

## **PLANNING COMMISSION MINUTES**

**May 30, 2024**

### **PUBLIC HEARING**

#### **CASE NO. 24-LDC-0007**

Request:	Land Development Code Amendment
Project Name:	Medical Marijuana (Cannabis) Related Uses
Jurisdiction:	Louisville Metro/Jefferson County
Council District:	All Districts
Case Manager:	Joseph Haberman, Planning & Design Manager

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Office of Planning offices, 444 S. 5th Street.)

#### **Agency Testimony:**

Joe Haberman provided an overview of an amendment to the LDC concerning medical cannabis related uses. Haberman elaborated on the operations of having a marijuana business and discussed the proposed LDC amendments. Haberman also mentioned the process that a practitioner has to take when prescribing marijuana. Haberman responded to questions from the commission members (see recording for details).

#### **The following spoke in favor of this request:**

None

#### **The following spoke as neutral to this request:**

David Wicking, 4321 Comanche Trail, Louisville, KY 40207

#### **Summary of testimony of those in neutral:**

David Wicking spoke as neutral to the proposal. Wicking voiced his concerns pertaining to the statement that criminal activity happens close to a dispensary and that the language is setting up citizens of Jefferson County to think that they have people conducting illegal activity. Wicking stated that there is no smoking products and cannabis products can only be consumed in a capsule form or gummy. Wicking elaborated on the benefits of having a drive-thru at a dispensary. Wicking responded to questions from the commission members (see recording for details)

#### **Rebuttal:**

Joe Haberman spoke in rebuttal. Haberman clarified his concerns pertaining to the non-conforming language and proposed regulation within the Land Development Code.

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Haberman responded to questions from the commission members (see recording for details)

#### Deliberation

Planning Commission deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Office of Planning website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

**WHEREAS**, the Planning Commission finds Louisville Metro's current comprehensive plan, known as Plan 2040, became effective on January 1, 2019, and

**WHEREAS**, the Planning Commission finds Plan 2040 sets a framework for growth by using five guiding principles – Connected, Healthy, Authentic, Sustainable, and Equitable (CHASE) – to strategically manage all the benefits and challenges that come from adding more people, and

**WHEREAS**, the Planning Commission finds Plan 2040 includes a Livability Element that provides guidance and direction for the provision and maintenance of the resources necessary for the health and wellbeing of citizens. This includes a focus on public health, promoting access to fresh food and health care, as well as designing places for health and safety, and

**WHEREAS**, the Planning Commission finds Livability Goal 2 of Plan 2040 is to ensure equitable health and safety outcomes for all; and

**WHEREAS**, the Planning Commission finds Community Form Goal 2, Policy 2 of Plan 2040 states: Encourage development of non-residential and mixed uses in designated activity centers provided proposed uses, density and design are compatible with adjacent uses and meets Form District guidelines; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council, and legislative bodies of cities with zoning authority **APPROVE** the amendments to the Land Development Code as follows:

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**1.2.2 Definitions**

For the purposes of Chapters 1 through 11 the following terms, phrases, words and their derivations shall have the meaning contained herein, except where the context clearly requires otherwise.

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**Athletic Facility, Indoor and Outdoor** – A place designed and equipped primarily for observation and/or training of sports, including but not limited to a sports field, basketball or tennis court, stadium, or arena. Accessory facilities include, but are not limited to, equipment storage facilities, spectator seating, refreshment stands, restrooms, locker rooms and parking. The term does not include paint ball ranges or animal racetracks.

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**Child Care Center** – Child care for any size group of children.

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**Community Center** - A facility that is available for public use as a meeting place or for recreation that does not limit access only to members and does not charge membership dues.

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**Medical or Medicinal Marijuana** – See Medicinal Cannabis.

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**Medical or Medicinal Cannabis** – As defined in KRS 218B.010: (a) 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; (b) includes medicinal cannabis products and raw plant material; and (c) does not include industrial hemp or industrial hemp products as defined in KRS 260.850.

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**Medicinal Cannabis Business** – As defined in KRS 218B.010, an entity licensed under KRS 218B as a cultivator, dispensary, processor, producer, or safety compliance facility.

**Medicinal Cannabis Cultivator** – A Medicinal Cannabis Business that plants, raises, harvests, trims, and/or cures raw plant material in an indoor facility, licensed as such under KRS 218B.080, 218B.085, and 218B.090.

**Medicinal Cannabis Dispensary** – A Medicinal Cannabis Business that purchases and sells finished products to medical cannabis cardholders, licensed as such under KRS 218B.080, 218B.085, and 218B.090.

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**Medicinal Cannabis Practitioner** – As defined in KRS 218B.010, a physician or an advanced practice registered nurse who is authorized to prescribe controlled substances under KRS 314.042, who is authorized by his or her state licensing board to provide written certifications pursuant to KRS 218B.050.

**Medicinal Cannabis Processor** – A Medicinal Cannabis Business that processes and packages raw plant material into usable product formats, licensed as such under KRS 218B.080, 218B.085, and 218B.090.

**Medicinal Cannabis Producer** – A Medicinal Cannabis Business that acts as both a Medicinal Cannabis Cultivator and a Medicinal Cannabis Processor, licensed as such under KRS 218B.080, 218B.085, and 218B.090.

**Medicinal Cannabis Safety Compliance Facility** – A Medicinal Cannabis Business involved in contamination and purity testing of raw plant material and medical cannabis products, licensed as such under KRS 218B.080, 218B.085, and 218B.090.

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**Park** – A relatively large open space available for recreation and usually located at the edge of a development, neighborhood or village. It may be surrounded by roadways, the fronts of buildings, or the side or rear of publicly or privately owned lots. It is usually partially enfronted by buildings and has a landscape which may consist of natural areas, paved paths and trails, some open lawn, trees, recreational facilities and open shelters, and requires substantial maintenance.

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**Playground** - A relatively small open space containing play equipment and areas for active recreation.

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**Recreation (Use), Outdoor** - Any premises (whether public or private) where the principal use is the provision of outdoor amusements, sports, games, athletic facilities, or other outdoor recreational facilities and/ or services except golf courses.

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**Religious Building** - Any building and the grounds of a building used by an association of persons for religious worship and associated buildings and grounds used for instruction regarding the tradition and tenets of a religious faith or for offices of persons engaged in the faith based activities of the religion or for social and recreational purposes or child care centers, or as a meeting hall. Such buildings and grounds may not also be used for retail sales or other merchandising purposes, except that such buildings and grounds may be used for religious bazaars and suppers. No such building or portion of a building may be used primarily as a commercial theater, except that occasional plays or pageants for which a price of admission is charged may be held. Churches, synagogues, temples and mosques are considered religious buildings for purposes of this Land Development Code.

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**School** – A facility used for education or instruction in any branch of knowledge, and including the following: elementary, middle and high schools, whether public or private; colleges, community colleges and universities; vocational and professional schools giving instruction in vocational, professional, technical, industrial, musical, dancing, dramatic, artistic, linguistic, scientific, religious or other special subjects. This term does not include child care centers if separate from elementary schools.

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#### **4.2.67 Medicinal Cannabis Safety Compliance Facility or Medicinal Cannabis Dispensary in a C-2 or C-3 district**

A Medicinal Cannabis Safety Compliance Facility or Medicinal Cannabis Dispensary may be allowed in a C-2 or C-3 district upon the granting of a Conditional Use Permit and compliance with the following requirements. This section does not apply to any Safety Compliance Facility or Dispensary that may be permitted with special standards pursuant to Section 4.3.30 of this Land Development Code.

A. A Safety Compliance Facility or Dispensary shall be not located within 1,000 feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):

1. A facility used for education or instruction in any branch of knowledge, and including the following: elementary, middle and high schools, whether public or private

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2. Child Care Center

This separation is required by KRS and is not subject to relief.

B. A Dispensary shall not be located within 1,000 feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):

1. Park
2. Public Playground
3. Recreation (Use), Outdoor
4. Public Community Center
5. Athletic Facility, Indoor and Outdoor
6. Public Library
7. Religious Building
8. Another Dispensary

C. Medicinal cannabis consumption is not permitted on the premises.

D. All business activity must occur indoors within a secure building, excluding any activity at a permitted loading area, drive-through window, or curbside pickup space. The building or secure structure shall meet all applicable state and local building codes. Such use is not permitted in a mobile or temporary building/structure.

E. The hours of operation for a Dispensary shall be no earlier than eight (8) A.M. and no later than eight (8) P.M.

F. A Dispensary shall not be located at the same site and location used for growing, cultivating, or processing medicinal cannabis or in the same office space as a Medicinal Cannabis Practitioner or other physician.

G. For a Dispensary, there shall be at least three off-street parking spaces per 1,000 square feet of retail floor area. Additional parking may be required by the Board of Zoning Adjustment based on the land uses and density of the immediate vicinity. A Dispensary

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shall have a secure area for the loading and unloading of medicinal cannabis into and from a transport vehicle.

H. For a Safety Compliance Facility, parking shall be provided for an office pursuant to Chapter 9 of this Land Development Code. Additional parking may be required by the Board of Zoning Adjustment based on the land uses and density of the immediate vicinity.

I. A Safety Compliance Facility or Dispensary shall not operate until it has been issued a license from the Commonwealth of Kentucky pursuant to KRS.

Editor's Note: See KRS 218B.140 and 915 KAR 1:070 for more information.

In the event any regulation in this section is in conflict with state law (KRS) or state regulations (KAR), the more restrictive provision shall apply.

#### **4.3.30 Medicinal Cannabis Safety Compliance Facility or Medicinal Cannabis Dispensary**

In the C-M, EZ-1, PEC, M-1, M-2, and M-3 zoning districts, Medicinal Cannabis Safety Compliance Facilities and Medicinal Cannabis Dispensaries may be permitted in accordance with the following special standards:

A. A Safety Compliance Facility or Dispensary shall be not located within 1,000 feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):

1. A facility used for education or instruction in any branch of knowledge, and including the following: elementary, middle and high schools, whether public or private
2. Child Care Center

This separation is required by KRS and is not subject to relief. As this land use is permitted with special standards, an advanced approval by the Office of Planning is not formally required by this Land Development Code. The burden is on the property owner/dispensary agent to determine compliance with these separation requirements prior to investment in the site and/or operation.

B. A Dispensary shall not be located within 1,000 feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):

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1. Park
2. Public Playground
3. Recreation (Use), Outdoor
4. Public Community Center
5. Athletic Facility, Indoor and Outdoor
6. Public Library
7. Religious Building
8. Another Dispensary

This separation requirement is eligible for a waiver in accordance with Chapter 11, Part 8 of the LDC. As this land use is permitted with special standards, an advanced approval by the Office of Planning is not formally required by this Land Development Code. The burden is on the property owner/dispensary agent to determine compliance with these separation requirements prior to investment in the site and/or operation.

C. Medicinal cannabis consumption is not permitted on the premises.

D. All business activity must occur indoors within a secure building, excluding any activity at a permitted loading area, drive-through window, or curbside pickup space. The building or secure structure shall meet all applicable state and local building codes. Such use is not permitted in a mobile or temporary building/structure.

E. The hours of operation for a Dispensary shall be no earlier than eight (8) A.M. and no later than eight (8) P.M.

F. A Dispensary shall not be located at the same site and location used for growing, cultivating, or processing medicinal cannabis or in the same office space as a Medicinal Cannabis Practitioner or other physician.

G. For a Dispensary, there shall be at least three off-street parking spaces per 1,000 square feet of retail floor area. A Dispensary shall have a secure area for the loading and unloading of medicinal cannabis into and from a transport vehicle.

H. For a Safety Compliance Facility, parking shall be provided for an office pursuant to Chapter 9 of this Land Development Code.

I. A Safety Compliance Facility or Dispensary shall not operate until it has been issued a license from the Commonwealth of Kentucky pursuant to KRS.



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Editor's Note: See KRS 218B.140 and 915 KAR 1:070 for more information.

In the event any regulation in this section is in conflict with state law (KRS) or state regulations (KAR), the more restrictive provision shall apply.

#### **4.3.31 Medicinal Cannabis Cultivator, Processor, or Producer:**

In the C-M, EZ-1, PEC, M-1, M-2, and M-3 zoning districts, Medicinal Cannabis Cultivators, Processors, and Producers may be permitted in accordance with the following special standards:

A. A Medicinal Cannabis Cultivator, Processor, or Producer shall be not located within 1,000 feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):

1. A facility used for education or instruction in any branch of knowledge, and including the following: elementary, middle and high schools, whether public or private
2. Child Care Center

This separation is required by KRS and is not subject to relief. As this land use is permitted with special standards, an advanced approval by the Office of Planning is not formally required by this Land Development Code. The burden is on the property owner/dispensary agent to determine compliance with these separation requirements prior to investment in the site and/or operation.

B. All business activity must occur in an enclosed, locked facility. Enclosed, locked facility means an indoor growing space such as a room, greenhouse, building, or other indoor enclosed area that is maintained and operated by a cultivator or producer and is equipped with locks and other security devices that permit access only by authorized agents of the cultivator or producer, as required by KRS or KAR.

C. Parking shall be provided for a primarily plant or factory pursuant to Chapter 9 of this Land Development Code.

D. If the parcel abuts residential, office, and/or commercial use, a ventilation/air filtration system is required that prevents odor from being detectible at the boundaries of the parcel where it abuts such residential, office, and/or commercial use.

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- E. The cultivation of medicinal cannabis is not permitted as part of any agriculture use allowed in this Land Development Code unless otherwise exempted from local regulation by state law.
- F. A Medicinal Cannabis Cultivator, Processor, or Producer shall not operate until it has been issued a license from the Commonwealth of Kentucky pursuant to KRS.

Editor's Note: See KRS 218B.140 and 915 KAR 1:070 for more information.

In the event any regulation in this section is in conflict with state law (KRS) or state regulations (KAR), the more restrictive provision shall apply.

**The vote was as follows:**

**YES: Commissioners Carlson, Mims, Kern, Fischer, Cheek, and Sistrunk**

**ABSENT: Commissioner Howard**