

ORDINANCE # 2014- 31

**AMENDMENT TO SECTION 10.01.C OF THE KENDALL COUNTY ZONING
ORDINANCE TO TEMPORARILY ALLOW MEDICAL CANNABIS DISPENSING
ORGANIZATIONS - 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which allows for and regulates the cultivation, sale, distribution, and use of cannabis for medicinal purposes, and is repealed on January 1, 2018; and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 dispensing organizations; and,

WHEREAS, pursuant to the authority provided in 410 ILCS 130/140, Kendall County, a unit of local government, wishes to amend Section 10.01.C of the Kendall County Zoning Ordinance (“Zoning Ordinance”) to regulate medical cannabis dispensing organizations 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 September 3, 2014; and

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Section 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 if fully set forth herein.
- II. **THE FOLLOWING LANGUAGE IS ADDED TO SECTION 10.01.C “MANUFACTURING DISTRICT- SPECIAL USE (M-1 & M-2)” OF ZONING ORDINANCE:**

10.01(C) (11) Medical Cannabis Dispensing Organization- Temporary (will be automatically repealed on January 1, 2018)

- a. **Definitions:** All terms not defined in section 3.02 of this 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 Dispensing Organization 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.
 - i. *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.
 - ii. *Location.* A Dispensing Organization may not be located within 1,000 feet of 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. A registered dispensing organization may not be located in a house, apartment, condominium, or an area zoned for residential use, as required pursuant to 410 ILCS 130/130 and Section 1290.50 of the Department of Financial and Professional Regulation rules.
 - iii. *Images.* No dispensary shall be maintained or operated in a manner that causes, creates or allows the public viewing of medical cannabis, medical cannabis infused products or cannabis paraphernalia or similar products from any sidewalk, public or private right-of-way or any property other than the lot on which the dispensary is located. No portion of the exterior of the dispensary shall utilize or contain any flashing lights, search lights or spot lights of any similar lighting system.
 - iv. *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.
 - v. *Code Compliance.* Dispensing Organizations must meet all federal, State and local building, zoning and fire codes and all local ordinance requirements.
 - vi. *Other Requirements:* Applicants, their agents and employees must comply with all other requirements identified in 410 ILCS 130/130, as amended.
- c. **Required Permit Information.** Upon applying for a Dispensing Organization special use permit, the applicant must provide the following information:
 - i. A scale drawing of the front, rear, or side of the building or structure showing dimensions and architectural details (Building Elevations); and

- ii. A location map demonstrating the property meets location conditions identified in 410 ILCS 130/130 & Section 1290.50.19, as amended.
- d. **Operational and Facility Requirements:**
- i. *Enclosed, Loading/unloading bay.* All medical cannabis deliveries shall take place in an Enclosed, Locked Facility.
 - ii. *Storage.* No outdoor storage of any kind will be permitted at Dispensing Organizations.
 - iii. *Advertisement/Signs.*
 - 1. All signage shall comply with Section 12 of the Kendall County Zoning Ordinance.
 - 2. Signs shall not contain cannabis imagery such as cannabis leaves, plants, smoke, paraphernalia, or cartoonish imagery oriented towards youth or language referencing cannabis.
 - 3. Electronic message boards and temporary signs are not permitted in connection with a Dispensing Organization.
 - 4. Any additional merchandise packaging provided by a dispensary, such as bags, sacks, totes or boxes, shall be opaque and identify the name of the dispensing organization. .
 - 5. No Advertisements shall be placed or maintained within 1,000 feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park or library, or any game arcade admission to which is not restricted to persons age 21 or older.
 - 6. No advertisement shall be posted on publicly-owned or -operated property.
 - 7. If the dispensing organization sells edible cannabis infused products, it must display a placard that states the following: "Edible cannabis infused products were produced in a kitchen not subject to public health inspections that may also process common food allergens." The placard shall be no smaller than 24" tall by 36" wide, with typed letters no smaller than 2". The placard shall be clearly visible and readable by customers and shall be written in English.
 - iv. *Other Prohibitions.* A dispensing organization shall not:
 - 1. produce or manufacture cannabis;
 - 2. allow consumption of cannabis at the dispensary;
 - 3. sell cannabis unless it is pre-packaged and labeled in accordance with Part, 8 Ill. Adm. Code 1000 and 77 Ill. Adm. Code 946;
 - 4. sell cannabis or cannabis-infused products to consumer unless the consumer presents an active registered qualifying patient or designated caregiver card issued by DPH;
 - 5. enter into an exclusive agreement with any cultivation center;

6. operate drive through windows;
 7. transport cannabis to residences of registered qualifying patients or designated caregivers;
 8. operate if video surveillance equipment is inoperative;
 9. operate if the point of sale equipment is inoperative;
 10. operate if the State's medical cannabis electronic verification system is inoperative; or,
 11. have fewer than two people working at any time while the dispensary is open.
- v. *Landscaping.* All dispensing organizations shall ensure that trees, bushes and other foliage outside of the dispensary premises do not allow for a person or persons to conceal themselves from sight.
 - vi. *Lighting.* All dispensing organizations shall ensure the outside perimeter of the dispensary premises is sufficiently lit to facilitate surveillance.
 - vii. *Hours of operation:* A dispensary may operate between 6 a.m. and 8 p.m. local time.

e. Legal Protections.

- i. *Limitation of Liability.* Kendall County Shall not be liable to the permitted Dispensing Organization, the Dispensing Organization'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, Dispensing Organization'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.
- ii. *Indemnification.* The permitted Dispensing Organization, 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 the County's own choosing, due in whole or in part to the Dispensing Organization's acts or omissions and/or for any 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.

iii. *Violations of the Law.* The Act and any mandated zoning does not authorize any permittee to violate federal or state laws.

f. **Revocation:**

i. Any special use permit granted under this ordinance may be revoked for failure to comply with the terms of this ordinance. The decision to revoke a special use permit is subject to the review procedure identified in section 13 of the Kendall County Zoning Ordinance.

ii. Applicants must be registered with the Illinois Department of Financial and Professional Regulation prior to commencing operations and shall remain registered at all times of operation. The Dispensing Organization must notify Kendall County within ten (10) days of its registration being suspended or revoked. Failure to register or timely notify Kendall County of the suspension or revocation will result in immediate revocation of the special use.

III. **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 18th day of November, 2014 and is automatically repealed on January 1, 2018.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
John Shaw