

**ORDINANCE**  
**Zoning Petition T-1-14**  
**(Request to Waive 1<sup>st</sup> Reading)**

**T-1-14 Text Amendments to the DuPage County Zoning Ordinance relative to Medical Cannabis  
Dispensaries and Cultivation Centers**

WHEREAS, a public hearing was held on Thursday October 23, 2014 in the DuPage County Administration Building, 421 North County Farm Road, Wheaton, Illinois at 6:00 p.m. before the DuPage County Zoning Board of Appeals and notice of said hearing was duly given; and

WHEREAS, a petition was presented at this hearing requesting Text Amendments to the DuPage County Zoning Ordinance attached hereto and made a part hereof as Exhibit #1 relative to the following:

T-1-14 Text Amendments to the County Zoning Ordinance relative to Medical Cannabis Dispensaries and Cultivation Centers

WHEREAS, the Zoning Board of Appeals, having considered in relation to the above requested zoning petition presented at the above hearing and at the recommendation meeting held on November 6, 2014 does find as follows:

**FINDINGS OF FACT:**

- A. The Zoning Board of Appeals (ZBA) finds that the Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122) (The Act), was signed into law August 2013 with an effective date of January 1, 2014 and that it is the law of the land in the State of Illinois to allow for the cultivation, dispensing and purchase of Medical Cannabis.
- B. The ZBA finds that the “Act” allows for the establishment of medical cannabis dispensaries and cultivation centers and the prescribing of medical cannabis to patients throughout Illinois upon the State’s subsequent adoption of Administrative Rules within 120 days of the Act’s effective date and that those rules have now been adopted by the state agencies.
- C. The ZBA finds that the “Act” addresses a wide range of topics, including employment regulations, law enforcement provisions, state facility licensing requirements, production standards for medical cannabis, prescriber and patient requirements, and for local governments, facility siting via zoning regulations including:
  1. Up to twenty two (22) medical cannabis cultivation centers, no more than one per each Illinois State Police District, may be registered in the State for operation by the Illinois Department of Agriculture. (*Section 85*)
  2. Up to sixty (60) medical cannabis dispensaries throughout the State may be registered for operation by the Illinois Department of Financial and Professional Regulation. (*Section 115*)
  3. All of DuPage County (incorporated and unincorporated areas) will be entitled to only three (3) dispensaries.
  4. A cultivation center cannot be located within 2,500 feet of the property line of various types of schools, day cares, and areas zoned for residential use. (*Section 105*)

5. A dispensary cannot be located within 1,000 feet of the property line of various types of schools and day cares, and cannot be located in a dwelling or within an area zoned for residential use. (*Section 130*)
6. A unit of local government may enact “reasonable zoning ordinances or resolutions” to regulate medical cannabis cultivation centers and dispensaries, provided that such regulation does not conflict with the Act or the State’s Administrative Rules and further provided that such regulation “may not unreasonably prohibit” the cultivation, dispensing and use of medical cannabis. (*Section 140*)

- D. The ZBA finds that the “Act” provides that local governments may enact, “reasonable zoning ordinances” relative to the siting of medical cannabis cultivation and dispensing facilities.
- E. The ZBA finds that it is in the interest of County of DuPage to develop definitions for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensaries.
- F. The ZBA finds that it is in the interest of the County of DuPage to develop regulations for Medical Cannabis Cultivation Centers and Medical Cannabis Dispensaries including location and distance requirements.
- G. The ZBA finds that the County has presented evidence and testimony representing and supporting the need for developing definitions and regulatory controls pursuant to the “Act” for medical cannabis cultivation and dispensary facilities.
- H. The ZBA finds that the County has presented evidence and testimony representing and supporting the need for local County of DuPage regulations pursuant to the “Acts” specifically the Acts, “reasonable zoning regulation” allowances by creating distance requirements for dispensing facilities not only from “protected uses” pursuant to the “Act” but also from residential zoned property pursuant to generally accepted planning and land uses principles.

WHEREAS, the Zoning Board of Appeals, having considered in relation to the above and at the recommendation meeting held on November 6, 2014 recommends to approve the following:

T-1-14 Text Amendments to the County Zoning Ordinance relative to Medical Cannabis Dispensaries and Cultivation Centers attached hereto and made a part hereof as Exhibit #1.

WHEREAS, the County Board Development Committee on November 18, 2014 considered the above findings and recommendations of the Zoning Board of Appeals and recommends to concur with the with the findings and recommends to approve the following zoning relief:

T-1-14 Text Amendments to the County Zoning Ordinance relative to Medical Cannabis Dispensaries and Cultivation Centers attached hereto and made a part hereof as Exhibit #1.

NOW, THEREFORE, BE IT ORDAINED by the County Board of DuPage County, Illinois that the following zoning relief be granted:

T-1-14 Text Amendments to the County Zoning Ordinance relative to Medical Cannabis Dispensaries and Cultivation Centers attached hereto and made a part hereof as Exhibit #1.

BE IT FURTHER ORDAINED by the County Board of DuPage County, Illinois that should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid; and

BE IT FURTHER ORDAINED that a certified copy of this Ordinance be transmitted by the County Clerk to the DuPage County Finance Department; DuPage County Auditor; DuPage County Treasurer; Paul Hoss, Zoning; State's Attorney's Office; DuPage County Health Department; DuPage County Division of Transportation.

Enacted and approved this 25th day of November 2014, A.D.

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Daniel J. Cronin, Chairman  
DuPage County Board

ATTEST:

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Gary A. King  
County Clerk

EXHIBIT #1

1. ADD TO SECTION 37-302: DEFINITIONS:

- A. Medical Cannabis 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.
- B. Medical cannabis 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 Illinois registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to Illinois registered qualifying patients.

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2. ADD SECTION 37-426 MEDICAL CANNABIS:

A. Add Section 37-426.1: DECLARATION OF POLICY:

In the development and execution of sections regulating the location of a Medical Cannabis Dispensary and a Cultivation Center, it is recognized that Medical Cannabis Dispensary and Cultivation Center uses, by virtue of their nature, have certain operational characteristics which are unique and can have adverse impacts upon residential areas adjacent to them. Special regulation of these uses is necessary to ensure that these adverse impacts will not contribute to the blighting or downgrading of the surrounding residential neighborhoods. The primary purpose of these regulations is to control the concentration or location of these uses to a reasonable extent allowable by law in order to mitigate any adverse impacts.

It is not the intent of these sections to deny qualifying Illinois registered patients and operators and business entities access to medical cannabis, the ability to dispense medical cannabis or the ability to cultivate medical cannabis or dispense paraphernalia, or related supplies and educational materials and services but to regulates the providers of such materials and services in a manner that is consistent with the law.

B. ADD SECTION 37-426.3: GENERAL REQUIRMENTS FOR A MEDICAL CANNABIS CULTIVATION CENTER AND/OR MEDICAL CANNABIS DISPENSARY USE SHALL:

1. It shall be the responsibility any person, association, firm or corporation engaged in the operation or conduct of a medical cannabis cultivation center and/or a medical cannabis dispensary use to first obtain and then maintain at all

times a valid permit as required by the DuPage County code or any other agency.

2. It shall be the responsibility of any person, association, firm or corporation engaged in the operation or conduct of a medical cannabis cultivation center and/or a medical cannabis dispensary use to prominently display at all times any license or permit required by the State of Illinois and/or County of DuPage County or any other agency while engaged in the operation or conduct of a medical cannabis cultivation center and/or medical cannabis dispensary use.
3. It shall be unlawful for any person, association, firm or corporation to operate or conduct a medical cannabis cultivation center and/or a medical cannabis dispensary use which does not conform to the requirements of the DuPage County Health Department and the state of Illinois Department of Public Health.

**C. ADD SECTION 37-426.2: DISTANCE REQUIREMENTS FROM WHICH A MEDICAL CANNABIS CULTIVATION CENTER AND MEDICAL CANNABIS DISPENSARY USE SHALL BE LOCATED FROM PROTECTED USES:**

**1. Medical Cannabis Cultivation Center Distance Requirements:**

- (a) A Cannabis Cultivation Center shall comply with the Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122) and any rules adopted in accordance thereto.
- (b) A Medical Cannabis Cultivation center must be located at least 2,500 feet from the property line of a pre-existing public or private preschool or elementary or secondary school, day care center, day care home, group day care home, part day child care facility, and an area zoned for residential use.

**Medical Cannabis Dispensary:**

- (a) A Medical Cannabis Dispensary shall comply with the Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122) and any rules adopted in accordance thereto.
- (b) A Medical Cannabis Dispensary must be located at least 1,000 feet from the property line of a pre-existing public or private preschool, elementary or secondary school, day care center, day care home, group day care home, part day child care facility and an area zoned for residential use.

3. Measuring of distances: For the purpose of this section distances shall be measured by following a straight line, without regard to intervening

**structures, from a point on the property or the land use district boundary line from which the proposed use is to be separated.**

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3. **ADD TO SECTION A37-801: B-1 LOCAL BUSINESS DISTRICT:**

The B-1 local business district is intended to provide areas for retail or service establishments supplying convenience items or personal services for the daily needs of residents within the neighborhood. (2005 Code)

**37-801.1: PERMITTED USES:**

Retail businesses:

Antique shops.

Art and school supply stores.

Art shops or galleries, including picture framing.

Automobile accessory stores, including sale of packaged auto parts only.

Bakery stores where the manufacture of bakery goods is limited to quantity goods sold at retail on the premises only.

Bicycle sales, rental and repairs.

Book and stationery stores.

Camera and photographic supply stores.

Candy and ice cream stores.

Car radios and mobile telephones.

China and glassware stores.

Coin and philatelic stores.

Dairy products establishments, no processing.

Department stores including tire, battery and accessories which are included as an integral part of the principal building.

Discount stores.

Drugstores.

**Medical Cannabis Dispensaries subject to the requirements of section 37-426 of this chapter.**

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4. **ADD TO SECTION 37-802: B-2 GENERAL BUSINESS DISTRICT:**

The B-2 general business district is intended to accommodate the needs of a larger consumer population. A wider range of uses is permitted for both daily and occasional shopping. (2005 Code)

**37-802.1: PERMITTED USES:**

The following uses are permitted:

Dwelling units. Dwelling units and lodging rooms provided that they are located above the first floor of the building.

General services:

Animal pounds.

Auction facilities.

Building material establishments, dimension lumber, millwork, cabinets and other building materials; provided that no milling, planing, jointing, manufacture of millwork shall be conducted on the premises, need not be enclosed.

Cartage and express facilities providing storage of goods, motor truck, and other equipment, if in enclosed structures.

Caskets and cemetery vault assembly and sales.

Contractors or construction offices and shops such as, but not limited to, building, concrete, electrical, masonry, printing, plumbing, refrigeration and roofing, need not be enclosed.

Employment agencies.

Exterminating shops.

Greenhouses and nurseries provided heating plants for greenhouse operations conform to the applicable performance standards set forth in section 37-1003 of this chapter.

Linen, towels, diapers and similar supply services.

Mail order and catalog stores.

**Medical Cannabis Dispensaries subject to the requirements of section 37-426 of this chapter.**

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5. **ADD TO SECTION 37-901: O - OFFICE DISTRICT:**

The O - office district is intended to provide a transition between business and/or industrial districts and any adjoining residence district. (2005 Code)

**37-901.1: PERMITTED USES:**

The following uses are permitted:

Place of Assembly including:

- a. Private club, lodge and fraternal organization;
- b. Public and private library, museum and art gallery;
- c. Religious institutions: Chapels, churches, synagogues, temples, mosques and other religious institutions including parsonages and rectories.

Residential care uses:

Daycare centers.

Daycare centers, adult.

Service businesses:

Art work, commercial graphics services.

Banks and financial institutions not including drive-in or drive-through establishments.

Offices (business, professional, governmental and medical).

**Medical Cannabis Dispensaries subject to the requirements of section 37-426 of this chapter.**

**6. ADD TO SECTION 37-902: O-R OFFICE RESEARCH DISTRICT:**

The following uses are permitted:

Accessory uses, retail and service <sup>2</sup>. Upon application to the director, department of economic development and planning, for a zoning certificate, one or more uses hereinafter set forth may be operated as accessory uses if each such use meets the following conditions: a) is incidental or secondary only to a principal building containing forty thousand (40,000) or more square feet of gross floor area; b) is provided for the convenience of the owner and/or tenants; c) does not have exterior signs of any type; d) does not have a separate outside entrance facing any street and is not evident from any street.

Banks and financial institutions.

Barbershops.

Beauty parlors.

Blueprinting and Photostatting services.

Data processing and computer centers, including service and maintenance of electronic data processing and equipment.

Drugstores.

Duplicating, letter and secretarial service firms.

Gift shops

**Medical Cannabis Dispensaries subject to the requirements of section 37-426 of this chapter.**

**7. ADD TO 37-1001: I-1 LIGHT INDUSTRIAL DISTRICT:**

The I-1 light industrial district is intended to provide areas for the development of manufacturing and industrial uses in close proximity to residential and business uses. The district regulations are structured to provide for the operation of a wide range of manufacturing uses, wholesaling and warehousing activities and limited retail and service business uses. (2005 Code)

**37-1001.1: PERMITTED USES:**

The following uses are permitted:

Community theaters, amateur.

General uses:

Adult use business uses, subject to the requirements of sections 37-416 through 37-416.2 of this chapter.

Any manufacturing, fabricating, processing, packing and storage uses, provided such uses conform with the requirements set forth in part 1 of this article, and with the performance standards in section 37-1003 of this article.

Bakeries, five thousand (5,000) square feet or less of building area, need not comply with performance standards.

Beverages, bottling and distribution.

Community theaters, amateur.

Contractors or construction offices and shops such as but not limited to building, concrete, electrical, masonry, painting, plumbing, refrigeration and roofing, need not be enclosed.

Dairy products processing.

Dry cleaning and laundry establishments.

Health clubs.

Laboratories, research and testing establishments.

Landscape contractor's office and storage yard.

Mail order houses.

**Medical Cannabis Dispensaries subject to the requirements of section 37-426 of this chapter.**

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8. **ADD TO 37-1002: I-2 GENERAL INDUSTRIAL DISTRICT:**

The I-2 general industrial district is intended to provide areas where a wide variety of intensive industrial uses may be located. Regulations are provided to ensure adequate spacing between buildings and the district boundary of the I-2 general industrial district and other zoning districts. (2005 Code)

**37-1002.1: PERMITTED USES:**

The following uses are permitted:

Community theaters, amateur.

General uses:

Adult business uses, subject to the requirements of section 37-416 through 37-416.2 of this chapter.

Any manufacturing, fabricating, processing, packaging and storage uses, provided such uses conform with the requirements set forth in part 1 of this article, and with the performance standards in section 37-1003 of this article.

Bakeries, five thousand (5,000) square feet or less of building area, need not comply with performance standards.

Beverage bottling and distribution.

Boot and shoe manufacture.

Car and truck laundries, (noncommercial).

Commercial microwave towers, need not be enclosed.

Contractors or construction offices and shops such as, but not limited to, building, concrete, electrical, masonry, painting, plumbing, refrigeration and roofing, need not be enclosed.

Dairy products processing.

Dry cleaning and laundry establishments.

Electronic and scientific precision instruments manufacture.

Food manufacture, packaging and processing.

Fuel distribution, gasoline, L-P gas, liquid natural gas, need not be enclosed.

Furniture, bedding and carpet manufacture.

Glass products, production and sales.

Laboratories, research and testing establishments.

Landscape contractor's office and storage yard.

Light machinery production.

Machine shops.

Mail order houses.

**Medical Cannabis Dispensaries subject to the requirements of section 37-426 of this chapter.**

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9. **ADD TO SECTION 37-1001.2: CONDITIONAL USES:**

The following conditional uses require prior approval after a public hearing in accordance with the requirements of section 37-1413 of this chapter:

Airports and heliports, need not be enclosed, need not comply with performance standards.

Amusement arcades in conjunction with class C restaurants, need not comply with performance standards.

Automobile laundries.

Automobile service stations.

Bakeries, exceeding five thousand (5,000) square feet of building area, need not comply with performance standards.

Damaged vehicles (temporary storage) where damaged vehicles, machinery, boats, or equipment drawn or operated by attaching motor vehicles or other mechanical units are stored for periods of time not to exceed ninety (90) days and where no service, maintenance or salvage activities are performed. Damaged vehicles stored may be auctioned on site, need not be enclosed<sup>12</sup>.

Development of uses which disturb a regulatory floodplain and/or a wetland pursuant to section 37-423 of this chapter.

Drive-in and drive-through establishments<sup>13</sup>.

Freight terminals including air, motor and rail.

Fuel distribution, gasoline, L-P gas, liquid natural gas, need not be enclosed.

**Medical Cannabis Cultivation Center subject to the requirements of section 37-426 of this chapter.**

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**10. ADD TO SECTION 37-1002.2: CONDITIONAL USES:**

The following conditional uses require prior approval after a public hearing in accordance with the requirements of section 37-1413 of this chapter:

Airports and heliports, need not be enclosed, need not comply with performance standards.

Amusement arcades in conjunction with class C restaurants, need not comply with performance standards.

Automobile salvage and crushing, shredding, and storage of junked vehicles, including the operation of scrap metal establishments engaged in the processing of scrap metal for resale, need not be enclosed.

Automobile service stations, need not be enclosed.

Bakeries exceeding five thousand (5,000) square feet of building area, need not comply with performance standards.

Boiler and tank manufacturing.

Bulk storage of chemical or petroleum products, need not be enclosed.

Car and truck laundries, (public).

Concrete and/or asphalt batching plants, need not be enclosed.

Damaged vehicles (temporary storage) where damaged vehicles, machinery, boats, or equipment drawn or operated by attaching motor vehicles or other mechanical units are stored for periods of time not to exceed ninety (90) days and where no service, maintenance or salvage activities are performed. Damaged vehicles stored may be auctioned on site, need not be enclosed.

Development of uses which disturb a regulatory floodplain and/or a wetland pursuant to section 37-423 of this chapter.

Drive-in and drive-through establishments.

Freight terminals including air, motor and railroad.

**Medical Cannabis Cultivation Center subject to the requirements of section 37-426 of this chapter.**

**END**