

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADVISORY NEIGHBORHOOD COMMISSION 3B

GLOVER PARK AND CATHEDRAL HEIGHTS



Resolution re ABCA Emergency Cannabis Rulemaking

The Alcoholic Beverage and Cannabis Administration (ABCA) is seeking testimony regarding proposed emergency rulemaking for licensing and regulating cannabis businesses in the District of Columbia. ANC3B was unable to testify in person but is submitting this resolution instead for consideration by ABCA.

Overall, ANC3B supports the proposed emergency cannabis rulemaking, which mirrors the rules in place for the licensing and regulation of alcohol use in the District. The ANC is familiar with the rules as they apply to alcohol use and believes that they will work to protect communities when applied to cannabis use, with one major exception.

The problem of second-hand smoke from certain cannabis products is not adequately addressed in either the Medical Cannabis Amendment Act of 2022 or ABCA's proposed emergency rulemaking. The proposed new rules are an opportunity to address the problem of second-hand smoke, which is a unique aspect of cannabis that does not fit easily into the alcohol regulation model.

Specifically, the proposed rules permit a licensed retail cannabis business to apply for an endorsement (e.g., a license add-on) that allows it to operate a "safe use facility" where customers can use cannabis products (Section 5625). Any cannabis business that has been licensed for a "safe use facility" can also apply for a "summer garden" endorsement to allow "safe use" outside (Section 5626).

Further, Section 5626.5 states that licensed outside-use areas "shall not permit odor, smoke or byproducts from the combustion of cannabis to be detectable by sense of smell in the interior of a separate residence or commercial property with its windows and doors closed."

ANC3B is concerned about the sanctioned dispersal of marijuana smoke outside in "summer gardens" where it can affect people who have not chosen to inhale it.

The ANC believes that the public should be protected from marijuana smoke, to the extent that is possible given how many people scoff at the law barring the use cannabis outside of one's home or the home of someone who permits it. The smell of marijuana is pervasive, day and night, throughout much of the District, especially in and around commercial areas, including the Glover Park commercial area along Wisconsin Avenue in Northwest, which this ANC represents.

Many public health experts assert that second-hand smoke from cannabis is as toxic as second-hand smoke from tobacco. The smell is offensive and inhalation can affect the lungs of

WWW.ANC3B.ORG

EMAIL: ANC3BMAIL@GMAIL.COM

3B01
N. GLOVER PARK
KEVIN LAVEZZO

3B02
E. GLOVER PARK
JACKIE BLUMENTHAL

3B03
W. GLOVER PARK
MELISSA LANE

3B04
CATHEDRAL HEIGHTS
J. KEVIN CARROLL

3B05
S. GLOVER PARK
GUPI HOWIE

3B06
CATHEDRAL HEIGHTS
BEN BERGMANN

susceptible persons. People can get high from sufficient exposure to second-hand marijuana smoke. California requires cannabis retailers to warn that marijuana smoke causes cancer.

With regard to the containment of cannabis smoke and odor, the Commission does not support the application of the alcohol regulation's standard of noise or music from licensed establishments being detected in nearby residences only with "windows and doors closed" to the problem of odor and toxic particulate inhalation.

The ANC believes that residents of the District of Columbia should not be forced to forego access to fresh air by shutting their windows and doors in the presence of someone else's marijuana smoke. This Commission would prefer if that standard was not used for noise, but typically noise loud enough to cause complaint can be heard through a closed window. However, if a cannabis business locates nearby, it should be the business's responsibility to contain odor and toxic particulates inside its premises. ABCA should not be forcing neighbors of cannabis businesses to guard against smoke and toxic byproducts seeping in to their living or work spaces.

Although the Commission has noted its general support for the proposed new rules, including the processes for issuing and protesting cannabis licenses and endorsements, the ANC does not believe these community-focused protections are sufficient to mitigate the threat to neighborhoods and residents from second-hand marijuana smoke. The Commission is concerned that if the problem of second-hand smoke is not dealt with now, it will need to be dealt with later, just as happened with cigarette smoking.

Therefore, be it resolved that ANC3B recommends that ABCA (1) use this emergency rulemaking to ban the smoking of cannabis products in summer gardens; and (2) shift the entire responsibility for containing the odor, smoke or byproducts of combustion of cannabis onto the cannabis businesses by eliminating the "windows and doors closed" qualifier for detecting it in neighboring residences and businesses.

Commissioner Blumenthal or her designee is authorized to represent the Commission on this matter.

This Resolution was APPROVED by a vote of ___ at a duly noticed public meeting of ANC3B on Thursday, June 8, 2023, at which a quorum was present. (A quorum is 4 of the 5 sitting members.)



Jackie Blumenthal, Chair



Melissa Lane, Secretary