

Medicinal Cannabis Businesses ZOTA
Planning Commission Recommended Text
May 9, 2024

Article 1 - GENERAL PROVISIONS AND DEFINITIONS

Sec. 1-11. - Definitions.

Medicinal cannabis means marijuana as defined in KRS 218A.010 when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with KRS 218B. This definition includes medicinal cannabis products and raw plant material; but does not include industrial hemp or industrial hemp products as defined in KRS 260.850.

Cannabis business means an entity licensed under KRS 218B as a cultivator, dispensary, processor, producer, or safety compliance facility. Such licensed cannabis businesses shall not be located within one thousand (1,000) feet of an existing elementary or secondary school or a daycare center.

Medicinal cannabis cultivator means a business that is licensed to grow medicinal cannabis in compliance with KRS 218B, more specifically to:

- (a) Acquire, possess, plant, cultivate, raise, harvest, trim, or store cannabis seeds, seedlings, plants, or raw plant material;
- (b) Deliver, transport, transfer, supply, or sell raw plant material or related supplies to other licensed cannabis businesses in this state; or
- (c) Sell cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction.

Medicinal cannabis cultivators are regulated in four tiers by KRS 218B, as follows:

- (1) A Tier I cultivator shall not exceed an indoor growth area of two thousand five hundred (2,500) square feet.
- (2) A Tier II cultivator shall not exceed an indoor growth area of ten thousand (10,000) square feet.
- (3) A Tier III cultivator shall not exceed an indoor growth area of twenty-five thousand (25,000) square feet.
- (4) A Tier IV cultivator shall not exceed an indoor growth area of fifty thousand (50,000) square feet.

Medicinal cannabis dispensary means an establishment that is licensed in compliance with KRS 218B to:

- (a) Acquire or possess medicinal cannabis from a cultivator, processor, or producer in this state;
- (b) Acquire or possess medicinal cannabis accessories or educational material;
- (c) Supply, sell, dispense, distribute, or deliver medicinal cannabis, medicinal cannabis accessories, and educational material to cardholders or other dispensaries;
- (d) Sell cannabis seeds to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction; or
- (e) Acquire, accept, or receive medicinal cannabis products from a cardholder pursuant to KRS 218B.110.

Medicinal cannabis processor means a business that is licensed in compliance with KRS 218B to:

- (a) Acquire or purchase raw plant material from a cultivator, processor, or producer in this state;
- (b) Possess, process, prepare, manufacture, manipulate, blend, or package medicinal cannabis;
- (c) Transfer, transport, supply, or sell medicinal cannabis and related supplies to other cannabis businesses in this state; or

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(d) Sell cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction.

Medicinal cannabis producer means a business that is licensed in compliance with KRS 218B to:

- (a) Acquire, possess, plant, cultivate, raise, harvest, trim, or store cannabis seeds, seedlings, plants, or raw plant material;
- (b) Deliver, transport, transfer, supply, or sell raw plant material, medicinal cannabis products, or related supplies to other licensed cannabis businesses in this state;
- (c) Sell cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction;
- (d) Acquire or purchase raw plant material from a cultivator in this state; or
- (e) Possess, process, prepare, manufacture, manipulate, blend, or package medicinal cannabis.

Medicinal cannabis safety compliance facility means an establishment licensed in compliance with KRS 218B to:

- (1) Acquire or possess medicinal cannabis obtained from cardholders or cannabis businesses in this state;
- (2) Return the medicinal cannabis to cardholders or cannabis businesses in this state;
- (3) Transport medicinal cannabis that was produced by cannabis businesses in this state;
- (4) Produce or sell approved educational materials related to the use of medicinal cannabis;
- (5) Produce, sell, or transport of equipment or materials other than medicinal cannabis, including but not limited to lab equipment and packaging materials that are used by cannabis businesses and cardholders, to cardholders or cannabis businesses licensed under this chapter;
- (6) Test medicinal cannabis produced in this state;
- (7) Train cardholders and cannabis business agents;
- (8) Receive compensation for actions allowed under this section; and
- (9) Engage in any noncannabis-related business activities that are not otherwise prohibited or restricted by state law.

Medicinal cannabis product means any compound, manufacture, salt, derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds or its resin; or any compound, mixture, or preparation which contains any quantity of these substances when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with KRS 218B. This definition does not include industrial hemp products as defined in KRS 260.850.

Cardholder means a registered qualified patient, designated caregiver, or visiting qualified patient who has applied for, obtained, and possesses a valid registry identification card issued by the Kentucky Cabinet for Health and Family Services for medicinal cannabis in compliance with KRS 218B; or a visiting qualified patient who has obtained and possesses (1) a valid out-of-state registry identification card, and (2) documentation of having been diagnosed with a qualifying medical condition.

Commercial greenhouse means an establishment primarily engaged in propagating and growing plants in containers, in soil or in other growing medium for the purpose of being sold and transplanted. The term "commercial greenhouse" shall include sale of the following items: plants grown on the premises or tended in a

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controlled environment of the greenhouse or plant nursery; sale of fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizer, all to be used in the soil or upon the live plant to preserve the life and health of the plants sold; landscape counseling, site planning and contracting services when not the primary activity and when using plants grown or tended on the premises of the greenhouse or plant nursery.

Note: The term "commercial greenhouse" applies only to land use as provided for in the zoning ordinance and subdivision regulations and is not intended to affect the status of any business with regard to any federal or state tax laws or similar statutes. A medicinal cannabis cultivator, producer and processor are more specifically defined and regulated, and are not a "commercial greenhouse."

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Sec. 8-1. - Agricultural Rural (A-R) Zone.

(d) Conditional Uses. (Permitted only with Board of Adjustment approval.)

9. Tier I, tier II or tier III medicinal cannabis cultivators, but only when the following minimum lot size requirements are met:

- a. The minimum lot size for a tier I medicinal cannabis cultivator shall be ten (10) acres.
- b. The minimum lot size for a tier II medicinal cannabis cultivator shall be forty (40) acres.
- c. The minimum lot size for a tier III medicinal cannabis cultivator shall be one hundred (100) acres.

For any of the following conditional uses established after January 26, 1995, a total of ten thousand (10,000) square feet shall be the maximum allowable for all structures proposed for such uses.

RENUMBER REMAINING SECTIONS

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

28. Medicinal cannabis tier IV cultivators, dispensaries, producers, processors, and safety compliance facilities.

Sec. 8-2. - Agricultural Buffer (A-B) Zone.

(d) Conditional Uses. (Permitted only with Board of Adjustment approval.)

4. Tier I, tier II or tier III medicinal cannabis cultivators, but only when the following minimum lot size requirements are met:

- a. The minimum lot size for a tier I medicinal cannabis cultivator shall be ten (10) acres.
- b. The minimum lot size for a tier II medicinal cannabis cultivator shall be forty (40) acres.
- c. The minimum lot size for a tier III medicinal cannabis cultivator shall be one hundred (100) acres.

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of ten (10) acres, a total of 2% of the square footage of the property or ten thousand (10,000) square feet, whichever is greater, shall be the maximum allowable for all structures proposed for such uses:

RENUMBER REMAINING SECTIONS

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

35. Medicinal cannabis tier IV cultivators, dispensaries, producers, processors, and safety compliance facilities.

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Sec. 8-3. - Agricultural-Natural Areas (A-N) Zone.

(d) Conditional Uses. (Permitted only with Board of Adjustment approval.) For any of the following conditional uses established after January 26, 1995, a total of ten thousand (10,000) square feet shall be the maximum allowable for all structures proposed for such uses. Prior to the approval of any conditional use containing environmentally sensitive land, such as flood hazard areas; areas of significant tree stands; sinkhole and karst areas; slopes exceeding fifteen percent (15%); "special natural protection" areas, as designated in the Comprehensive Plan; and stone fences, the applicant must prove, and the Board of Adjustment must find, that adequate safeguards will be in place to ensure the least negative impact on the land. This proof and finding shall extend to uses accessory to permitted conditional uses.

In making its determination, the Board of Adjustment shall:

- (1) Require the submission of an environmental assessment prepared by a qualified professional.
- (2) Consider mitigation of environmental impacts over time.
- (3) Consider the operational plan of any proposed agritourism or ecotourism activities.
- (4) Consider requiring certification for any proposed ecotourism activities.

13. Tier I, tier II or tier III medicinal cannabis cultivators, but only when the following minimum lot size requirements are met:

- a. The minimum lot size for a tier I medicinal cannabis cultivator shall be ten (10) acres.
- b. The minimum lot size for a tier II medicinal cannabis cultivator shall be forty (40) acres.
- c. The minimum lot size for a tier III medicinal cannabis cultivator shall be one hundred (100) acres.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

36. Medicinal cannabis tier IV cultivators, dispensaries, producers, processors, and safety compliance facilities.

Sec. 8-4. - Agricultural Urban (A-U) Zone.

(d) Conditional Uses. (Permitted only with Board of Adjustment approval.)

1. Sections 8-1(d)1 through 5, 8, ~~9, 10 11~~ through ~~12 13~~ (but excluding outdoor rifle and other firearm ranges), and ~~18 19~~ through ~~22 23~~ of the permitted conditional uses in the A-R zone, provided the square footage limitations shall not apply unless required by the Board of Adjustment.

(e) Prohibited Uses. (All uses, other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses, shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

13. Medicinal cannabis tier IV cultivators, dispensaries, producers, processors, and safety compliance facilities.

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Sec. 8-5. - Single-Family Residential (R-1A) Zone.

(e) Prohibited Uses. (All uses, other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses, shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Those uses prohibited in the A-U zone, except as permitted herein.
2. Commercial kennels, equine hospitals, and offices of veterinarians.
3. Any use dependent upon septic tanks or pit privies.
4. The above-ground or below-ground storage of any flammable material in gaseous form, including compressed natural gas, and the above- or below-ground storage of more than five (5) gallons of gasoline.
5. Ecotourism activities, except as permitted herein.
6. Zoological gardens.
7. [Medicinal cannabis businesses.](#)

Sec. 8-13. - Medium Density Residential (R-4) Zone.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the R-3 zone.
2. Equine trails.
3. [Medicinal cannabis businesses.](#)

Sec. 8-14. - High Density Residential (R-5) Zone.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the R-4 zone, except for offices, as permitted herein, extended-stay hotels, and incidental retail uses.
2. Outdoor commercial and non-commercial recreational facilities, such as zoological gardens, sportsmen's farms, riding stables and equine trails.
3. [Medicinal cannabis businesses.](#)

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Sec. 8-15. - Professional Office (P-1) Zone.

(b) Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted.)

26. Medicinal cannabis safety compliance facilities.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

9. Medicinal cannabis cultivators, dispensaries, producers and processors.

Sec. 8-16. - Neighborhood Business (B-1) Zone.

(b) Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted.)

49. Medicinal cannabis dispensaries.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

23. Medicinal cannabis cultivators, processors, producers and safety compliance facilities.

Sec. 8-17. - Downtown Business (B-2) Zone.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

8. Medicinal cannabis cultivators, processors, producers and safety compliance facilities.

Sec. 8-19. - Lexington Center Business (B-2B) Zone.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

15. Medicinal cannabis businesses.

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Sec. 8-20. - Highway Service Business (B-3) Zone.

(b) Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted.)

32. Medicinal cannabis dispensaries and safety compliance facilities.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

12. Medicinal cannabis cultivators, processors, and producers.

Sec. 8-21. - Wholesale and Warehouse Business (B-4) Zone.

(b) Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted.)

28. Medicinal cannabis safety compliance facilities.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

17. Medicinal cannabis cultivators, dispensaries, processors, and producers.

Sec. 8-22. - Light Industrial (I-1) Zone.

(b) Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted.)

9. Medicinal cannabis cultivators, processors, producers, and safety compliance facilities.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

6. Medicinal cannabis dispensaries.

Sec. 8-23. - Heavy Industrial (I-2) Zone.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-4 zone, Sections 8-21(e)3 through 11 and Section 8-21(e)14 through ~~16~~17.

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Sec. 8-24. - University Research Campus (P-2) Zone.

(e) Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses, or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)

9. Medicinal cannabis businesses.

APPENDIX 23A. ZONING CATEGORIES AND RESTRICTIONS

Sec. 23A-9. Community Center (CC) Zone.

(b) Principal Uses.

37. Medicinal cannabis dispensaries.

(e) Prohibited Uses.

25. Medicinal cannabis cultivators, producers, processors and safety compliance facilities.

Sec. 23A-10. Economic Development (ED) Zone.

(b) Principal Uses.

14. Medicinal cannabis cultivators, producers, processors, and safety compliance facilities.

15 ~~14~~. Supportive uses, as further regulated by section 23A-10(j).

- a. Adult day care centers.
- b. Automobile service stations, and automobile and vehicle refueling stations, including the accessory retail sale of convenience type merchandise.
- c. Banks, credit agencies, security and commodities brokers and exchanges credit institutions, savings and loan companies, holding and investment companies.
- d. Beauty shops and barber shops.
- e. Cable television system signal distribution centers and studios.
- f. Community centers and private clubs.
- g. Dwelling units, provided the units are not located on the first floor of a structure.
- h. Hotels and motels.
- i. Kennels, animal hospitals or clinics.
- j. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
- k. Libraries, museums, art galleries, and reading rooms.
- l. Multi-family dwellings and townhouses, three (3) or more units.
- m. Pharmacy and retail sale of medical equipment and supplies.
- n. Restaurants, with or without drive-through facilities.
- o. Studios for work or teaching of fine arts.

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- p. Telephone exchanges, radio and television studios, including line of sight relay facilities.
- q. Television system signal distribution centers and studios, including line of sight relay facilities.
- r. Ticket and travel agencies.
- s. Shared parking court, as regulated by Article 16-5(b)(4), where depicted on a certified development plan.

(e) Prohibited Uses.

4. Medicinal cannabis dispensaries.