

Kane County Development
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MEMO

Date: May 14, 2014

To: Kane County Development Committee

From: Mark VanKerkhoff, AIA, Director, Zoning Enforcing Officer

Re: Draft Text Amendments to the Kane County Zoning Ordinance to allow Interim Special Uses related to State licensed controlled substances (Medical Cannabis Cultivation and Dispensing Centers) in certain specified districts as well as allow interim special uses (not related to medical cannabis) in the F2 Zoning District

Background

- State Law effective January 1, 2014, until December 31, 2018
- Second draft of proposed rules released April 18, 2014
- Latest rules allow for:
 - One Cultivation Center in State Police District 2 (Kane, DuPage, DeKalb, McHenry and Lake Counties)
 - Two Dispensing Centers in all of Kane County – incorporated and unincorporated (reduced from three in first draft)

Proposed Approach to Zoning Regulations for Unincorporated Kane County

- Define Cultivation Centers as an "Interim Special Use" in the F District -Farming, F2 District - Agricultural Business, B3 District - Business, LI District - Light Industrial and I District - Industry.
- Define Dispensing Centers as an "Interim Special Use" in the RB District - Restricted Business, B1 District - Business, and B3 District – Business.
- Interim Special Uses would be subject to a public hearing and require County Board approval. They could be limited to 5 years (requiring renewal) and could be specified to automatically terminate when the State Law expires on December 31, 2018.

In the current Zoning Ordinance, Interim Special Uses are only allowed in the F District - Farming.

The attached draft text amendments would also allow Interim Special Uses in the F2 District that are not related to medical cannabis.

The Interim Special Use has been used effectively in the F District to *“utilize existing land, structures and facilities which represent a valuable economic base, but which might remain idle or unused”*. Typically, such structures include those formerly used for agriculture, but are vacant due to changes in agricultural practices.

The F2 District is restricted to uses which are *“agriculturally related sales, services, processing, research, warehousing and marketing activities and other related uses that are dependent upon, or closely allied to, the agricultural industry”*. Because of the current economy, a number of properties and structures previously granted F2 Zoning are currently vacant. Due to the fact the Interim Special Uses are currently only allowed in the F District, non-agricultural related short term economic uses are not allowed.

Proposed Schedule *

May 14, 2014	Development Committee - Proposed approach and draft text
Early June	Zoning Board of Appeals Public Hearing on draft text
June 11, 2014	Development Committee – review draft text and public comments
July 2, 2014	Executive Committee
July 8, 2014	County Board

What is at Stake?

If Kane County does not revise the Zoning Ordinance, these centers could apply for building permits to open in unincorporated areas without zoning approval, and could be located near municipalities without their input.

DRAFT AMENDMENTS TO THE KANE COUNTY CODE
APPENDIX B, ZONING ORDINANCE

Development Committee Review
May 14, 2014

ARTICLE III. RULES AND DEFINITIONS

Section 3.1. Established.

Use, interim special: A special use that may be granted on zoning lots in the F and F-2 Districts which might remain unused or unoccupied by uses otherwise permitted in the district. An "interim special use" may be granted for only a limited period of time, not to exceed (5) years.

Use, interim for cultivation of controlled substances licensed by the State of Illinois: An interim use that may be granted on zoning lots in the F, F-2, B-3, LI and I specifically for the cultivation of controlled substances licensed by the State of Illinois. An "interim special use" may be granted for only a limited period of time, not to exceed (5) years.

Use, interim for dispensing of controlled substances licensed by the State of Illinois: An interim use that may be granted on zoning lots in the RB, B-1, and B-3 specifically for the dispensing of controlled substances licensed by the State of Illinois. An "interim special use" may be granted for only a limited period of time, not to exceed (5) years.

ARTICLE VIII. FARMING DISTRICT

Sec. 8.1. F District – Farming

Sec. 8.1-2. *Special Uses.*

- cc. ~~In order to utilize existing land, structures and facilities which represent a valuable economic base, but which might remain idle or unused, out-of-spot zoning consideration, an "interim special use" is established for the F District classification only. Such use shall be in accordance with the requirements set forth in Section 4.8 of this Ordinance. In its recommendation to the County Board, the Zoning Board of Appeals shall specify time limitations and any other conditions they may deem appropriate for the protection of the area.~~

In order to utilize land, lots, buildings or structures, which might remain unused or unoccupied by uses otherwise permitted in this district, an "interim special use" may be established in accordance with the requirements set forth in Section 4.8 of this Ordinance. In addition to the standards set forth in Section 4.8-2 (a) through (f), the interim special use must be compatible with the character and intensity of other structures and uses permitted in this District. In its recommendation to the County Board, in addition to the standards set forth in Section 4.8-2 (a) through (f), the Zoning Board of Appeals shall also find that the proposed interim special use would be compatible with other uses permitted in

this District. An interim special use shall be authorized for a limited period of time only, not to exceed five (5) years.

- ii. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.

Sec. 8.3. F2 District - Agricultural related sales, service, processing, research, warehouse and marketing: Special uses.

The purpose and intent of this district is to provide for the proper location and regulation of agriculturally related sales, services, processing, research, warehousing and marketing activities and other related uses that are dependent upon, or closely allied to, the agricultural industry.

Any use established in the F2 District hereafter shall be operated in such a manner as to comply with the applicable performance standards as set forth in Article XI, Section 11.1-5 of this ordinance.

8.3-1 Permitted Uses.

All uses in this district are special uses and must be approved in accordance with procedures and requirements of Section 4.8, Special Uses, of this ordinance.

8.3-2 Special Uses.

The following special uses may be allowed in the F2 District:

- a. Agriculturally related research and facilities;
- b. Contract sorting and grading services for grains, fruits, vegetables and other agricultural products;
- c. Shelling, drying, baling and threshing of agricultural crops;
- d. Horticultural services;
- e. Preparation of feeds for animals and fowl;
- f. Livestock sales facilities, including auctions;
- g. Grain elevators and bulk storage of feed grains;
- h. Fertilizer production, sales, storage, mixing and distribution;
- i. Transportation related activities primarily serving the basic agricultural industry;
- j. Repair of farm machinery, implements and related farming equipment.

- k. In order to utilize land, lots, buildings or structures, which might remain unused or unoccupied by uses otherwise permitted in this district, an "interim special use" may be established in accordance with the requirements set forth in Section 4.8 of this Ordinance. In addition to the standards set forth in Section 4.8-2 (a) through (f), the interim special must be compatible with the character and intensity of other structures and uses permitted in this District. In its recommendation to the County Board, in addition to the standards set forth in Section 4.8-2 (a) through (f), the Zoning Board of Appeals shall also find that the proposed interim special use would be compatible with other uses permitted in this District. An interim special use shall be authorized for a limited period of time only, not to exceed five (5) years.
- l. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.

8.3-3 Uses Expressly Prohibited.

Residences and apartments are prohibited, except those required for watchman or attendant whose continual presence on the premises is necessary. In this connection, trailers or mobile homes shall not be permitted. (Ord. No. 82-66, 5-11-82; Ord. No 92-187, 9-8-92)

ARTICLE X. BUSINESS DISTRICTS

Sec. 10.1. RB District – Restricted Business

Sec. 10.1-2. *Special Uses.*

- a. Special uses compatible with other uses permitted in this District may be considered in the manner prescribed, as outlined in Section 4.8 (Ord. No. 08-07, 1-8-08)
- b. Interim use for a limited period of not more than five (5) years specifically for the dispensing of controlled substances licensed by the State of Illinois.

Sec. 10.2. B1 District – Business

Sec. 10.2-2. *Special Uses.*

- g. Interim use for a limited period of not more than five (5) years specifically for the dispensing of controlled substances licensed by the State of Illinois.

Sec. 10.4. B3 District – Business

Sec. 10.4-2. *Special Uses.*

- p. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.
- g. Interim use for a limited period of not more than five (5) years specifically for the dispensing of controlled substances licensed by the State of Illinois.

Sec. 11.1. LI District – Light Industry

Sec. 11.1-2. *Special Uses.*

Because permitted uses in the LI District are determined by compliance with applicable performance standards, there shall be not special uses except for as follows:

- a. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.

Sec. 11.2. I District – Industry

Sec. 11.2-1 Permitted Uses

In the I District any use is permitted except the following:

- m. Cultivation of controlled substances licensed by the State of Illinois.
- n. Dispensing controlled substances licensed by the State of Illinois.

Sec. 11.2-2. *Special Uses.*

The following special uses may be allowed in the I District subject to the provisions of Section 4.8 of this ordinance:

- a. Interim use for a limited period of not more than five (5) years specifically for the cultivation of controlled substances licensed by the State of Illinois.

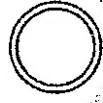
HB0001
**Compassionate Use of Medical
Cannabis Pilot Program Act**

UPDATE

MARK VANKERKHOFF,
DIRECTOR,
DEVELOPMENT & COMMUNITY SERVICES DEPARTMENT

MAY 14, 2014

Topics for Discussion



- Second draft of proposed rules released 4/18/2014
- Proposed approach to Zoning Regulations and draft text for revisions to Zoning Ordinance

Overview



- A four year pilot program that begins January 1, 2014.
- Highly regulated medical cannabis pilot program that is specific to debilitating conditions
- 22 Cultivation Centers
- 60 Dispensing Centers
- Regulated by 3 Illinois State Departments

Governmental Agencies with Oversight



- Illinois Department of Public Health
- Illinois Department of Agriculture
 - Cultivation centers
- Illinois Department of Financial and Professional Regulations
 - Dispensing Organizations

Current Status of Cultivation Centers and Dispensing Organizations

- DOA and DFPR had 120 days from January 1, 2014 to file administrative rules with the Joint Committee on Administrative Rules (JCAR).
- The First Notice period is completed.
- Second Notice period began on 4/18/2014 and lasts a maximum of 45 days with the possibility of a 45 day extension.
- Once the administrative rules are adopted, DOA and DFPR will establish the application process for cultivation centers dispensing organizations.

Local Ordinances



- Cannabis must be grown in Illinois to be dispensed by the dispensing centers.
- Local government may enact reasonable zoning ordinances or resolutions that are not in conflict with the Act.
- May not unreasonably prohibit the cultivation or dispensing of medical cannabis

Local Ordinances



- **Cultivation Centers:**

The Department of Agriculture may register up to 22 cultivation center registrations for operation. The Department of Agriculture may not issue more than one registration per each Illinois State Police District boundary. The Department of Agriculture may not issue less than the 22 registrations if there are qualified applicants who have applied with the Department.

A cultivation center may only operate if it has been issued a valid registration from the Department of Agriculture.

Update: Current draft rules still only allow one State Police District 2 (Kane, DuPage, DeKalb, McHenry and Lake Counties)



Local Ordinances

• Dispensing Organizations:

The Department of Financial and Professional Regulation may issue up to 60 dispensing organization registrations for operation. The organizations shall be geographically dispersed throughout the State to allow all registered qualifying patients reasonable proximity and access to a dispensing organization.

A dispensing organization may only operate if it has been issued a registration from the Department of Financial and Professional Regulation.

Update: Current draft rules allow up to two in all of Kane County

Local Ordinances



- **The Act already restricts the locations of Dispensing Organizations**

A dispensing organization may not be located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or 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.

- **The Act does not define “reasonable” or “unreasonable”. More definition may be forthcoming in the rules developed by the State in the first half of 2014.**

Local Ordinances

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