

Discussion – September 13, 2024
For Introduction – January 10, 2024
Public Hearing – February 14, 2024
Adopted – February 14, 2024
Enacted – March.5, 2024

ORDINANCE NO. 550

AN ORDINANCE AMENDING CHAPTER 340, “ZONING”, OF THE CODE OF THE TOWN OF ST. MICHAELS, TO ADD PROVISIONS RELATING TO THE OPERATION OF CERTAIN CANNABIS BUSINESSES IN TOWN BY AMENDING THE LISTINGS OF PERMITTED USES IN THE AGRICULTURAL USE CATEGORY AND THE COMMERCIAL USE CATEGORY; PROVIDING FOR SUPPLEMENTAL USE REGULATIONS FOR CANNABIS BUSINESSES; REORDERING THE USES LISTED IN THE AGRICULTURAL USE CATEGORY; AND AMENDING THE TABLE OF PERMITTED USES TO PERMIT THE OPERATION OF CANNABIS BUSINESSES IN CERTAIN ZONES.

WHEREAS, pursuant to the Local Government Article of the Annotated Code of Maryland, §5-213, The Commissioners of St. Michaels (“the Town”) have the authority to provide reasonable zoning regulations subject to the referendum of the voters at regular or special elections; and

WHEREAS, pursuant to the aforestated authority and the additional authority contained in Md. Code Annotated, Land Use Article, Division 1, “Single Jurisdiction Planning and Zoning,” Title 4, “Zoning” , the Town has enacted Chapter 340, “Zoning”, of the Town Code; and

WHEREAS, pursuant to Chapter 340, § 98-2, the Town’s Planning Commission is charged with reviewing proposed amendments to the text of Chapter 340 and making recommendations to the Town Commissioners with respect to such proposed amendments; and

WHEREAS, the State of Maryland has enacted legislation legalizing the use of cannabis for recreational purposes under certain circumstances and providing for the licensure of cannabis growers, cannabis processors, and cannabis dispensaries by the Maryland Cannabis Administration ; and

WHEREAS, the Town Commissioners consider the public interest to be best served by the adoption of zoning regulations establishing the appropriate locations for facilities for the growing, processing and dispensing of cannabis in certain zones in the Town; and

WHEREAS, the Town’s Planning Commission has issued a report and recommendation with respect to the proposal to adopt a text amendment allowing the foregoing uses in certain zones in the Town; and

WHEREAS, having considered the report and recommendation of the Planning Commission, the Town Commissioners have determined to amend the text of Chapter 340 of the Town Code in order to implement the growing, processing and dispensing of cannabis products

Underlining : Indicate matter added to existing law.
[Brackets] : Indicate matter deleted from existing law.

in the manner most appropriate to the protection of the public health, safety and welfare in the Town.

SECTION 1. NOW THEREFORE BE IT ENACTED AND ORDAINED by The Commissioners of St. Michaels, that Chapter 340, "Zoning", Article II, "Definitions", Section 340-11, "Definitions," be and hereby is amended to read as follows:

§ 340-11 Definitions.

In this chapter, the following terms are used according to stipulated definitions. For most of these terms, the definition is stipulated with the term in the list below. For some of these terms, the definition is stipulated elsewhere in this chapter, at a location indicated in the list below by a reference, after the term, in the form "For definition, see § 340-* of this chapter."

ACCESSORY APARTMENT

A dwelling unit located above the first floor of the principal structure on a lot or parcel of land, which dwelling is an accessory use to commercial use, which is the principal use located on the first floor of the same structure.

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CALIPER

The diameter of a tree measured at breast height.

CANNABIS BUSINESS, DISPENSARY, CANNABIS, GROWER, AND PROCESSOR HAVE THE MEANINGS SET FORTH IN MD. CODE ANN., ALC. BEVS. AND CANNABIS ART., DIVISION III, "CANNABIS".

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ZONING CERTIFICATE

Written permission, on a form utilized by the Town, issued by the Zoning Inspector, as a condition precedent to the commencement of a use or erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building which acknowledges that such use, structure or building complies with the provisions of this zoning chapter or authorized variance therefrom.

SECTION 2. BE IT FURTHER ENACTED AND ORDAINED by The Commissioners of St. Michaels, that Chapter 340, "Zoning", of the St. Michaels Town Code, Article VII, "Permitted Uses," Section 340-44. "Agricultural use category", be and is hereby amended to add "Cannabis Grower" and "Cannabis Processor", as a new use and to reorder the existing uses listed therein, to read as follows:

§ 340-44. Agricultural use category.

Underlining : Indicate matter added to existing law.
*** Asterisks : Indicate matter retained in existing law but omitted herein.

This category includes uses such as gardens, farms, and orchards that involve the raising and harvesting of food and nonfood crops and commercial raising of poultry or livestock. This category includes routine accessory packaging, storage or light processing of crops or wood products and sale of seeds, fertilizer, and similar agricultural needs on site. The category also includes harvesting and processing of seafood. This category does not include a slaughterhouse or meatpacking facility, which are categorized as industrial.

~~A. — Agriculture, animal production. The principal or accessory use of land for the keeping or raising of farm animals, including poultry, horses, cows, and swine.~~

~~B. — Agriculture, crop production. The use of land for growing, raising, or marketing of plants to produce food, feed, or fiber commodities or nonfood crops. Examples of crop agriculture include cultivation and tillage of the soil and growing and harvesting of agricultural or horticultural commodities. Crop agriculture does not include community gardens or the raising or keeping of farm animals.~~

~~C. — Agriculture, buildings, and structures. This category includes all buildings and structures associated with agriculture uses as opposed to the activities associated with crop or animal production, e.g., grain storage as a principal use.~~

~~D. — Indoor plant cultivation. A building or structure and the associated premises used to grow plants under roof, which may include accessory storage and processing of plants grown on premises. Included in this category are greenhouses and hydroponic facilities.~~

~~E. — Plant nursery. Buildings, structures, and uses associated with plant propagation, grown to usable size. This category includes retail nurseries that sell to the general public, wholesale nurseries that sell only to businesses such as other nurseries and commercial gardeners, and private nurseries that supply the needs of institutions or private estates.~~

~~F. — Fisheries activities, aquaculture. Buildings, structures, and uses associated with the rearing of aquatic animals or the cultivation of aquatic plants for food.~~

~~G. — Farm to table activities. This category includes temporary retail uses, including roadside produce stands and farmers markets.~~

~~H. — Forestry. Activities related to harvesting, thinning, and other management practices associated with commercial timber harvesting.~~

~~I. — Commercial stables. Facilities for the housing of horses or other equines operated for remuneration. This category includes activities associated with the commercial hiring out of horses or ponies or instruction in riding as well as the care, breeding, boarding, rental, riding or training of equines and other farm animals or the teaching of equestrian skills.~~

A. AGRICULTURE, ANIMAL PRODUCTION. THE PRINCIPAL OR ACCESSORY USE OF LAND FOR THE KEEPING OR RAISING OF FARM ANIMALS, INCLUDING POULTRY, HORSES, COWS, AND SWINE.

Underlining : Indicate matter added to existing law.

***** Asterisks** : Indicate matter retained in existing law but omitted herein.

B. AGRICULTURE, CROP PRODUCTION. THE USE OF LAND FOR GROWING, RAISING, OR MARKETING OF PLANTS TO PRODUCE FOOD, FEED, OR FIBER COMMODITIES OR NONFOOD CROPS. EXAMPLES OF CROP AGRICULTURE INCLUDE CULTIVATION AND TILLAGE OF THE SOIL AND GROWING AND HARVESTING OF AGRICULTURAL OR HORTICULTURAL COMMODITIES. CROP AGRICULTURE DOES NOT INCLUDE COMMUNITY GARDENS OR THE RAISING OR KEEPING OF FARM ANIMALS.

C. AGRICULTURE, BUILDINGS, AND STRUCTURES. THIS CATEGORY INCLUDES ALL BUILDINGS AND STRUCTURES ASSOCIATED WITH AGRICULTURE USES AS OPPOSED TO THE ACTIVITIES ASSOCIATED WITH CROP OR ANIMAL PRODUCTION, E.G., GRAIN STORAGE AS A PRINCIPAL USE.

D. CANNABIS GROWER. FACILITIES LICENSED AS CANNABIS GROWERS BY THE STATE OF MARYLAND THROUGH THE MARYLAND CANNABIS ADMINISTRATION.

E. CANNABIS PROCESSOR. FACILITIES LICENSED AS CANNABIS PROCESSOR FACILITIES BY THE STATE OF MARYLAND THROUGH THE MARYLAND CANNABIS ADMINISTRATION.

F. COMMERCIAL STABLES. FACILITIES FOR THE HOUSING OF HORSES OR OTHER EQUINES OPERATED FOR REMUNERATION. THIS CATEGORY INCLUDES ACTIVITIES ASSOCIATED WITH THE COMMERCIAL HIRING OUT OF HORSES OR PONIES OR INSTRUCTION IN RIDING AS WELL AS THE CARE, BREEDING, BOARDING, RENTAL, RIDING OR TRAINING OF EQUINES AND OTHER FARM ANIMALS OR THE TEACHING OF EQUESTRIAN SKILLS.

G. FISHERIES ACTIVITIES, AQUACULTURE. BUILDINGS, STRUCTURES, AND USES ASSOCIATED WITH THE REARING OF AQUATIC ANIMALS OR THE CULTIVATION OF AQUATIC PLANTS FOR FOOD.

H. FARM-TO-TABLE ACTIVITIES. THIS CATEGORY INCLUDES TEMPORARY RETAIL USES, INCLUDING ROADSIDE PRODUCE STANDS AND FARMERS MARKETS.

I. FORESTRY. ACTIVITIES RELATED TO HARVESTING, THINNING, AND OTHER MANAGEMENT PRACTICES ASSOCIATED WITH COMMERCIAL TIMBER HARVESTING.

J. INDOOR PLANT CULTIVATION. A BUILDING OR STRUCTURE AND THE ASSOCIATED PREMISES USED TO GROW PLANTS UNDER ROOF, WHICH MAY INCLUDE ACCESSORY STORAGE AND PROCESSING OF PLANTS GROWN ON PREMISES. INCLUDED IN THIS CATEGORY ARE GREENHOUSES AND HYDROPONIC FACILITIES.

K. PLANT NURSERY. BUILDINGS, STRUCTURES, AND USES ASSOCIATED WITH PLANT PROPAGATION, GROWN TO USABLE SIZE. THIS CATEGORY INCLUDES RETAIL NURSERIES THAT SELL TO THE GENERAL PUBLIC, WHOLESALE NURSERIES THAT SELL ONLY TO BUSINESSES SUCH AS OTHER NURSERIES AND COMMERCIAL GARDENERS, AND PRIVATE NURSERIES THAT SUPPLY THE NEEDS OF INSTITUTIONS OR PRIVATE ESTATES.

SECTION 3. BE IT FURTHER ENACTED AND ORDAINED by The Commissioners of St. Michaels, that Chapter 340, "Zoning", of the St. Michaels Town Code, Article VII, "Permitted

Underlining : Indicate matter added to existing law.
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Uses,” Section 340-48. “Commercial use category”, be and is hereby amended to add new subsection E., “Cannabis Dispensary,” to read as follows:

Underlining : Indicate matter added to existing law.
*** Asterisks : Indicate matter retained in existing law but omitted herein.

§ 340-48. Commercial use category.

The commercial use category includes uses that provide a business service or involve the selling, leasing, or renting of merchandise to the public. The commercial use subcategories are as follows:

* * *

D. Broadcast or recording studio. Uses that provide for audio or video production, recording, or broadcasting.

(1) Broadcast facility. An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished using electronic and telephonic mechanisms, including radio, television, and film.

(2) Recording studio. An establishment primarily engaged in sound or video recording.

E. CANNABIS DISPENSARY. FACILITIES LICENSED AS CANNABIS DISPENSARIES BY THE STATE OF MARYLAND THROUGH THE MARYLAND CANNABIS ADMINISTRATION.

~~E.F.~~ Commercial service. Uses that provide for consumer or business services and the repair and maintenance of a wide variety of products.

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~~F.G.~~ Day care. Uses providing care, protection, and supervision for children or adults regularly away from their primary residence for less than 24 hours per day. Examples include state-licensed child-care centers, preschools, nursery schools, head start programs, after-school programs, and adult day-care facilities. Day care expressly includes state-accredited adult day-care facilities and facilities for childcare.

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~~G.H.~~ Eating and drinking establishments. The eating and drinking establishments use type refers to establishments or places of business primarily engaged in the sale of prepared foods and beverages for on- or off-premise consumption. Typical uses include restaurants, short order eating places or bars and cafés, restaurants, cafeterias, ice cream/yogurt shops, coffee shops, and similar establishments, which may include a bar area that is customarily incidental and subordinate to the principal use as an eating establishment.

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~~H.I.~~ Financial service. Uses related to the exchange, lending, borrowing, and safe-keeping of money. Typical examples are banks, credit unions, and consumer loan establishments.

~~I.J.~~ Funeral and mortuary service. Uses that provide services related to the death of humans or companion animals, including funeral homes, mortuaries, crematoriums, and similar uses.

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~~J.K.~~ Lodging. Uses that provide temporary lodging for less than 30 days where rents are charged by the day or by the week. Lodging includes the following specific categories:

* * *

~~K.L.~~ Office. Uses in an enclosed building, customarily performed in an office that focuses on providing executive, management, administrative, professional, or medical services. This category includes: business office uses for companies and nongovernmental organizations such as corporate office, law offices, architectural firms, insurance companies, and other executive, management or administrative offices for businesses and corporations; professional offices where services are provided that require specialized training or professional certification, including but not limited to, an accountant, appraiser, attorney, architect, landscape architect, engineer, surveyor, and stockbroker; and medical, dental and health practitioner office uses related to diagnosis and treatment of human patients' illnesses, injuries and physical maladies that can be performed in an office setting with no overnight care. Surgical, rehabilitation, and other medical centers that do not involve overnight patient stays are included in this category, as are medical and dental laboratories.

~~L.M.~~ Parking, non-accessory. Parking that is not provided to comply with minimum off-street parking requirements and that is not provided exclusively to serve occupants of or visitors to a particular use but instead is available to the public-at-large. Examples include commercial parking garages. A parking facility that provides both accessory and non-accessory parking will be classified as non-accessory parking if it leases 25% or more of its spaces to non-occupants of or persons other than visitors to a particular use.

~~M.N.~~ Retail sales. Uses involving the sale, lease, or rental of new or used goods to the ultimate consumer within an enclosed structure, unless otherwise specified. The retail category includes sales of convenience goods, including 1) sundry goods; 2) products for personal grooming and for the day-to-day maintenance of personal health or 3) food or beverages for off-premise consumption, including grocery stores and similar uses that provide incidental and accessory food and beverage service as part of their primary retail sales business. Typical uses include drugstores, grocery, and specialty food stores, wine or liquor stores, gift shops, newsstands, and florists. This category also includes consumer shopping goods such as uses that sell or otherwise provide wearing apparel, fashion accessories, furniture, household appliances, and similar consumer goods, large and small, functional and decorative, for use, entertainment, comfort or aesthetics. Typical uses include clothing stores, department stores, appliance stores, TV, computer hardware and electronics stores, bike shops, bookstores, costume rental stores, uniform supply stores, stationery stores, art galleries, hobby shops, furniture stores, pet stores, and pet supply stores, shoe stores, cigar stores, copy shops, travel agencies, dry cleaning, beauty and barber shops, craft shops, bakery, antique shops, secondhand stores, record stores, toy stores, sporting goods stores, variety stores, video stores, musical instrument stores, office supplies and office furnishing stores and wig shops and other consumer shopping uses of the same general character.

~~N.O.~~ Self-service storage facility (e.g., mini-storage). An enclosed use that provides separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses.

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Facilities are designated to accommodate only interior access to storage lockers or drive-up access.

Ø.P. Studio, instructional or service. Uses in an enclosed building that focus on providing instruction or training in music, dance, drama, fine arts, language, or similar activities. It also includes artist studios and photography studios. See also "personal improvement service" in the commercial services use category.

P.Q. Trade school. Uses in an enclosed building that focus on teaching the skills needed to perform a job. Examples include schools of cosmetology, modeling academies, computer training facilities, vocational schools, administrative business training facilities, and similar uses.

Q.R. Motorized vehicle sales and service. Uses that provide for the sale, rental, maintenance, or repair of new or used vehicles and vehicular equipment. The vehicle sales and service subcategory include the following specific use types:

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SECTION 4. BE IT FURTHER ENACTED AND ORDAINED by The Commissioners of St. Michaels, that Chapter 340, "Zoning", of the St. Michaels Town Code, Article VIII, "Supplemental Use Regulations", be and hereby is amended to add § 340-90, Cannabis Dispensaries or Business", to read as follows:

§ 340-90. CANNABIS BUSINESSES

A. A CANNABIS BUSINESS MUST PROVIDE EVIDENCE THAT A LICENSE FROM THE MARYLAND CANNABIS ADMINISTRATION TO OPERATE A CANNABIS BUSINESS HAS BEEN ISSUED TO THE OWNER(S) OF THE BUSINESS AND CURRENTLY IS IN EFFECT.

B. A CANNABIS BUSINESSES MUST CONFORM TO ALL REGULATIONS OF THE MARYLAND CANNABIS ADMINISTRATION RELATING TO THE PARTICULAR TYPE OF CANNABIS BUSINESS, INCLUDING BUT NOT LIMITED TO ANY REQUIREMENT RELATING TO LABELING, PACKAGING, AND ADVERTISING, AGE RESTRICTIONS AND VENDOR TRAINING.

C. ON-SITE CONSUMPTION OF ANY CANNABIS PRODUCTS AT A CANNABIS BUSINESS IS PROHIBITED. CANNABIS MAY NOT BE CONSUMED IN ANY ZONE OUTSIDE AN ENCLOSED STRUCTURE OR IN ANY MANNER THAT RESULTS IN DETECTABLE SMOKE, FUMES, OR ODORS ON ANY ADJACENT PROPERTY, INCLUDING BUT NOT LIMITED TO PUBLIC RIGHTS OF WAY.

D. A CANNABIS BUSINESS MUST BE SEPARATED BY AT LEAST 500', AS MEASURED FROM PROPERTY LINE TO PROPERTY LINE, FROM SCHOOLS, CHILD CARE CENTERS, PLAYGROUNDS, RECREATION CENTERS, LIBRARIES, OR PUBLIC PARKS AND 1,000' FROM ANOTHER CANNABIS BUSINESS AS MEASURED FROM PROPERTY LINE TO PROPERTY LINE AT CLOSEST POINT.

Underlining : Indicate matter added to existing law.
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SECTION 5. BE IT FURTHER ENACTED AND ORDAINED by The Commissioners of St. Michaels, that the Table of Uses adopted in Chapter 340, "Zoning", of the St. Michaels Town Code, Article VII, "Permitted Uses", be and hereby is amended as set forth in Exhibit A hereto.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER ORDAINED that this Ordinance shall take effect twenty (20) days after adoption, having been introduced on the 10th day of **January, 2024**, and passed by a majority vote of The Commissioners of St. Michaels following a public hearing of The Commissioners of St. Michaels on the 14th day of **February, 2024**, which latter date shall be at least six and no more than 70 days after the date of its introduction.

Breimhurst YAY

Harrod YAY

Whittington YAY


Mercier YAY

ATTEST:

THE COMMISSIONERS OF ST. MICHAELS



Kristen Payne, Town Clerk




David Breimhurst, President

Underlining : Indicate matter added to existing law.
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I HEREBY CERTIFY that an exact copy of the above Ordinance was posted from the 16th, day of February, 2024, at 8:30 a.m. to the 5th day of March, 2024, at 4:30 p.m., on the bulletin board at the St. Michaels Town Office, and that a summary of the above Ordinance, the date of its passage, its effective date, and a statement that the entire text of the Ordinance will appear on the bulletin board of the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage, has been published at least once each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.

Date: 3/5, 2024


Robert Straebel, Town Administrator

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