

ORDINANCE # 2014-28

**AMENDMENT TO SECTIONS 3.02 AND 10.01.C OF THE KENDALL COUNTY
ZONING ORDINANCE TO TEMPORARILY ALLOW MEDICAL CANNABIS
CULTIVATION CENTERS- TEMPORARY**

WHEREAS, the Illinois General Assembly enacted the Compassionate Use of Medical Cannabis Pilot Program Act, P.A. 98-122 (eff. Jan. 1, 2014), 410 ILCS 130/1 et seq. (“Act”), which allows for and regulates the cultivation, sale, distribution, and use of cannabis for medicinal purposes, and is repealed on January 1, 2018; and

WHEREAS, section 140 of the Act grants a unit of local government the authority to enact reasonable zoning ordinances or resolutions regulating registered medical cannabis cultivation centers; and,

WHEREAS, pursuant to the authority provided in 410 ILCS 130/140, Kendall County, a unit of local government, wishes to amend Sections 3.02 and 10.01.C of the Kendall County Zoning Ordinance (“Zoning Ordinance”) to regulate medical cannabis cultivation centers in the unincorporated areas of Kendall County, to protect the health, safety, and welfare of the community; ; and

WHEREAS, the Kendall County Board automatically repeals this amendment to Zoning Ordinance concurrent with the repeal of the Act, on January 1, 2018; and

WHEREAS, all administrative procedures required prior to passing amendments to the Kendall County Zoning Ordinance have been followed, including holding a public hearing, before the Kendall County Zoning Board of Appeals, which occurred on July 28, 2014; and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Sections 3.02- “Definitions” & 10.01.C “M-1 & M-2 Manufacturing District- Special Uses” of the Kendall County Zoning Ordinance as provided:

I. **RECITALS.** The recitals set forth above are incorporated as is fully set forth herein.

II. THE FOLLOWING TERMS ARE ADDED TO SECTION 3.02 “DEFINITIONS” OF ZONING ORDINANCE:

MEDICAL CANNABIS CULTIVATION CENTER or CULTIVATION CENTER. A facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. This definition is intended to remain

consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the statutory definition shall govern.

ENCLOSED, LOCKED FACILITY. A room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a Cultivation Center's agents or a Dispensing Organization's agent working for the registered Cultivation Center or the registered Dispensing Organization to cultivate, store, and distribute cannabis for registered qualifying patients. This definition is intended to remain consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the statutory definition shall govern.

MEDICAL CANNABIS DISPENSING ORGANIZATION or DISPENSING ORGANIZATION or DISPENSARY. A facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered Cultivation Center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. This definition is intended to remain consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the statutory definition shall govern.

MEDICAL CANNABIS INFUSED PRODUCT. Food, oils, ointments, or other products containing usable cannabis that are not smoked. This definition is intended to remain consistent with the definition provided in 410 ILCS 130/10, as amended. In the event of a conflict between this definition and the statute, the statutory definition shall govern.

III. THE FOLLOWING LANGUAGE IS ADDED TO SECTION 10.01.C
"MANUFACTURING DISTRICT- SPECIAL USE (M-1 & M-2)" OF ZONING
ORDINANCE:

10.01.C Medical Cannabis Cultivation Centers- Temporary (will be automatically repealed on January 1, 2018)

- a. **Definitions:** All terms not defined in section 3.02 of this Zoning Ordinance shall carry the meaning set forth in the Compassionate Use of Medical Cannabis Pilot Program Act ("Act") (410 ILCS 130/1 et seq.), as amended
- b. **Preliminary Requirements.** All Medical Cannabis Cultivation Center special use permit applicants shall comply with the following requirements before applying for a special use permit and shall maintain compliance at all times thereafter.
 1. *State laws.* Applicants must comply with the Compassionate Use of Medical Cannabis Pilot Program Act ("Act") (410 ILCS 130/1 et seq.) and all rules and regulations adopted in accordance thereto including the following sections of the Illinois Administrative Code: 8 Ill. Admin. Code 1000, 68 Ill. Admin. Code 1290, 77 Ill. Admin. Code 946 and 86 Ill. Admin. Code 130, and as amended.

2. *Registration.* Applicants must be registered with the Illinois Department of Agriculture
 3. *Location.* A Cultivation Center must be located more than 2,500 feet from the property line of any pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use, as required pursuant to 410 ILCS 130/105.
 4. *Security Measures.* Applicants must establish and maintain all required security measures, in accordance with the Act and all applicable regulations, to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.
 5. *Code Compliance.* Cultivation Centers must meet all federal, State and local building, zoning and fire codes and all local ordinance requirements.
 6. *Other Requirements:* Applicants, their agents and employees must comply with all other requirements identified in 410 ILCS 130/105, as amended.
- c. **Required Permit Information.** Upon applying for a Cultivation Center special use permit, the applicant must provide the following information:
1. A Security Plan that has been reviewed and approved by the Illinois State Police and is compliant with 410 ILCS 130/105, as amended, in addition to the rules set forth by the Illinois Department of Agriculture at 8 Ill. Admin. Code 1000 et seq.
 2. Evidence demonstrating the location of the enclosed, secure area or loading/unloading dock is or will be out of public sight for the loading/unloading of medical cannabis in the transport motor vehicle.
 3. A scale drawing of the front, rear, or side of the building or structure showing dimensions and architectural details (Building Elevations); and
 4. A location map demonstrating the property meets location conditions identified in 410 ILCS 130/105, as amended, and
 5. Proof that applicant is registered with the Illinois Department of Agriculture.
- d. **Operational and Facility Requirements:**
1. *Enclosed, Locked Facility.* All cultivation of cannabis for distribution to a registered Dispensing Organization shall take place in an Enclosed, Locked Facility.
 2. *Storage.* No outdoor storage of any kind will be permitted at Cultivation Centers.
 3. *Edibles.* Any area within the Cultivation Center where cannabis will be manufactured into an edible form shall comply with the Illinois Food, Drug and Cosmetic Act, 410 ILCS 620 et. seq., the Illinois Sanitary Food Preparation Act, 410 ILCS 650 et. seq., the Illinois Food Handling Regulation Enforcement Act, 410 ILCS 650 et. seq., and section 80 of the Act, 410 ILCS 130/80.
 4. *Waste.* Cannabis waste shall be stored, secured, locked and managed in accordance with State regulations for the disposal of medical cannabis with

the requirements set forth in 410 ILCS 130/180 and 8 Ill. Admin. Code. 1000.460, as amended respectively.

5. *Signs.* All signage shall comply with Section 12 of the Kendall County Zoning Ordinance. Signs shall not contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth or language referencing cannabis. Electronic message boards and temporary signs are not permitted in connection with a Cultivation Center.
6. *Other Products.* It shall be prohibited to cultivate, manufacture, process or package any product, other than medical cannabis and cannabis infused products at a Cultivation Center.
7. *Fence.* All Cultivation Centers must be surrounded by a fence a minimum of eight (8) feet tall with barbed wire on top.
8. *Registration.* The owner or operator of a Cultivation Center must submit annual documentation of registration with the Illinois Department of Agriculture within thirty days of becoming registered or renewing its registration.

e. Legal Protections.

1. *Limitation of Liability.* Kendall County Shall not be liable to the permitted Cultivation Center, the Cultivation Center's owners, employees, board members, producer backers, vendors, visitors, heirs, assigns, agents, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of, or resulting from the permitted, Cultivation Center's participation in the Compassionate Use of Medical Cannabis Pilot Program, including, but not limited to, the following: arrest, seizure of persons or property, prosecution pursuant to State or federal laws by State or federal prosecutors, any fire, robbery, theft, mysterious disappearance or any other casualty; or the action of any other permittees, registrants, or persons. This Limitation of Liability provision shall survive expiration or the early termination of the permit.
2. *Indemnification.* The permitted Cultivation Center, its owners, employees, board members, producer backers, vendors, visitors, heirs, assigns, agents, family members or guests shall hold harmless and indemnify Kendall County, its officials, officers and employees, including past, present, and future board members, elected officials and agents against any civil action or criminal penalty commenced against Kendall County and/or its officials, officers and employees, including past, present, and future board members, elected officials and agents, through counsel of their own choosing, based upon illness or death as a result of the possession, cultivation, transportation or other use of medical cannabis ingested in any way authorized under the provision of the Act. Pursuant to Illinois law 55 ILCS 5/3-9005, any attorney representing Kendall County, shall be approved by the Kendall County State's Attorney and shall be appointed a Special Assistant State's Attorney.
3. *Violations of the Law.* The Act and any mandated zoning does not authorize any permittee to violate federal or state laws.

- f. **Revocation:** Any special use permit granted under this Zoning Ordinance may be revoked for failure to comply with the terms of this Zoning Ordinance. The decision to revoke a special use permit is subject to the review procedure identified in section 13 of the Zoning Ordinance.

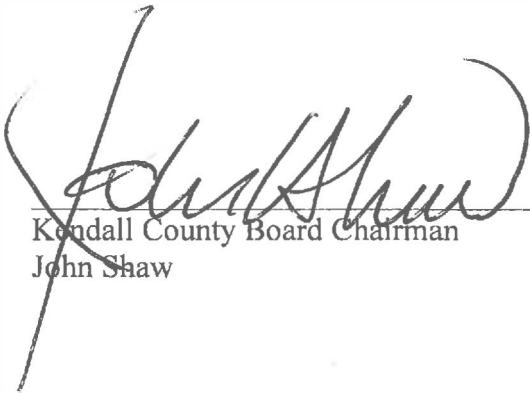
IV. **REPEAL.** This amendment to the Zoning Ordinance is automatically repealed, in its entirety, on January 1, 2018.

IN WITNESS OF, this amendment to the Zoning Ordinance has been enacted by a majority vote of the Kendall County Board this 16th day of September, 2014 and is automatically repealed on January 1, 2018.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
John Shaw