Title: Council Bill No. 16-03
Medical Cannabis in the Agricultural District

Request: Recommendation to County Council
Council Vice President Keegan-Ayer introduced a Bill to amend §1-19 of the Frederick County Code to: add Medical Cannabis Grower as a permitted use with Special Exception approval in the Agricultural Zoning District; define Medical Cannabis Grower; and, establish Special Exception criteria and setback requirements.

Staff:
Steve Horn, Director
Planning & Permitting Division

Jim Gugel, Director
Planning Department

Recommendation: See Staff Report

Exhibits: Bill Synopsis
Council Bill No. 16-03
Supporting Documentation
TO: Frederick County Planning Commission

FROM: Steve Horn, Director, Planning and Permitting Division
Jim Gugel, Director, Department of Planning

DATE: February 2, 2016

SUBJECT: County Council Bill No. 16-03: Allowing Medical Cannabis Grower as a Permitted use, with Special Exception Approval, in the Agricultural District

ISSUE
FCPC consideration and recommendation of Bill No. 16-03, sponsored by Council Vice President M.C. Keegan-Ayer, amending Section 1-19 of the Frederick County Code by adding Medical Cannabis Grower as a permitted use within the Agricultural Zoning District, defining Medical Cannabis Grower, and establishing Special Exception criteria and setback requirements.

BACKGROUND
The County Council conducted a workshop on October 13, 2015, to consider changes made to the State Code (COMAR) allowing medical cannabis in Maryland. It was found that the County Zoning Ordinance would allow the growing, processing and distribution of medical cannabis but only within certain Zoning Districts, not including the Agricultural District. The Zoning Administrator further determined that the Zoning Ordinance did not specifically address Medical Cannabis Grower.

Bill No. 16-03, therefore, was drafted to achieve the following:
1. Add Medical Cannabis Grower as a permitted use with Special Exception approval in the Agricultural District;
2. Define Medical Cannabis Grower; and,
3. Establish Special Exception Criteria and setback requirements.

The Bill defines Medical Cannabis Grower as follows: The grower of Medical Cannabis as defined in COMAR 10.62.01.01.

The definition of Agricultural Activity is also expanded to include: Agricultural Activity does not include the cultivation, processing or dispensing of Marijuana, as defined in the Criminal Law Article, 5-101, of the State Code as amended, or Medical Cannabis, as defined in COMAR, Title 10, Subtitle 62.

The Bill also establishes that a premises engaged in this use must be at least 25 acres in size, may not be located within 1,000 feet of a dwelling, public or private school lot line or the lot line of real property owned by the Board of Education.
The Bill also expands upon the lighting and security measures already required by the State Code (COMAR 10.62.10.05), including: armed security on premises at all times, with at least one armed security office for every 25,000 square feet of use; and, prohibiting lighting from emanating from the premises between dusk and dawn.

Bill No. 16-03 was introduced (1st Reading) before the County Council on January 12, 2016.

ANALYSIS/RECOMMENDATION
Staff has no objection to Bill No. 16-03, as proposed.
FREDERICK COUNTY COUNCIL
BILL SYNOPSIS

<table>
<thead>
<tr>
<th>Bill Title:</th>
<th>Allowing Medical Cannabis Grower as a permitted use, with a Special Exception approval in the Agricultural Zoning district.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sponsor:</td>
<td>Council Vice President M.C. Keegan-Ayer</td>
</tr>
<tr>
<td>Co-Sponsors:</td>
<td>None</td>
</tr>
<tr>
<td>First Reading Date:</td>
<td>Tuesday, January 5, 2016</td>
</tr>
</tbody>
</table>

SYNOPSIS

The Bill proposes to amend Chapter 1-19 of the County Code (the Zoning Ordinance) to add "Medical Cannabis Grower" as a permitted use, with Special Exception approval in the Agricultural Zoning District; define "Medical Cannabis Grower" and set Special Exception criteria and setback requirements.

Under Agricultural Activity the bill would add language stating, "Agricultural Activity does not include the cultivation, processing or dispensing of Marijuana, as defined in the Criminal Law Article, § 5-101, of the State Code as amended, or Medical Cannabis, as defined in COMAR, Title 10, Subtitle 62."

Additionally, the proposed legislation would add a new section to the County Code regarding medical cannabis grower in the Agricultural District. Specifically, this would include:

(A) Grower. Licensed premises of a licensed grower of Medical Cannabis, as defined in COMAR 10.62.01.01, shall comply with all of the following requirements.

1. The premises may not be located within 1,000 feet of a dwelling, the lot line of a public or private school, or the lot line of real property owned by the Board of Education.

2. The premises shall be located on a lot or parcel of at least 25 acres.

3. Other than the security lighting required by COMAR 10.62.10.05, no visible light shall emanate from the premises from dusk to dawn.

4. In addition to those security features required by Title 10, Subtitle 62 of COMAR, the premises shall have on-site armed security at all times, with at least one armed security officer for every 25,000 square feet of use.
Concerning: Allowing Medical Cannabis Grower as a permitted use, with Special Exception approval, in the Agricultural Zoning District.

Revised: ___________ Draft No. ___________
Introduced: __________________________
Expires: ____________________________
Enacted: ____________________________
Effective: ____________________________

Frederick County Code, Chapter 19_, Section(s) ______
1-19-5.301, 1-19-6.100, 1-19-11.100 and adding 1-19-351

COUNTY COUNCIL
FOR FREDERICK COUNTY, MARYLAND

By Council Vice President M. C. Keegan-Ayer

AN ACT to: Allow "Medical Cannabis Grower" as a permitted use, with Special Exception approval in the Agricultural Zoning District; defining "Medical Cannabis Grower," and setting Special Exception criteria and setback requirements.

By amending:
   Frederick County Code, Chapter 19___, Section(s) 1-19-5.301, 1-19-6.100.
Other: 1-19-11.100 and adding new 1-19-351

| Boldface  | Heading or defined term. |
| Underlining | Added to existing law by original bill. |
| [Single boldface brackets] | Deleted from existing law by original bill. |
| Double underlining | Added by amendment. |
| [[Double boldface brackets]] | Deleted from existing law or the bill by amendment. |
| *** | Existing law unaffected by bill. |
The County Council of Frederick County, Maryland, finds it necessary and appropriate to allow the use of "Medical Cannabis Grower", with Special Exception approval, in the Agricultural Zoning District.

NOW, THEREFORE, BE IT ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

Harold F. (Bud) Otis, President
County Council of Frederick County,
Maryland
Amend §1-19-5.310 to add “Medical Cannabis Grower” as a new line item under ‘Industrial Uses’ heading, as follows:

§1-19-5.310. USE TABLE.

<table>
<thead>
<tr>
<th>Zoning Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uses</td>
</tr>
<tr>
<td>------------------</td>
</tr>
<tr>
<td>Industrial Uses</td>
</tr>
<tr>
<td>Medical Cannabis</td>
</tr>
</tbody>
</table>

Amend §1-19-6.100 to add “Medical Cannabis Grower” as a new line item under the Agricultural District heading, as follows:

§1-19-6.100. DESIGN REQUIREMENTS FOR SPECIFIC DISTRICTS.

<table>
<thead>
<tr>
<th>Use Classification</th>
<th>Minimum Lot Area</th>
<th>Minimum Lot Area per Unit</th>
<th>Lot Width</th>
<th>Front Yard</th>
<th>Side Yard</th>
<th>Rear Yard</th>
<th>Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural District A</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Cannabis Grower</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>125'</td>
<td>100'</td>
<td>100'</td>
<td>-</td>
</tr>
</tbody>
</table>

Amend §1-19-11.100 to add new definitions, as follows:

§1-19-11.100. DEFINITIONS.

**AGRcultural Activity.** Land used exclusively as a bona fide agricultural operation by the owner or tenant. The use of land for agricultural purposes includes farming, viticulture (grape production), fish culture, animal and poultry husbandry, and equine activities. Necessary accessory uses such as packing, treating, or storing of produce, composting and power generation from farm animal waste are allowed provided that the operation of the accessory use is clearly

Underlining indicates entirely new matter added to existing law by original bill.
***indicates existing law unaffected by bill.
incidental to the agricultural activity. The business of intensive swine feeding operations, garbage feeding of hogs, fur farms or the raising of animals for the use of medical or other tests or experiments, commercial slaughtering of livestock, poultry, fish or meat processing is excluded from this definition. Agricultural Activity does not include the cultivation, processing or dispensing of Marijuana, as defined in the Criminal Law Article, § 5-101, of the State Code as amended, or Medical Cannabis, as defined in COMAR, Title 10, Subtitle 62.

MEDICAL CANNABIS GROWER. The grower of Medical Cannabis as defined in COMAR 10.62.01.01.

***

Add a new § 1-19-8.351:

§ 1-19-8.351. MEDICAL CANNABIS GROWER IN THE AGRICULTURAL DISTRICT.

(A) Grower. Licensed premises of a licensed grower of Medical Cannabis, as defined in COMAR 10.62.01.01, shall comply with all of the following requirements.

(1) The premises may not be located within 1,000 feet of a dwelling, the lot line of a public or private school, or the lot line of real property owned by the Board of Education.

(2) The premises shall be located on a lot or parcel of at least 25 acres.

(3) Other than the security lighting required by COMAR 10.62.10.05, no visible light shall emanate from the premises from dusk to dawn.

(4) In addition to those security features required by Title 10, Subtitle 62 of COMAR, the premises shall have on-site armed security at all times, with at least one armed security office for every 25,000 square feet of use.
TO: County Council
THROUGH: Jan Gardner, County Executive
FROM: Steve Horn, Division Director, Division of Planning and Permitting
DATE: January 6, 2016
SUBJECT: Zoning Ordinance Text Amendment Allowing Medical Cannabis Grower

ISSUE:
Should the Council introduce a bill, sponsored by Council Vice-President M.C. Keegan-Ayer, which would amend Chapter 1-19 of the County Code (the Zoning Ordinance) to add “Medical Cannabis Grower” as a permitted use, with Special Exception criteria and setback requirements, in the Agricultural Zoning District?

BACKGROUND:
On October 13, 2015, the County Council held a workshop to discuss changes to the Maryland State Code on Medical Cannabis and the use as related to the Frederick County Zoning Ordinance. Staff attended for informational purposes and no direction was given. Staff met with Council/staff following the workshop to discuss potential zoning text amendments in regard to medical cannabis to be grown in the Agriculture Zoning District.

The Zoning Ordinance currently does not address the specific use of “Medical Cannabis Grower.” The Bill proposes to amend Chapter 1-19 of the Zoning Ordinance by:

1. Adding "Medical Cannabis Grower" as a permitted use with Special Exception approval in the Agricultural Zoning District;
2. Defining "Medical Cannabis Grower"; and,
3. Establishing Special Exception criteria and setback requirements.

Under Agricultural Activity the bill would add language stating, “Agricultural Activity does not include the cultivation, processing or dispensing of Marijuana, as defined in the Criminal Law Article, § 5-101, of the State Code as amended, or Medical Cannabis, as defined in COMAR, Title 10, Subtitle 62.”

Additionally, the proposed legislation would add 'Medical Cannabis Grower' to the Agricultural Zoning District as a new section of the County Code. Specifically, this would include:

(A) Grower. Licensed premises of a licensed grower of Medical Cannabis, as defined in COMAR 10.62.01.01, shall comply with all of the following requirements.
(1) The premises may not be located within 1,000 feet of a dwelling, the lot line of a public or private school, or the lot line of real property owned by the Board of Education.

(2) The premises shall be located on a lot or parcel of at least 25 acres.

(3) Other than the security lighting required by COMAR 10.62.10.05, no visible light shall emanate from the premises from dusk to dawn.

(4) In addition to those security features required by Title 10, Subtitle 62 of COMAR, the premises shall have on-site armed security at all times, with at least one armed security officer for every 25,000 square feet of use.

ANALYSIS/RECOMMENDATION:
Staff has no objection to the proposed Bill.

ACTION REQUESTED:
County Council should consider the introduction of this bill

FUNDING INFORMATION:
No funding impacts are anticipated to result from approval of the proposed Zoning Ordinance Text Amendment.

Exhibit #1 Proposed Bill to amend the Zoning Ordinance