of the Town, and/or in accordance with the aforementioned Cannabis Reform Bill and/or as otherwise set forth in this ordinance; and

WHEREAS, this ordinance was introduced at the Town Council’s regular meeting held on August 8, 2023, which was seconded, and, pursuant to the Town Code, Section 250-118, was referred to the Town Planning Commission for a recommendation; and

WHEREAS, pursuant to the Town Code, Section 250-118, on August 15, 2023, the Town Planning Commission took up and considered this proposed ordinance and made a favorable recommendation, with proposed amendments, to the Town Council; and

WHEREAS, pursuant to the Town Code, Section 250-117 and the Land Use Article of the Maryland Code, Section 4-203(b), a public hearing was held before the Town Council on September 12, 2023 to take public comment on this proposed ordinance change.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MANCHESTER:

Section 1. That Chapter 130 entitled “Parks and Recreation Areas”, Section 130-1 entitled “Certain actions and conduct prohibited” be and is hereby repealed and reenacted with amendments as follows:

§130-1. Certain actions and conduct prohibited.

* * *

B. While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and, in particular, no person shall:

* * *

(13) Consume in any manner Cannabis or Hemp or any product or substance containing Cannabis or Hemp.

(14) Consume tobacco products.

- (15) Inhaling aerosol (i.e., “vaping”) using electronic cigarettes or similar battery operated devices.

Section 2. That Chapter 250 entitled “Zoning”, Article IV entitled “General provisions”, Section 250-9 entitled “Provisions related to Cannabis for medicinal and recreational purposes” be and is hereby enacted as follows:

§250-9. (Reserved) Provisions related to Cannabis for medicinal and recreational uses.

- A. Cannabis Businesses and Hemp Businesses that sell, dispense, otherwise distribute, store, extract, or otherwise process Cannabis or Hemp for medicinal or recreational use shall only be permitted as a conditional use granted by the Board of Appeals in the Business General (B-G) District subject to the restrictions set forth in this Section, and are prohibited in all other zoning districts in the Town.
- B. The sale, dispensing, distribution, storage, extraction or processing of Cannabis or Hemp, or products containing Cannabis or Hemp to include edibles, is strictly prohibited in the Town, except:
- (1) If properly licensed under applicable State, County and local law.
 - (2) If approved as a conditional use in the Business General (B-G) District by the Town Board of Appeals.
 - (3) With respect to Cannabis, as a gift with an adult twenty-one years or older in an amount that does not exceed the quantities permitted for personal use pursuant to the Cannabis Reform Bill, Section 36-401 of the Alcoholic Beverages Article of the Maryland Code. However, gifts of Cannabis or Cannabis-containing products from any business accompanying a purchase of the business’ products and/or services is prohibited.
 - (4) In compliance with the Maryland and/or the Town Code.
- C. Businesses that engage in a primary use other than the sale, dispensing, distribution, storage, extraction, or processing of Cannabis or Hemp, or products containing Cannabis or Hemp, may not sell, dispense, serve, distribute, store, extract or process Cannabis or Hemp as an incidental or accessory use, without obtaining approval of a conditional use by the Town Board of Appeals and if located in the Business General (B-G) District.
- D. Consumption of Cannabis is prohibited in all public places owned by the Town of Manchester.
- E. The possession of Cannabis within the Town is prohibited, except the possession of Cannabis for personal use in the quantities authorized by the Cannabis Reform Bill, Section 36-401 of the Alcoholic Beverages Article of the Maryland Code.

F. Except as lawful pursuant to the Criminal Law Article of the Maryland Code, Section 5-601.2, growing or cultivating Cannabis or Hemp by any means including in soil or by means of hydroponics, and the sale or distribution of products, equipment, or supplies for growing Cannabis or Hemp, in the Town is strictly prohibited.

(1) The Criminal Law Article of the Maryland Code, Section 5-601.2 regarding the cultivation of Cannabis plants shall likewise be fully enforced by the Manchester Police Department, including the following restrictions:

(a) Cultivation is not permitted in public areas or areas subject to public view.

(b) Cultivation is permitted only on one's own property or on property of another with consent from the person in lawful possession of that property.

(c) Cultivation of more than two (2) Cannabis plants is prohibited.

(d) Only two (2) plants are allowed in a home with two (2) or more persons over the age of twenty-one (21) are permitted without a medical card. With a medical card held by one or more of the persons over twenty-one (21) in the household, only four (4) Cannabis plants are permitted.

(e) Reasonable precautions must be taken to ensure that those under twenty-one (21) cannot access the Cannabis plants.

G. The granting of a conditional use to a Cannabis Business or Hemp Business to sell, dispense, otherwise distribute, store, extract or otherwise process product for medical purposes does not authorize the business to sell, dispense, otherwise distribute, store, extract or otherwise process product for recreational purposes, for which a separate conditional use must be granted by the Board of Appeals. The granting of a special exception to a Cannabis Business or Hemp Business to sell, dispense, otherwise distribute, store, extract or otherwise process product for recreational purposes does not authorize the business to sell, dispense, otherwise distribute, store, extract or otherwise process product for medicinal purposes, for which a separate conditional use must be granted by the Board of Appeals.

H. "On-Site Consumption Establishments" are prohibited in the Town.

I. Cannabis Businesses and Hemp Businesses that sell, dispense, otherwise distribute, store, extract or otherwise process Cannabis are subject to the following:

(1) Any and all applicable provisions, restrictions, licensing requirements or conditions of the Town, County or Maryland Code, or other applicable laws.

(2) Control and mitigation systems shall be incorporated to restrict and mitigate odors so that, at a minimum, odors from product shall not be detected beyond the indoor

areas to the buildings or improvements. Such control and mitigation systems may include building pressure, exhaust, and deodorizing systems, carbon filtration, dehumidification, fogging, and if practical the proper sealing of rooms storing or containing product within the business. The Town may require blower door testing as a condition to the issuance of a use and occupancy permit.

(3) A Cannabis Business or Hemp Business may not be located within a 1,000 feet radius of a pre-existing primary or secondary school, or a licensed childcare center or registered family childcare home, martial arts or dance studio, a playground, recreation center, library, pediatric medical office, church or other house of worship, ~~veterinary clinics, service organizations, cemeteries or any~~ public park, or any government office or property. The 1,000 feet buffer distance shall be measured as the shortest straight-line distance from the property line of the proposed Cannabis Business or Hemp Business location to the property line of any of the locations listed above.

(4) A Cannabis Business or Hemp Business may not be located within a 1,000-foot radius of another Cannabis Business or Hemp Business. The 1,000 feet buffer distance shall be measured as the shortest straight-line distance from the property line of the proposed Cannabis Business or Hemp Business location to the property line of the other closest Cannabis Business or Hemp Business.

Section 3. That Chapter 250 entitled “Zoning”, Article XIII entitled “General Business District”, Section 250-74 entitled “Conditional uses requiring Board authorization” be and is hereby repealed and reenacted with amendments as follows:

§250-74. Conditional uses requiring Board authorization.

In the B-G General Business District, the following conditional uses require Board authorization:

- A. Building material sales and storage yards.
- B. Feed and grain sales, milling and/or storage.
- C. Outdoor drive-in theaters.
- D. Animal hospitals, veterinary clinics and kennels with runways.
- E. Nursery schools or day-care centers defined in § 250-125.
- F. Cannabis Businesses and Hemp Businesses as defined in § 250-125, subject to the restrictions contained in §250-9.

Section 3. That Chapter 250 entitled “Zoning”, Article XX entitled “Terminology”, Section 250-125 entitled “Definitions; word usage” be and is hereby enacted as follows:

§250-125. Definitions; word usage.

* * *

BUILDING LINE

The line established by law beyond which a building shall not extend, as determined by front, side and rear yards herein.

CANNABIS

The plant cannabis sativa L, and any part of the plant, including all derivatives, extracts, cannabinoids, cannabidiol (CBD), isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol (THC) concentration greater than 0.3% on a dry weight basis and this shall include cannabis products and edible cannabis products as defined by Sections 1-101 and 36-101 of the Alcoholic Beverages Article of the Maryland Code, as amended from time to time, and includes marijuana, seeds and seedlings.

CANNABIS BUSINESS

Any shop, pharmacy, dispensary or other business or establishment that sells, dispenses, otherwise distributes, stores, grows, extracts or otherwise processes products containing Cannabis for medical or recreational uses.

COMMISSION

The Town of Manchester Planning and Zoning Commission.

* * *

HEALTH DEPARTMENT

The Maryland State Department of Health and Mental Hygiene.

HEMP

The fiber of the cannabis plant, extracted from the stem, containing a delta-9-tetrahydrocannabinol (THC) concentration of no more than 0.3% on a dry weight basis.

HEMP BUSINESS

Any shop, pharmacy, dispensary or other business or establishment that sells, dispenses, otherwise distributes, stores, grows, extracts or otherwise processes products containing Hemp for medical or recreational uses.

HOME OCCUPATION

Any use of a dwelling, conducted solely by a member or members of the family residing therein, which is incidental or subordinate to the main use of the building for dwelling purposes, provided that the use:

- (1) Utilizes not more than 25% of the floor area of the dwelling;
- (2) Does not generate vehicular parking or nonresidential traffic to a greater extent than would normally result from residential occupancy;
- (3) Has no inventory or stock-in-trade kept for regular sale to persons coming to the premises; and
- (4) Has no other evidence being visible, audible, or abnormally odoriferous from the outside of the dwelling to indicate that it is being used for other than residential purposes, other than a sign not exceeding 12 inches by 18 inches.

* * *

NONCONFORMING USE

A medical or dental clinic building or group or combination of such buildings occupied by medical practitioners and providing health services to people on an outpatient basis.

ON-SITE CONSUMPTION ESTABLISHMENT

Any entity licensed pursuant to Section 36-401(c)(4) on the Alcoholic Beverages Article of the Maryland Code and/or that otherwise allows Cannabis to be consumed (smoked, vaped or otherwise ingested) on premises.

PLANNED BUSINESS CENTER

Three or more retail stores or service establishments designed as a unit and primarily served by common accessories, such as signs, parking lots, arcades and walkways.

* * *

Section 4: Pursuant to Section C3-10 of the Town Charter, and by the favorable votes of four fifths (4/5ths) of the whole Town Council, this ordinance is enacted as an emergency ordinance and shall take effect on the date of its approval by the Mayor, except as provided in Section 5 below.

Section 5: Pursuant to the Maryland Land Use Article, Sections 4-203(b)(3) and 4-204, the Chapter 250 (Zoning) ordinance changes herein shall take effect 10 days after the public hearing (September 22, 2023).

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that

Chapter 130 changes in this Ordinance shall take effect immediately upon approval by the Mayor, and that Chapter 250 (Zoning) changes shall take effect on the 22nd day of September, 2023.

Introduced the 8th day of August, 2023.

Enacted this 12th day of September, 2023 by a vote of _____ in favor and _____ opposed.

ATTEST:

Kelly J. Baldwin, Secretary

Vince Pacelli, Vice-President

Approved this 12th day of September, 2023.

ATTEST:

Kelly J. Baldwin, Secretary

Melinda Smith, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This 12th day of September, 2023.

Thomas V. McCarron, Town Attorney