

ORDINANCE NO. 057 - 2024

AN ORDINANCE AMENDING THE LEXINGTON-FAYETTE COUNTY ZONING ORDINANCE AS FOLLOWS: AMENDING ARTICLE 1-11 TO CREATE DEFINITION FOR CANNABIS BUSINESS, CARDHOLDER, MEDICINAL CANNABIS, MEDICINAL CANNABIS CULTIVATOR, MEDICINAL CANNABIS DISPENSARY, MEDICINAL CANNABIS PROCESSOR, MEDICINAL CANNABIS PRODUCER, MEDICINAL CANNABIS PRODUCT, AND MEDICINAL CANNABIS SAFETY COMPLIANCE FACILITY; AMENDING ARTICLE 1-11 TO EXCLUDE MEDICINAL CANNABIS CULTIVATORS, PRODUCERS, AND PROCESSORS FROM THE DEFINITION OF COMMERCIAL GREENHOUSE; AND AMENDING THE FOLLOWING SECTIONS TO DEFINE AND ALLOW FOR MEDICAL CANNABIS-BASED BUSINESSES UNDER THE ZONING ORDINANCE: SECTIONS 8-1(D) AND (E), 8-2(D) AND (E), 8-3(D) AND (E), 8-4(D) AND (E), 8-5(E), 8-13(E), 8-14(E), 8-15(B) AND (E), 8-16(B) AND (E), 8-17(E), 8-19(E), 8-20(B) AND (E), 8-21(B) AND (E), 8-22(B) AND (E), 8-23(E), 8-24(E), AND SECTIONS 23A-9(B) AND (E) AND 23A-10(B) AND (E) OF APPENDIX 23A TO THE ZONING ORDINANCE, ALL EFFECTIVE UPON PASSAGE OF COUNCIL. (URBAN COUNTY PLANNING COMMISSION).

WHEREAS, the Lexington-Fayette Urban County Planning Commission considered at a meeting on May 9, 2024 text amendments to Articles 1-11; 8-1(d) and (e); 8-2(d) and (e); 8-3(d) and (e); 8-4(d) and (e); 8-5(e); 8-13(e); 8-14(e); 8-15(b) and (e); 8-16(b) and (e); 8-17(e); 8-19(e); 8-20(b) and (e); 8-21(b) and (e); 8-22(b) and (e); 8-23(e); 8-24(e); and Sections 23A-9(b) and (e) and 23A-10(b) and (e) of Appendix 23A to the Zoning Ordinance, to define and allow for medical cannabis-based businesses under the Zoning Ordinance. The Planning Commission did recommend approval of the alternative text amendment by a vote of 7-1; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 1, Section 1-11 of the Lexington-Fayette Urban County Government Zoning Ordinance (“Definitions”) be and hereby is amended in pertinent part to create definitions for “Cannabis business”, “Cardholder”, “Medicinal cannabis”, “Medicinal cannabis cultivator”, “Medicinal Cannabis dispensary”, “Medicinal cannabis processor”, “Medicinal cannabis producer”, “Medicinal cannabis product”, and “Medicinal cannabis safety compliance facility”, and further amending the definition of “Commercial greenhouse,” to read as follows:

Sec. 1-11. Definitions.

[...]

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.

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 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."

[...]

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.

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
- (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 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.

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.

Section 2 – That Article 8, Sections 8-1(d) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 8-1(d)(9) and sequentially renumbering subsequent subsections of Section 8-1(d), and further creating a new Section 8-1(e)(28), to read as follows:

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.

[...]

(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.

Section 3 – That Article 8, Sections 8-2(d) and (e) of the Lexington-Fayette-Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 8-2(d)(4) and sequentially renumbering subsequent subsections of Section 8-2(d), and further creating a new Section 8-2(e)(35), to read as follows:

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:

[...]

(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.

Section 4 – That Article 8, Sections 8-3(d) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 8-3(d)(13) and Section 8-3(e)(36), to read as follows:

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.

Section 5 – That Article 8, Sections 8-4(d) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, amending Section 8-4(d)(1) and creating a new Section 8-4(e)(13), to read as follows:

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, 11 through 13 (but excluding outdoor rifle and other firearm ranges), and 19 through 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.

Section 6 – That Article 8, Section 8-5(e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended, creating a new Section 8-5(e)(7), to read as follows:

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.)

[...]

7. Medicinal cannabis businesses.

Section 7 – That Article 8, Section 8-13(e) of the Lexington-Fayette County Zoning Ordinance be and hereby is amended, creating a new Section 8-13(e)(3), to read as follows:

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.)

[...]

3. Medicinal cannabis businesses.

Section 8 – That Article 8, Section 8-14(e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended, creating a new Section 8-14(e)(3), to read as follows:

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.)

[...]

3. Medicinal cannabis businesses.

Section 9 – That Article 8, Sections 8-15(b) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 8-15(b)(26) and Section 8-15(e)(9), to read as follows:

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.

Section 10 – That Article 8, Sections 8-16(b) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 8-16(b)(49) and Section 8-16(e)(23), to read as follows:

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.

Section 11 – That Article 8, Section 8-17(e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended, creating a new Section 8-17(e)(8), to read as follows:

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.

Section 12 – That Article 8, Section 8-19(e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended, creating a new Section 8-19(e)(15), to read as follows:

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.

Section 13 – That Article 8, Sections 8-20(b) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 8-20(b)(32) and Section 8-20(e)(12), to read as follows:

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.

Section 14 – That Article 8, Sections 8-21(b) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 8-21(b)(28) and Section 8-21(e)(17), to read as follows:

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.

Section 15 – That Article 8, Sections 8-22(b) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 8-22(b)(9) and Section 8-22(e)(6), to read as follows:

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.

Section 16 – That Article 8, Section 8-23(e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended, amending Section 8-23(e)(1) to read as follows:

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 17.

Section 17 – That Article 8, Section 8-24(e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended, creating a new Section 8-24(e)(9), to read as follows:

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.

Section 18 – That Appendix 23A, Sections 23A-9(b) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 23A-9(b)(37) and Section 23A-9(e)(25), to read as follows:

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.

Section 19 – That Appendix 23A, Sections 23A-10(b) and (e) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, creating a new Section 23A-10(b)(14), sequentially renumbering subsequent subsections in Section 23A-10(b), and further creating a new Section 23A-10(e)(4), to read as follows:

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

[...]

(b) Principal Uses.

[...]

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

[...]

(e) Prohibited Uses.

[...]

4. Medicinal cannabis dispensaries.

Section 20 – That this ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: June 27, 2024



MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL
PUBLISHED: July 3, 2024-1t
0577-24:TWJ:4893-8392-6981, v. 1

Rec'd by _____
Date: _____

**RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY**

IN RE: PLN-ZOTA-24-00002: REGULATION OF MEDICINAL CANNABIS BUSINESSES – a text amendment to define and allow for medical cannabis-based businesses in the Zoning Ordinance.

Having considered the above matter on **May 9, 2024**, at a Public Hearing, and having voted **7-1** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL of ALTERNATIVE TEXT** of this matter for the following reasons:

- 1. The proposed Zoning Ordinance updates will ensure clear definition and regulation of the new medicinal cannabis businesses now possible due to the adoption of KRS 218B by the Kentucky General Assembly in 2023. The proposed text amendment will categorize the new agricultural and business uses in a consistent manner to other such uses in the Zoning Ordinance.

ATTEST: This 31st day of May, 2024.



Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Traci Wade, Manager of Planning Services**.

OBJECTORS

OBJECTIONS

VOTES WERE AS FOLLOWS:

AYES:	(7)	Forester, Meyer, Pohl, Worth, Zach Davis, Johnathon Davis, Owens
NAYS:	(1)	Nicol
ABSENT:	(3)	Michler, Barksdale, and Wilson
ABSTAINED:	(0)	
DISQUALIFIED:	(0)	

Motion for **APPROVAL** of **PLN-ZOTA-24-00002** carried.

Enclosures: Application
 Initiation Minutes
 Staff Report
 Planning Commission recommended text
 Applicable excerpts of minutes of above meeting

GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

1. APPLICANT INFORMATION:

Name: Planning Commission

Address: 101 E Vine Street

City, State, Zip Code: Lexington, KY 40507

2. ATTORNEY (Or Other Representative) INFORMATION:

Name: NONE

Address:

City, State, Zip Code:

Phone Number:

Zoning Ordinance Article 8-1(d)13 Specific text change proposed:

The purpose of this text amendment is to incorporate definitions and land use regulations for medicinal cannabis businesses. The following sections of the Zoning Ordinance are proposed for amendment:

- Article 1-11 Definitions
- Articles 8 and 23 Zoning Categories

4. DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)

See attached letter of justification.

VIII. COMMISSION ITEMS

- A. INITIATION OF A ZONING ORDINANCE TEXT AMENDMENT – The staff requested Planning Commission initiation of a text amendment to the Zoning Ordinance with regard to medicinal cannabis business regulations in response to adoption of KRS 218B. The staff is preparing the required mailings in order to hold a public hearing as early as May 2024.

Staff Presentation – Ms. Wade requested that the Planning Commission initiate a ZOTA regarding medicinal cannabis businesses operating in Fayette County. She told the Commission that this was necessary because of a newly adopted state law. She briefly described some of the cannabis business types and what zones that staff felt were appropriate for each type. She stated that the effective date of the state law was likely to be amended to July 1, 2024, and it would need to be completed faster than it would typically. She presented a suggested timeline so that the ZOTA could be heard and approved by Council before the date of July 1st.

Commission Comments – Ms. Worth suggested to include the definition of a cardholder.

Ms. Worth asked why the word plant was excluded from the text while seeds and seedlings were included. Ms. Wade opined that the sale of a plant was not allowed whereas the sale of seeds or seedlings were allowed.

Mr. Michler asked why Tier I and Tier II Cultivators were not suggested for only a conditional use, when greenhouses in the Agricultural zones were conditional uses. He further asked how the growing facilities would be regulated. Ms. Wade suggested that a cannabis cultivator should not be defined like a greenhouse and explained that it has to be in secure facilities that are more industrial in nature. She further explained that other items that are in agricultural zones that are not agricultural uses already have to apply for a conditional use permit and are limited to 10,000 sq. feet.

Mr. Zach Davis commented that he would prefer Tier I and II as Conditional Use Permits.

Ms. Wade told the Planning Commission that a copy of the suggested ZOTA would be sent to the Rural Land Management Board for feedback before the public hearing.

Action - Mr. Michler made a motion, seconded by Mr. Johnathon Davis, and carried 9-0 (Forester and Owens absent) to initiate the Medical Cannabis Business ZOTA.

Mr. Duncan reminded the Planning Commission of the next work session the following week.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

**STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT****PLN-ZOTA-24-00002: REGULATION OF MEDICINAL CANNABIS BUSINESSES**

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: See attachment: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)**STAFF REVIEW:**

On March 14, 2024 the Urban County Planning Commission initiated a text amendment to the Zoning Ordinance in order to regulate medicinal cannabis businesses as a response to the adoption of HB 47 during the 2023 legislative session by the Kentucky General Assembly. The text amendment includes definitions from KRS 218B, and establishing principal, accessory, conditional and prohibited uses in Articles 8 and 23 for the five types of medicinal cannabis businesses: cultivators, processors, producers, safety compliance facilities and dispensaries.

In 2023, HB 47 became law, with an effective date of January 1, 2025. HB 47 created KRS 218B in order to allow medicinal cannabis to be used to treat a limited number of qualifying medical conditions and for registered cardholders to legally access the medicinal cannabis in Kentucky (cannabis continues to be regulated as a controlled substance by federal regulation, thus all activities must be completed within the state). In order to reach the ultimate goal of providing medicinal cannabis to registered cardholders, an entire system of business are necessary from growing, to processing, to testing and lastly, to distribution at a dispensary. The newly created state regulations regarding medicinal cannabis businesses establish how cultivators, processors, producers, safety compliance facilities, and dispensaries will apply, become licensed, and operate in the Commonwealth. In addition, regulations regarding patients, designated caregivers, and practitioners establish the procedures to receive a written certification and a medical cannabis card, supply limits, and procedures to publish a list of varieties of medical cannabis. All of these businesses will be licensed and regulated by the Cabinet for Health and Family Services, and the newly established Kentucky Medical Cannabis Program. In addition, KRS 218B allows for local jurisdictions to establish zoning regulations to limit the "time, place and manner" of such businesses.

During the 2024 legislative session, the Kentucky General Assembly amended the new regulations in relatively minor way, but did allow for the businesses to start their setup as soon as July 1, 2024 in order to fulfill the goal of being operational on January 1, 2025 (HB 829). This 6 month setup window will allow the new businesses to make applications to the state Medical Cannabis Program and become licensed prior to 2025. In establishing the Medical Cannabis Program, the state also has limited the number of initial dispensary licenses and distributed them across the state in 11 regions (Region 1 (Bluegrass) includes Fayette County and the surrounding 12 counties). The Medical Cannabis Program established the regions in order to distribute the dispensaries across the state and to reduce the transportation time for patients and cardholders. Each of the 11 regions will be allowed to have no more than four dispensary licenses, with the exception of the regions



encompassing Louisville and Lexington, which can have up to six. In addition, Jefferson and Fayette Counties will each be allocated two dispensary licenses during the initial license allocation.

The state regulations do provide some restrictions that relate to land use. First, any cultivator or producer must establish an indoor growing space that is equipped with locks and other security devices that permit access only by authorized agents of the business. This provision limits access to the growth area inside a condensed facility. Structures can be larger than the growth area to include offices, maintenance/mechanical, storage, and other non-cultivation activities. Second, medical cannabis business shall not be located within 1,000 feet of an elementary or secondary school or a daycare center. This restriction guides the location of such businesses, which are present in Fayette County in all zones and distributed throughout the community.

REGULATORY APPROACH

After thorough review of the adopted state regulations, the Staff recommended amending the Zoning Ordinance to specifically address the new businesses for clarity and to reduce possible challenges to any interpretations. The new business uses are unique enough that they did not fall into broader definitions or categories in a clean manner. The text amendment defines the following terms consistent with the current state regulations: medicinal cannabis, cannabis business, medicinal cannabis cultivator (including the square footage distinctions for the four tiers), medicinal cannabis dispensary, medicinal cannabis processor, medicinal cannabis producer, medicinal cannabis safety compliance facility, medicinal cannabis product, and cardholder. Lastly, the amendment clarifies the existing definition of commercial greenhouse, stating that a medicinal cannabis cultivator, processor and processor are distinction not commercial greenhouses and are regulated more specifically by the Zoning Ordinance.

The cultivation and growing of medicinal cannabis is generally an agricultural use; therefore, the proposed text amendment allows a medicinal cannabis cultivator of up to 10,000 square feet of growth area as an accessory use “in connection with agriculture” within the agricultural zones and is not intended to be allowed on a tract of land that is not used for agricultural purposes first and foremost. At this scale, the medicinal cannabis cultivator use would be subordinate to a typical agricultural use. The tier III and tier IV medicinal cannabis cultivators would require larger structures for the propagation of the plants, potentially more employees and more traffic; thus, a medicinal cannabis cultivator of more than 10,000 square feet of growth area would only be allowed with Board of Adjustment approval as a conditional use within the agricultural zones.

The proposed text amendment further would allow the cultivation and processing of medical cannabis, especially within a larger scale facility, within the industrial zones (I-1, I-2 and ED). This includes those combined facilities, termed producers by the state regulations.

A safety compliance facility ensures that the medicinal cannabis meets the state regulations for health and safety purposes, and is most closely aligned with laboratories, research and production, or office uses. Therefore, the proposed text amendment allows a medicinal cannabis safety compliance facility as a permitted use in the professional office, highway service and warehouse business zones and the industrial zones.

Lastly, medicinal cannabis dispensaries are the establishments that distribute or dispense the actual cannabis to registered cardholders. By state definition, dispensaries are allowed to also sell or supply medicinal cannabis accessories and educational materials, and cannot be co-located with a typical



pharmacy or any other medicinal cannabis business. This use most closely aligns with retail sale of pharmaceuticals and medical supplies; therefore, the proposed text amendment would allow dispensaries in the same zones that generally permit retail sales of other products (B-1, B-2, B-2A, B-6P, CC, MU-1, MU-2, and MU-3 zones). To clarify, the Staff recommends that dispensaries be listed as a prohibited use in the ED zone, even as a supportive use, based on the primary intent of the zone.

In order to assure such uses are not permitted within the residential zones, the proposed text lists medicinal cannabis businesses of all types as prohibited uses in the R-1A zone, which carries forward to all other residential zones (unless permitted herein by the Ordinance). To be clear, the staff recommends specifically listing medicinal cannabis businesses as prohibited uses in the R-4 and R-5 zones so that they cannot be interpreted as potential conditional uses in the future.

For clarification, the regulations established for medicinal cannabis do not make non-medical use permitted. Additional text amendments would be necessary to define and regulate such a use in Fayette County if the state regulations ever were changed. The Staff did consult with the Rural Land Management Board regarding the proposed regulations in April 2024. The RLMB supplied a letter of general support, but expressed concern about the potential for dispensaries in the Rural Service Area, about the size of any medicinal cannabis cultivator structures in the agricultural zones, with the most emphasis on the A-R zone, which is the primary zone within the Rural Service Area, and the potential for a cultivator to be accessory to a single family home in one of the rural subdivisions. The text does list the tier I and tier II cultivators as an accessory use in the agricultural zones as part of a list that begins with the phrase “accessory uses in connection with agriculture” which should address the last concern.

CONCLUSION

The proposed Zoning Ordinance updates will ensure clear regulation of the new businesses now possible due to the adoption of KRS 218B by the Kentucky General Assembly in 2023. The regulations treat the new agricultural and business uses in a consistent manner to other such uses in the Zoning Ordinance.

The Staff Recommends: **Approval of the Staff Alternative Text**, for the following reason:

1. The proposed Zoning Ordinance updates will ensure clear definition and regulation of the new medicinal cannabis businesses now possible due to the adoption of KRS 218B by the Kentucky General Assembly in 2023. The proposed text amendment will categorize the new agricultural and business uses in a consistent manner to other such uses in the Zoning Ordinance.

TLW/DAC

5/1/2024

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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

(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

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."

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

(c) Accessory Uses. (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Accessory uses in connection with agriculture, farming, dairying, stock raising or similar uses, such as agricultural structures; stables; tier I and tier II medicinal cannabis cultivators; farm tours; hayrides; petting zoos; and parking areas, provided all yard requirements for a principal residence are met.

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

9. Tier III or Tier IV medicinal cannabis cultivators.

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 dispensaries, producers, processors, and safety compliance facilities.

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

(c) Accessory Uses. (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Accessory uses in connection with agriculture, farming, dairying, stock raising or similar uses, such as agricultural structures; stables; tier I and tier II medicinal cannabis cultivators; farm tours; hayrides; petting zoos; and parking areas, provided all yard requirements for a principal residence are met.

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

4. Tier III or Tier IV medicinal cannabis cultivators.

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 dispensaries, producers, processors, and safety compliance facilities.

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.

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.

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.

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.
- h. Restaurants, with or without drive-through facilities.
- o. Studios for work or teaching of fine arts.
- 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.

Note: Blue text indicates a change recommended by the staff alternative.

**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.

V. **ZONING ITEMS** – The Zoning Committee met on May 2, 2024, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Robin Michler, Zach Davis, William Wilson, and Graham Pohl. Staff members present were Autumn Goderwis, Daniel Crum, James Mills, and Bill Sheehy, and Tracy Jones, Department of Law.

A. ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- *The staff has recommended approval of the zone change petition and related plan(s),
- *The petitioner concurs with the staff recommendations,
- *Petitioner waives oral presentation, but may submit written evidence for the record,
- *There are no objections to the petition.

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS - Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- *Staff Reports (30 minute maximum)
- *Petitioner’s report(s) (30 minute maximum)
- * Citizen Comments
 - (a) Proponents (10 minute maximum OR 3 minutes each)
 - (b) Objectors (30 minute maximum) (3 minutes each)
- *Rebuttal & Closing Statements
 - (a) Petitioner’s comments (5 minute maximum)
 - (b) Citizen objectors (5 minute maximum)
 - (c) Staff comments (5 minute maximum)
- *Hearing closed and Commission votes on zone change petition and related plan(s).

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS

a. **PLN-ZOTA-24-00002: REGULATION OF MEDICINAL CANNABIS BUSINESSES** – a text amendment to define and allow for medical cannabis-based businesses in the Zoning Ordinance.

INITIATED BY: LFUCG Planning Commission
PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended, Approval, of the staff alternative text, changing the proposed principal and accessory uses in the Agricultural zones to conditional uses only.

The Staff Recommends: Approval of the Staff Alternative Text, for the following reason:

1. The proposed Zoning Ordinance updates will ensure clear definition and regulation of the new medicinal cannabis businesses now possible due to the adoption of KRS 218B by the Kentucky General Assembly in 2023. The proposed text amendment will categorize the new agricultural and business uses in a consistent manner to other such uses in the Zoning Ordinance.

Staff Presentation – Ms. Wade presented the Zoning Ordinance text amendment to the Planning Commission. She briefly reiterated the history of KRS 218B that allowed for the production and sales of medical cannabis. She stated that, according to the new state law, local governments were able to regulate “the time, place, and manner of cannabis business operations”. She listed the types of cannabis businesses that would be receiving permits from the state, and also listed the cannabis related definitions that needed to be added to the Zoning Ordinance. Ms. Wade further listed and explained the land uses by zones that would be included in the cannabis related businesses. She displayed the staff recommended zones and uses for cultivators, processors, producers, safety compliance facilities, and dispensaries. She added that the Zoning Committee had recommended

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restrictions on the agricultural zones, as suggested by the Rural Land Management Board, to require conditional use permits for all cultivators in the agricultural zones.

Commission Questions – Mr. Nicol asked for clarification on “no undue hardship” in reference to wording from the state law. Ms. Wade replied that the law allowed for several options by local government, including opting out completely, or regulating the uses by “time, place, and manner”, while not imposing undue burden on the cannabis businesses. Mr. Nicol asked if changes to the proposed text would cause an undue burden, specifically addressing a conditional use for any business in the agricultural zones. Ms. Wade opined that the Board of Adjustment would hear the requests on a case-by-case basis, and that process would not cause an undue burden to a cannabis business.

Mr. Nicol asked why staff was recommending approval of their own text rather than making a recommendation on the changes made by the Zoning Committee. Ms. Wade replied that staff did not typically adopt changes made by a committee in their recommendation. She added that the same finding could be used for the Zoning Committee changes.

Ms. Meyer stated that she was in favor of a conditional use requirement across the board in the agricultural areas. She suggested an acreage limitation for cultivator tiers to protect the rural areas. She expressed concern that the structures could include additional square footage beside the growth area, and that could create very large buildings on smaller tracts.

Ms. Worth asked for clarification on the square footage of Tier III and Tier IV in the A-R Zone. Ms. Wade replied that there are 8 conditional uses that are not restricted to the 10,000 square feet currently. She further explained that they recommended that cultivators not be restricted to the 10,000 square feet so they would be consistent with other agricultural uses. She said that the square foot limitations were put in place for non-agricultural uses such as recreational facilities, places of worship, daycares, etc., so as to limit their impact on the surrounding areas.

Ms. Worth mentioned her concern over structures being too large for the agricultural zones. Ms. Wade stated that making the cultivators a conditional use would serve as a deterrent for large buildings in the rural areas because the business could potentially be in an industrial zone without a conditional use permit.

Mr. Owens asked if the recommended square feet was just growing area or did it also count the additional office space, storage, etc. Ms. Wade confirmed that was just considering growing area, because that is what the state had limited. Ms. Wade reminded the Planning Commission that the grow area could be stacked, to decrease structure size.

Mr. Nicol asked if there was any allowance for outdoor cultivation. Ms. Wade replied that cultivators would need to use secured indoor facilities.

Mr. Zach Davis told the Commission that he had recommended the across-the-board conditional uses in the agricultural zones because of the extra security and lighting that would be required.

Citizen Comments – Brittany Rothemeier, Fayette Alliance, stated that she felt that Tier III cultivators should be a conditional use in the agricultural zones, and that Tier IV Cultivators should be completely prohibited in the agricultural zones.

Commission Comments – Mr. Owens stated that he supported cultivator businesses being conditional uses only in the agricultural zones. He suggested that, because the cannabis could be stacked in layers, the buildings would not have to be as large. He said he would like the city to proceed with caution because of the unknowns, and was in favor of acreage limitations.

Ms. Meyer made some acreage suggestions as follows: Tier I shall have a 10-acre lot size minimum, and Tier II shall have a 40-acre lot size minimum in the agricultural zones. She agreed with other members that the Tier IV should not be allowed in any of the agricultural zones at the present time.

Mr. Zach Davis agreed with Ms. Meyers' acreage suggestions and also supported taking Tier IV out of the agricultural zones as well.

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There was some Commission discussion on the protection of the soils in the agricultural zones and the potential harm of the large structures that could be built.

There was also discussion among the members about current farms potentially adding a cannabis growing structure to the buildings that were already in place.

Mr. Zach Davis suggested added lighting restrictions to the language of the ZOTA. Mr. Horn, Planning and Preservation Commissioner, cautioned the members because they would not be able to decrease the lighting requirements that the state had imposed. The Commission had more discussion about lighting regarding security, solar power, and the health and safety of livestock. Ms. Wade advised the Planning Commission that a comprehensive lighting text amendment had been initiated by the Urban County Council and that could be an opportunity to address some of the lighting concerns that had been discussed.

Action – Mr. Pohl made a motion, seconded by Mr. Johnathon Davis, and carried 7-1 (Michler, Barksdale, and Wilson absent, Nicol opposed) to approve the Staff alternate text of **PLN-ZOTA-24-00002: REGULATION OF MEDICINAL CANNABIS BUSINESSES**, changing the proposed principal and accessory uses in all of the agricultural zones to conditional uses only, prohibiting Tier IV Cultivators in the agricultural zones, and adding the acreage limitations to the Cultivator Tiers as follows: Tier I - 10 acre minimum, Tier II – 40 acre minimum, Tier III - 100 acre minimum.

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